SUNSET REVIEW REPORT

Presented to the
Joint Legislative Sunset Review Committee
of the California Legislature

Submitted October 1, 1997

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PREFACE

The Board of Behavioral Sciences is required by SB 2036 (Chapter 908, Statutes of 1994) to submit a report to the Joint Legislative Sunset Review Committee by October 1, 1997. In this report the Board presents the three professions for which it has responsibility:

- Marriage, Family, and Child Counselors;
- Licensed Clinical Social Workers; and
- Licensed Educational Psychologists.

The State of California has established standards for the practice of Marriage, Family, and Child Counseling; Licensed Clinical Social Work; and Licensed Educational Psychology. These standards are intended to safeguard the public's health, safety, and welfare. This Sunset Review Report enumerates the manner in which the Board carries out its mission and implements those standards. Regulation by this Board provides an important barrier which minimizes the number of unqualified people who enter these three mental health professions.

The public, licensees, professional organizations, and educational institutions participated in the development of this report by offering written material, participating in public review and comment, and submitting specific changes. All of these groups contributed to the richness of the Board's Sunset Review Report. The final report was produced by the members of the Board of Behavioral Sciences and staff.

Compiling this report proved to be a useful exercise. It presented the opportunity to review every aspect of the Board's regulatory effort and provided another avenue for exploring possible improvements. The Board of Behavioral Sciences intends that this report provides useful information for the Joint Legislative Review Committee and the public.

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EXECUTIVE SUMMARY

The Board of Behavioral Sciences is in the business of consumer protection, education and communication.

On July 1, 1997 there were 23,204 Marriage, Family, and, Child Counselors (MFCCs), 13,632 Licensed Clinical Social Workers (LCSWs), and 1,579 Licensed Educational Psychologists (LEPs) in California. These mental health practitioners serve more than 1 million Californians every year. Because the mental health of those in therapy has such a dramatic effect on their families and friends, it is possible the work of these professionals impacts every Californian.

The Board of Behavioral Sciences, established in 1945 as the Board of Social Work Examiners, is responsible for protecting the public from injury by members of these three professions. Though they are similar, each profession has a distinct emphasis and scope of practice:

- MFCCs are authorized to employ psychotherapeutic techniques with individuals, couples, families, and groups to improve the clients' interpersonal functions.

- LCSWs are authorized to employ psychotherapeutic techniques, among other services, with individuals, couples, families, and groups to improve the clients' quality of life.

- LEPs are authorized to provide educational evaluation, diagnosis, and test interpretation limited to assessment of academic ability, counseling services, and educational consultation.

In order to accomplish its mission, the recently renamed Board of Behavioral Sciences works with a budget of $4,144,000 and has a permanent staff of 33. The Board is comprised of eleven members: six public, two MFCCs, two LCSWs, and one LEP. The Board's powers and duties are enumerated in the annually published *Laws and Regulations Relating to the Practice of Marriage, Family, and Child Counseling, Licensed Clinical Social Work, and Licensed Educational Psychology*. The Board's Strategic Plan includes mission and vision statements, goals, objectives, and performance measures by which it continuously monitors and evaluates its progress.

The Board works extensively with consumers, licensees, professional associations, and educational institutions in carrying out its mission. Such public involvement is valuable. In fact, providing a public forum for issues surrounding the three professions is an important reason for placing regulatory oversight with a Board of appointed members. At the Board's public meetings, issues regarding licensure, continuing education, examinations, and enforcement are continually explored for needed change and improvement.

Setting appropriate standards for entry into the professions through licensing is one way in which the Board protects the public. Board members and staff frequently speak at schools, colleges, universities, and meetings of the various professional associations in an attempt to provide the information necessary for licensing and compliance with the law. Supplying good information, and providing timely review and response, are important priorities when working with the 60,000 licensees and would-be licensees. The Board of Behavioral Sciences' *Answers to Frequently Asked Questions* is a booklet developed specifically toward that goal.

Continuing education is another method for maintaining quality consumer services. The continuing education regulations for MFCCs and LCSWs became effective on May 19, 1997. After January 1, 1999, MFCC and LCSW license renewal is contingent upon the completion of 36 hours of continuing education. Licensees have the flexibility to take courses they think are pertinent to their practice, providing the courses are related to their scope of practice. Many county departments and health facilities are approved providers of continuing education, and offer free training to their employees. Approval of providers is for two years and covers any qualified course. This reduces some obstacles to course planning for providers.

Examination is a primary means of ensuring public safety. The Board continually evaluates and strengthens the criteria for selecting subject matter experts to ensure the quality of examination development workshops. In April 1995, Lead Oral Examiners were hired to monitor and enhance the performance of oral examiners. Project planning, implemented in October 1995, for examination development and administration is intended to ensure accomplishment of the Board's goals and deadlines. In September 1995, the cost of the oral examination administration was reduced and in January 1996, the Board augmented oral examiner training sessions by preparing training programs and content outlines for participants.

The Board of Behavioral Sciences is one of four consumer protection boards in the Department of Consumer Affairs that utilizes both oral and written examinations in the licensing process. While the written examination deals with threshold competencies, it is the oral examination that provides the strongest assurance that the public health and safety is protected. This Board wants as much public assurance as possible that the practitioners licensed in California are prepared and ethical, and will not harm clients in their independent or agency practice.

When allegations are made against a licensee, it is the Board's responsibility to conduct a swift and fair investigation of that complaint. If the complaint is substantiated, then a course of appropriate action is determined in order to correct the situation and prevent its reoccurrence. Sanctions for misconduct range from compliance actions to revocation of licenses. In February 1997, the Board added regulations for citations and fines, a much needed alternative to the discipline options.

It is imperative that the Board makes the best possible decisions about enforcement matters. As part of the effort to do so, training was provided to the Office of the Attorney General and the Division of Investigation regarding issues and outcomes for the types of cases the Board receives.

The Board's staff plays a significant role in enforcement, and a staffing reorganization in 1995 has resulted in numerous improvements. There has been a decrease in the backlog of enforcement complaints and cases, and an improvement in the case processing time. In addition, there is a new probation monitor position to facilitate and enhance oversight of licensees and registrants who have been placed on probation.

Expert consultants who hold an appropriate license are utilized in the investigation process. To aid these experts in the review of investigative material and in the preparation of reports, the Board developed the *Board of Behavioral Sciences Expert Guidelines*.

Because of the Board's ongoing effort to provide the best information possible to consumers, a public disclosure policy was adopted in November 1995. The policy clarified the type of information that will be provided to the public regarding enforcement cases.

In addition to the usual methods of communication, the Board added an Internet website in July 1996 which provides extensive information for consumers, licensees, and those interested in entering any of the three professions. The website includes a method for sending email to the Board. In its first year of operation, the site received 48,000 hits.

The Board developed a consumer complaint brochure which provides information about filing a complaint, examples of inappropriate behavior by mental health professionals, and the process employed when disciplinary action is rendered against a licensee.

Over the past year, the Board has made significant improvements to its office technology. New computers were acquired, a local area network was installed, and electronic mail for staff was added. These changes have improved the efficiency of the Board.

In August 1996, the Board began publishing a newsletter. Two issues have been sent to licensees, and beginning with the fall 1997 issue, the newsletter will be sent to registrants as well. The newsletter is used to notify licensees of regulatory and legislative changes as well as other items of concern. A copy of the newsletter is provided to anyone upon request.

At the end of this report is an outline of recent legislative changes to the Board's licensing laws. Regulatory changes have resulted in new or modified language:

- February 1996, Section 1816 was amended to increase the biennial renewal fee for MFCCs, LCSWs, and LEPs.

- February 1996, Sections 1816.1 was adopted to require an initial license fee for MFCCs, LCSWs, and LEPs.

- September 1996, Section 1806 was modified to specify that applications for licensure will become abandoned if the applicant fails to pay the initial license fee within one year.

- February 1997, Article 7 was adopted to provide the regulatory authority to issue citations and fines.

- May 1997, Article 8 was adopted to require continuing education for MFCCs and LCSWs, and

- July 1997, Section 1888 was adopted to incorporate the Board's Disciplinary Guideline by reference.

The following regulations are currently in progress:

- Modify Sections 1833 and 1833.1 to redefine supervision and experience requirements.
- Add new language to implement, administer, and enforce a registration for referral and group advertising services for MFCCs, and
- Modify Sections 1816 and 1816.1 to reduce the initial and renewal licensing fees.

At the end of this report, the Board outlines its legislative recommendations, both for issues pertaining to the sunset review process and for issues related to its regulatory mission. In summary, these recommendations are:

- Retain the Board of Behavioral Sciences and the current structure of the Board.
- Retain the current composition of the Board.
- Amend the sunset review process by increasing the number of years between mandatory reviews.
- Clean-up and reorganize the Board's licensing laws and regulations to make them more accessible and useful.
- Establish a statute in the Board's licensing laws allowing inactive licenses.
- Impose the same license renewal limitations for LCSWs as currently exist for MFCCs.
- Conduct an occupational analysis for the LCSW examination.
- Perform an adverse impact study to measure and identify any impact on applicants of protected groups who take the LCSW oral examinations.

The Board of Behavioral Sciences is a viable and dynamic organization, and contributes to the well-being of Californians. This Sunset Review Report is intended to provide the information needed to assure the Legislature and consumers that California is well served by this consumer board.

OVERVIEW OF BOARD OPERATIONS AND PROGRAMS

SUNSET REVIEW REPORT

HISTORY OF THE PROFESSIONS

The Board of Behavioral Sciences is responsible for protecting the public from injury by people registered or licensed in three related mental health professions:

- Marriage, Family, and Child Counselors (MFCCs), who are authorized to employ psychotherapeutic techniques with individuals, couples, families, and groups, to improve the clients' interpersonal functions,

- Licensed Clinical Social Workers (LCSWs), who are authorized to employ psychotherapeutic techniques, among other services, with individuals, couples, families, and groups, to improve the clients' quality of life, and

- Licensed Educational Psychologists (LEPs), who are authorized to provide educational evaluation, diagnosis, and test interpretation limited to assessment of academic ability, counseling services, and educational consultation.

Marriage, Family, and Child Counselors

The MFCC license as it exists today emerged from social work efforts in the early 1900's. At that time, social casework often focused on families. Many sociologists, social psychiatrists, and social workers felt that strengthening family ties would help solve social problems.

In the 1920s, universities picked up on the increasing interest in families. They began offering practical courses on relationships and marriage skills. Further academic and public interest in families was seen in the creation of the first two centers of marriage counseling in 1929 and 1930 -- the Marriage Consultation Center in New York and the American Institute of Family Relations in Los Angeles.

In 1942, a national association including physicians, psychologists, social workers, and sociologists interested in marriage counseling was formed. The association, which is now known as the American Association for Marriage and Family Therapy, set the first criteria for marriage counselors in 1948 and made strengthening those standards a priority. While initially interested only in marriage counseling, the association eventually encompassed family counseling as well, and had successfully combined the divided specialties by the late 1970s.

Following World War II, the heightened concern with families spurred further interest in marriage and family counseling. Counselors began seeing husbands and wives together in sessions, a practice that had been discouraged because of a belief that effective therapy required patients to be seen alone.

California soon became a focal point for the field. Many practitioners and academics who made innovations in the field either began their career in the state or moved to the state soon after.

State regulation of marriage and family counselors began in the 1960s, after it had become clear that unqualified people were providing counseling services. Complaints from constituents grabbed the attention of state legislators, who began investigating marriage counseling in 1962. In 1963 California became the first state to license the profession that would later be known as Marriage, Family, and Child Counseling.

In the decade following California's regulation of MFCCs, numerous other states followed suit. Often due to the efforts of practitioners, laws were consistently passed in California and elsewhere that raised educational and experience standards. Today, MFCCs are firmly established as important members of the mental health profession.

Licensed Clinical Social Workers

Clinical social work is a profession historically associated with the various social work occupations. It is more focused, however, and utilizes psychotherapy.

The Clinical Social Work profession as it exists today was born in the years following World War II. At that time, the field of psychiatry had already gained respect in the United States through the mental hygiene movement. Diagnosis, the differential use of medications, and the treatment approach of psychotherapy all gave psychiatry its legitimacy.

In the late 1940s and into the 1950s, certain groups of social workers were increasingly linked with psychiatry. The term psychiatric social worker began to be used to describe social workers who worked within state hospitals and in outpatient settings. Initially, these professionals restricted their therapeutic interventions to life assessments and family education. By the mid 1950s, schools of social work were offering specialized curriculum to address the growing need for psychiatric social workers. Psychiatric social workers formed associations which asserted their new field's place within the psychiatric profession. These professionals used their extensive family expertise to help establish the fields of developmental psychiatry, and child and adolescent psychiatry.

By the 1960s Psychiatric Social Work was one of the most sought programs in the professional schools. In 1967, psychiatric social workers in the state conceived the Licensed Clinical Social Worker, a licensed therapist within social work. They felt the public should be assured, to the degree possible, that any therapy offered within the field of social work was provided by practitioners who were adequately trained and regulated. The Legislature and Governor soon agreed on legislation implementing their idea. In the late 1960s, California took the lead in shifting care of the mentally ill to the community and in promoting a community notion of mental hygiene. The newly-licensed LCSWs played an important part in assisting patients and their families with these transitions.

During the 1970s and 1980s, because of the extensive education and training required of them, LCSWs became respected as non-medical psychotherapists. They became increasingly vital as independent practitioners and therapists within social service agencies such as child protective services. Although the

practice methods have shifted over time, the core concepts of the conscious use of self, empathy, differential diagnosis, and transposing the client's problems into identifiable and manageable tasks have remained consistent.

Licensed Educational Psychologists

The Licensed Educational Psychologist as a profession arose more than 25 years ago. Professionals, consumers, and ultimately the Legislature determined there was a need for additional services in the community and in the educational system. At the time, school psychologists and psychometrists provided assessments and educational guidance only within the school system and only for students who needed special assistance. LEPs were envisioned as professionals who could provide a much broader range of services to a variety of individuals, both in private practice and within the educational environment.

By the 1980s, LEPs working in private practice were well established, and consumers increasingly turned to them for services that schools could not provide. There was a shortage of school personnel who could address the new demands being made on schools. Many parents were confused about how to get psychological and educational assistance for their children, and LEPs developed learning and tutoring services to supplement school instruction. Also during that decade, alternative school programs began to evolve, and LEPs provided consultation services to these programs.

In the early 1990s, many parents grew concerned about their children's right to receive an appropriate education. LEPs were among the first professionals outside the schools to develop advocacy services and to inform parents of their children's educational needs. As private practitioners, LEPs have the advantage of serving clients without being limited by the demands and restrictions of educational agencies and institutions.

Today, the need for educational assistance continues to grow. This is evident in the number of students dropping out of school, poor academic performance, and the numerous adults who are not prepared for work. In a world in which education grows more important each year, LEPs remain committed to helping their clients succeed by identifying and treating educational problems.

PROFESSIONAL ASSOCIATIONS

Marriage, Family, and Child Counselors are represented by two professional organizations, the California Association of Marriage and Family Therapists (CAMFT) and the American Association for Marriage and Family Therapy (AAMFT). CAMFT was established 1963, has more than 25,000 members and 30 chapters throughout California, and is based in San Diego. AAMFT was established in 1942, has more than 23,000 members throughout the United States and Canada, and is based in Washington, DC.

Licensed Clinical Social Workers are represented by two professional organizations, the National Association of Social Workers (NASW) and the California Society of Clinical Social Workers (CSCSW). NASW was established in 1955, has nearly 12,000 members in eight regions, and is based in Sacramento. CSCSW was established in 1969, has 2,300 members and 12 active districts, and is based in Sacramento.

Licensed Educational Psychologist are represented by two professional organizations, the California Association of School Psychologists (CASP) and the California Association of Licensed Educational Psychologists (CALEP). CASP was established in 1950, has 22 affiliates and more than 2,700 members throughout California, and is based in Sacramento. CALEP was established in 1985, has 65 members, and is based in San Diego.

ADMINISTRATION

- *On January 1, 1997, the name of the Board was changed from the "Board of Behavioral Science Examiners" to the "Board of Behavioral Sciences" to better represent its functions, which extend beyond simply administering examinations.*

- *The Board is comprised of eleven members; six public members; two Marriage, Family, and Child Counselors; two Licensed Clinical Social Workers; and one Licensed Educational Psychologist.*

- *The Board's powers and duties are specified in the "Laws and Regulations Relating to the Practice of Marriage, Family, and Child Counseling, Licensed Clinical Social Work, and Licensed Educational Psychology."*

- *The Board's 1997/98 budget is $4,144,000; it has 33 permanent staff.*

- *The Board's strategic plan includes mission and vision statements, goals and objectives, and performance measures by which it continuously monitors and evaluates its progress.*

- *In June 1996, the Board established an Internet website which provides information about all program areas the Board oversees. Consumer information for filing complaints, public disclosure, and a listing of recent disciplinary actions is available along with licensee forms and information. The website receives approximately 4,000 hits monthly and is located at "http://www.bbs.ca.gov".*

BOARD DESCRIPTION AND RESPONSIBILITIES

LEGISLATIVE HISTORY OF THE BOARD

California became the first state to register social workers when, on July 18, 1945, Governor Warren signed legislation creating the Board of Social Work Examiners. The new Board was placed within the Department of Professional and Vocational Standards, and consisted of seven members appointed by the Governor and approved by the State Senate. The law required that at least two Board members be from the public and at least four be social workers with five years professional experience and a year of graduate work. By late 1945, the Governor had finished appointing the first Board.

The legislation included provisions to grandfather-in social workers already employed in California from September, 1945 to the end of December, 1946. During those 16 months, 4,233 social workers filed applications for registration and 4,098 were issued certificates. Certification was intended to identify competent professionals who were working for higher standards and better service to the public.

The Board's duty of registering social workers remained relatively unchanged until the 1960s. In late 1962, the Assembly began investigating fraudulent practice in marriage counseling. In part because of that investigation, the Marriage, Family, and Child Counselor Act was enacted in 1963. Under the Act, the Board was given the additional responsibility of licensing Marriage, Family, and Child Counselors. Soon after, the Act was renamed the Social Worker and Marriage Counselor Act and the Board was accordingly renamed the Social Worker and Marriage Counselor Qualifications Board.

In 1967, the Board began administering a new Licensed Clinical Social Worker Program, and after 1969 anyone who wanted to practice clinical social work in California was required to hold a license. In 1970, a licensing program for educational psychologists was added and the Board became known as the Board of Behavioral Science Examiners. At that time, the Board expanded to its present membership of six public members; two Marriage, Family and Child Counselors; two Licensed Clinical Social Workers; and one Licensed Educational Psychologist.

On January 1, 1997, the name of the Board was officially changed to the "Board of Behavioral Sciences" in order to more clearly represent its functions, which extend beyond simply administering examinations. The Board is under the Department of Consumer Affairs (DCA).

The mission of the Board is to protect consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction.

The Board licenses Marriage, Family, and Child Counselors (MFCCs), Licensed Clinical Social Workers (LCSWs), and Licensed Educational Psychologists (LEPs). It registers MFCC interns, MFCC corporations, LCSW associates, LCSW corporations, and continuing education providers. The Board develops and administers written and oral examinations for its licensing programs, administers a continuing education program for professional competency, develops regulatory standards, and conducts an enforcement program to investigate consumer complaints. It imposes disciplinary action against licensees and registrants who violate the law.

BOARD COMPOSITION

The Board is comprised of eleven members: six public members; two MFCCs; two LCSWs; and one LEP. Each licensed member must hold a master's degree from an accredited college or university and have at least two years of experience in the profession. Nine of the members are appointed by the Governor, one public member is appointed by the Speaker of the Assembly, and one public member is appointed by the Senate Rules Committee. All members appointed by the Governor must be confirmed by the Senate.

Each Board position is appointed for a term of four years with staggered expiration dates. It has been taking approximately one year for vacancies to be filled. Vacancies are filled by appointment for the remainder of any unexpired term. The Board elects a Chair and a Vice-Chair from within its membership.

Currently, the Board has three vacancies, all of which are public member positions.

POWERS AND DUTIES

The powers and duties of the Board of Behavioral Sciences are specified in the *Laws and Regulations Relating to the Practice of Marriage, Family, and Child Counseling, Licensed Clinical Social Work, and Licensed Educational Psychology*. [1] (*See appendix A: BBS Laws and Regulations*)

The Board's legal mandate is contained in Business and Professions Code Section 4980.34. That mandate states in part that the Board shall employ its resources for:

- licensing marriage, family and child counselors, clinical social workers, and educational psychologists,
- developing and administering written and oral licensing examinations and procedures consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession,
- enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners, and
- consumer education.

There have not been any recent major legal decisions interpreting the powers of the Board.

The scopes of practice for licensees under the jurisdiction of the Board are defined in California law and regulations.[2] Those not licensed as an MFCC, LCSW, or LEP are prohibited from using those license titles. [3]

[1] Business and Professions Code Chapters 13 and 14, and California Code of Regulations Title 16, Division 18.
[2] Business and Professions Code sections 4980.02 (MFCCs), 4996.9 (LCSWs), and 4986.10 (LEPs).
[3] Business in Professions Code sections 4980 (MFCCs), 4996 (LCSWs) and 4986.50 (LEPs).

RULES OF PROFESSIONAL CONDUCT

The Board has established regulations[4] specifying rules of professional conduct for Board licensees. Additionally, Business and Professions Code sections [5] define unprofessional conduct, and various other statutes and regulations contain additional standards of professional conduct (for example, Health and Safety Code sections).

These standards are enforced through the Administrative Procedures Act for serious violations identified following a Board investigation. These requirements are published yearly in the Board's *Laws and Regulations Relating to the Practice of Marriage, Family, and Child Counseling; Licensed Clinical Social Work; and Licensed Educational Psychology*, are available in the Board's Internet website, and are described periodically in articles in the Board's newsletter.

The Board publishes its newsletter biannually to inform licensees of the changes in the laws and regulations. This newsletter advises readers of the Board's goals, and the Board uses the newsletter as an educational tool to remind licensees of their professional responsibilities.

BOARD POLICIES AND PROCEDURES

MEETINGS

The Board generally meets four to six times a year. All Board meetings are held in public facilities that are easily accessible for consumers, applicants, and licensees. Under the Bagley-Keene Open Meeting Act, the Board is required to notify the public at least ten calendar days before each Board meeting. Notification includes a brief description of items to be discussed and the name, address, and telephone number of the contact person from the Board staff. Agendas are mailed to all interested parties and consumer participation is encouraged. A "public comments" section is included on every agenda and active participation is promoted with all meeting agendas. The Chair currently uses Robert's Rules of Order as a guide for conducting meetings. (*See appendix A: Agendas and Minutes*)

Board decisions are made in open session, including decisions on examination, licensing and enforcement issues, supporting or opposing positions for legislation impacting the Board, and on developing or changing rules to enhance the Board's regulatory efforts.

Closed sessions are the exception and are reserved for the evaluation of the Executive Officer, pending litigation issues, and deliberation of enforcement decisions such as reviewing stipulated agreements and Administrative Law Judge decisions. Once the Board makes an enforcement decision, the decision is made available to the public. Final decisions are published in the Board's newsletter, mailed quarterly to people on the Board's public mailing list, and sent out as press releases to local newspapers in the area where the licensee practices.

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[4] Title 16, Division 18 of the California Code of Regulations.
[5] Section 4982 (MFCCs), 4986.70 (LEPs), and 4992.3 (LCSWs)

The Board makes use of committees generally comprised of four Board members, which meet as often as possible in conjunction with Board meetings to minimize travel expenses. Those who have expertise in, or who might be affected by, the issues being considered are invited to participate in committee discussions. The committee's recommendations are advisory to the full Board and all final decisions are made by the Board as a whole.

ATTENDANCE, COMPENSATION AND REIMBURSEMENT

Board members are expected to attend all scheduled meetings of the Board. Regular attendance ensures current knowledge of procedures and policies as well as an equal sharing of duties and responsibilities. If members do not attend meetings regularly, the Board Chair may notify the Director of the DCA.

Board members receive $100 for each day spent on official duties. They are also reimbursed for travel and other expenses incurred in the performance of their duties.[6] The amounts that may be claimed for reimbursement are governed by regulation adopted by the Department of Personnel Administration.

Travel and per diem reimbursements include expenses for Board member participation in orientation meetings, public Board and committee meetings, legislative committee hearings, and national regulatory meetings.

Board Member Per Diem and Travel Expenses

Categories	FY 93/94	FY 94/95	FY 95/96	FY 96/97
Board Member Per Diem	$10,100.00	$14,300.00	$12,113.00	$11,900.00
Travel	$ 750.82	$10,170.50	$11,812.16	$ 9,705.61

REMOVAL FROM OFFICE

The Governor has the power to remove any gubernatorial appointee from office on grounds of continued neglect of duties, incompetence, or unprofessional conduct.[7] The Governor must remove any licensee member whose license to practice becomes void, revoked, or suspended. Any member may, after an administrative hearing, be removed for neglect of duty or other just cause. In addition, Government Code Sections 1770, 3000, and 3001 address forfeiture of office and procedures for filling vacancies.

[6] Business and Professions Code Section 103.
[7] Business and Professions Code Sections 106 and 106.5.

TRAINING

The DCA conducts a one-day orientation for new Board members, in which the members are advised of their responsibilities and given an overview of government operation. In addition, an orientation by the Board Chair and the Executive Officer is often conducted for new members to convey pertinent information, including the Board's mission, responsibilities and duties, reimbursement guidelines, and policies and procedures. The Board provides the members with a Board Member Orientation Packet, which includes Goals and Objectives; Mission Statement; Laws and Regulations relating to MFCCs, LCSWs, and LEPs; Disciplinary Guidelines; and written standards of conduct for members and staff. *(See appendix A: Board Member Policy/Procedure Guidelines, and appendix A: Appendix B of the DCA's Board Member Orientation Manual)*

CONFLICT OF INTEREST

Board members, executive officers, and employees of all licensing boards in the DCA are subject to the conflict-of-interest provision of Proposition 9, the Political Reform Act of 1974 (Government Code Sections 81000-91015). Of particular relevance is Government Code Section 87100, which requires:

> *"No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."*

"Public official" includes every member, officer, employee, or consultant of a state or local government agency.[8] Other provisions in the Political Reform Act and Fair Political Practices Commissions' regulations further define and implement the statutory elements of Section 87100.

In addition to Proposition 9, members of the licensing boards are subject to Government Code Section 8920, which provides in part:

> *"No member of the Legislature, elective or appointive officer, judge or justice shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the law of this state."*

EXECUTIVE OFFICER

The Executive Officer serves at the pleasure of the Board. Under the Board's policy direction and guidance, the Executive Officer administers the resources and staff of the Board, is responsible for interpreting and

[8] Government Code Section 82048.

executing the intent of all Board policies, and oversees all facets of the Board's programs.[9] The Executive Officer acts as principal operations officer for the Board, functions as administrative agent for the Board, and is responsible for interpretation and execution of the Board's laws and regulations. The Executive Officer serves as the Board's liaison to the wide array of governmental and voluntary organizations, represents the Board before the Legislature, is responsible for developing consumer education information and materials, and speaks before a variety of organizations.

STAFF

Employees of the Board, with the exception of the Executive Officer, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by civil service laws and regulations, and often by collective bargaining labor agreements. For these reasons, the Board appropriately delegates all authority and responsibility for management of the civil service staff to the Executive Officer. Board members do not intervene or become involved in day-to-day personnel transactions. The Board's programs employ various procedures and procedure manuals. The Board has established policies in all program areas and staff develops the procedures for implementing the Board's policies.

REGULATION REVIEW - GOVERNOR WILSON'S 1995 EXECUTIVE ORDER W-127-95

The Board conducts regular self-assessment evaluations on its program components (e.g., administration, licensing, examination, and enforcement) for necessity, public value, and cost effectiveness.

In response to the Governor's 1995 executive order (127-95), the Board and its committees held meetings to review its regulations. Regulations requiring change were identified and public hearings were held in conjunction with Board meetings to address the changes. *(See appendix A: Proposed Regulatory Changes)*

REPORTS TO THE GOVERNOR, LEGISLATURE AND DEPARTMENT OF CONSUMER AFFAIRS

During the last four years, the Board has not submitted, nor been required to submit, a specific report to the DCA, Governor's Office, or Legislature. The Board has submitted statistical and activity summaries which are incorporated into the *Department of Consumer Affairs' Annual Report* to the Legislature. The Board has also prepared information required of all departmental agencies by the Legislature, including one to Senator Boatwright in May, 1992 regarding enforcement actions.

[9] Business and Professions Code Section 4990.7.

MEMBERSHIP WITH OTHER REGULATORY ORGANIZATIONS

The Board belongs to three national regulatory associations, the American Association of State Social Work Boards (AASSWB), the Association of Marital and Family Therapy Regulatory Boards (AMFTRB), and the Citizens Advocacy Center (CAC). The Board has paid annual membership dues of $1,000 to the AASSWB, and $300 to the AMFTRB for each of the past four years. There are no membership dues for CAC.

The AASSWB conducts semi-annual conferences which offer an excellent forum on national trends and issues related to the regulation of social work. The Board began utilizing the AASSWB national written licensing exam for clinical workers in the fall of 1991. Therefore, there are many exam policy and procedure issues processed by the delegate assembly which directly affect the Board's clinical social worker examination.

The AMFTRB also conducts an annual meeting to present and discuss national legislative and regulatory issues. The California Board, one of the founding members of the AMFTRB in 1988, is at the forefront helping to influence national policy on the regulation of marriage and family therapy. Members of AMFTRB share information concerning current case law, violations, and potential litigation with the other member states.

The meetings of these regulatory organizations are usually attended by the Executive Officer and one or two Board members. However, due to budget constraints in 1993/94 and 1994/95, no one from the Board attended these meetings. In 1995/96 and 1996/97 the travel reimbursement associated with attending these meetings was $2,909 and $1,281respectively.

The CAC conducts annual meetings to provide training, research, technical support, and networking opportunities for public members of health care regulatory boards. One Board member attends at a cost of $425 annually.

CONSUMER OUTREACH

In June 1996, the Board established an Internet website which provides a detailed overview of all program areas of the Board. The Board was the second board in the DCA to establish an Internet 'presence,' following the Contractor's State License Board. The website, which is updated regularly, receives approximately 4,000 hits a month and 50 to 75 email messages weekly. Since the beginning of its operation in June 1996, the website has received 48,000 hits. It is located at "http://www.bbs.ca.gov."

The website provides general information about the Board, consumer complaint information, procedures for filing a complaint, information about license verification, and a complaint form that can be downloaded. Recent disciplinary actions are available on the website, as are pending regulation and legislative information. Individuals interested in becoming registered or licensed can obtain information on the examination and licensure process and find answers to *Frequently Asked Questions* or *FAQs*. Current licensees can obtain information on renewing licenses, continuing education, and address changes.

The Board recently developed a consumer complaint brochure which provides information about filing a complaint, examples of inappropriate behavior for mental health professionals, and the process employed when disciplinary action is taken against a licensee. *(See appendix A: What Can the Board do for Me? A Consumer's Guide)*

STRATEGIC PLANNING

In its effort to continually improve its responsiveness to the public, maintain a proactive focus, and reach for the cutting edge in consumer protection and industry standards, the Board conducts strategic planning sessions each year to review its mission and vision statements as well as its goals and objectives. *(See appendix A: BBS Strategic Plan)*

In late 1996 and early 1997 an environmental assessment was conducted with several staff members to obtain input on the Board's strengths, weaknesses, opportunities and threats (SWOT). Information from the SWOT analysis was provided to the Board for consideration and inclusion in its goals and objectives.

MISSION AND VISION OF THE BOARD

The mission of the Board of Behavioral Sciences is to protect the consumer by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction.

"The Board is in the business of consumer protection, education and communication."

GOALS AND OBJECTIVES

The Board has established four goals which provide the framework for the results it is seeking. These goals and objectives have been adopted from the strategic planning and include performance measures. Each goal has equal priority within the organization.

GOAL I: ENSURE THAT APPLICANTS FOR LICENSURE MEET THE REQUIREMENTS PRESCRIBED BY LAW AND REGULATION AND STREAMLINE THE APPLICATION PROCESS

- To verify that applicants meet requirements defined by law and regulation prior to taking their examination.
- To review current application packages for clarity and effectiveness.
- To research the efficiency of the use of technology in the application process.
- To investigate standards and monitor accreditation for educational programs for ongoing applicants.
- To clarify definitions of and set standards for, qualified, trained supervisors, and settings in which clinical experience may be gained.
- To explore the issues surrounding continuing education requirements.

GOAL II: STRENGTHEN THE EXAMINATION PROGRAM

- To review examination results at Board meetings.
- To keep the examinations current and occupationally valid.
- To maintain knowledge of other states' examinations and monitor national trends.
- To enhance the examination administration and improve examination availability.
- To maintain written and oral examinations that meet all standards of validity and are free of negative bias.

GOAL III: INCREASE CONSUMER SERVICES AND CONSUMER PROTECTION BY PROMOTING AND MAINTAINING COMPETENCE AND ETHICAL BEHAVIOR BY THE PROFESSIONS

- To continue to respond to consumer inquiries and decrease the case processing time frame.
- To continue evaluation of alternative forms of discipline.
- To annually review disciplinary guidelines for needed content changes.
- To monitor cases for trends and public policy concerns.
- To improve and ensure dissemination of information to licensees and interested parties.
- To improve the expert witness selection process.
- To identify interested agencies and organizations to establish liaison and communication with the Board on an ongoing basis.
- To encourage public participation at public hearings and workshops as needed to facilitate input on specific issues.
- To clarify for the public distinctions and similarities among the professions.
- To determine the best use of present and emerging technologies to enhance enforcement efforts while providing a system that is Year 2000 compliant.
- To identify and investigate avenues that exist to improve the focus on ethical standards in practice.

GOAL IV: SIMPLY, CLARIFY, AND PROPOSE LEGISLATION AND REGULATIONS

- To simplify and clarify existing laws and regulations.
- To review legal opinions and obtain agreement on meanings.
- To review pending legislation and make recommendations to the Board on an ongoing basis.
- To act as an advocate and testify, if necessary, in the legislative process.
- To monitor issues arising at Board level and sponsor legislation if necessary.
- To track and monitor current managed care legislation and regulation.
- To interface with other regulatory agencies and boards.
- To gather and review data on related managed care issues.

COMMITTEES

As part of the Board's strategic planning, the Board reorganized its committee structure to be more responsive to its mission and goals. The committees are working committees that do not have statutory authority.

Committees are generally comprised of four Board members. In addition to monitoring their respective goals and objectives set by the Board in the Strategic Plan, these committees hold various workshops which include public participation. The committees discuss and explore ways in which their respective areas can improve overall operations, and make policy recommendations to the Board.

The ***Licensing and Education Committee*** ensures that those entering the professions meet the minimum requirements for education, experience, and examinations. The committee explores standards and monitors accreditation for education programs, and analyzes and makes recommendations on education and experience requirements. It also clarifies definitions and sets standards for qualified and trained supervisors and settings in which clinical experience may be gained.

The ***Examination Committee*** oversees the ongoing development and administration of the oral and written examinations to ensure they are current and occupationally valid. The committee also reviews examination results to identify problem areas and new testing needs, and strives to improve examination availability.

The ***Consumer Services / Consumer Protection Committee*** makes recommendations on practice standards, consumer services, and enforcement issues. The committee makes recommendations regarding regulatory standards for the behavioral sciences, policies and procedures designed to protect consumers, and guidelines for enforcing standards when violations occur. It further protects consumers by informing the public and licensees of standards and enforcement programs and by working cooperatively with agencies, associations, and educational institutions to monitor trends, anticipate problems, and educate at all levels.

The ***Legislation and Managed Care Committee*** makes recommendations on legislation and regulation issues affecting the Board and its operations. The committee and other Board members participate, as necessary, in the legislative process. The Committee is also responsible for monitoring issues surrounding managed care changes and for bringing those issues to the Board's attention.

FUNDING AND ORGANIZATION OF THE BOARD AND STAFF

The Board's main sources of revenue are fees for the issuance and renewal of licenses, and fees for establishing eligibility for taking the written examination and the oral examination. These fees support the license, examination, enforcement, and administration programs, which include processing and issuing licenses, maintaining Board records, printing and distributing publications, resolving consumer complaints, enforcing statutes, undertaking disciplinary actions, managing personnel, and general operating expenses. The charts at the end of this section depict the Board's sources of revenue and expenditures in more detail.

All revenue received by the Board is remitted to the State Treasury for credit to its fund. The Board maintains its own revenue and expenditure tracking system in addition to the DCA's automated system. The Board's system monitors all categories of expenditures and revenues and generates various detailed reports. These reports provide the Board with the most current fiscal information. These figures are reconciled with the reports provided by DCA, allowing for the lag time involved with outside billing agencies.

The Board's funding sources are expected to remain generally the same in upcoming years. Its projected sources of revenues and expenditures for fiscal years 1997/98 and 1998/99 are provided in a chart at the end of this section. The Board will submit five Budget Change Proposals (BCPs) for 1998/99 in order to:

- implement the Citation and Fine Program,
- fund ongoing examination maintenance for the Board's oral examinations,
- migrate to the Integrated Consumer Protection System, the DCA's new licensing and enforcement tracking system,
- add two office technician positions to administer the Continuing Education and MFCC Referral Program, and
- align the fingerprint reimbursement line by submitting a negative BCP.

The Board does not have plans to adopt performance-based budgeting at this time. It is monitoring the DCA, which is one of five pilot departments currently operating under performance-based budgeting. At this time, only the DCA's bureaus are included.

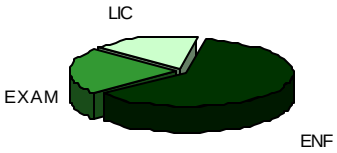
The Board's staff has found the DCA's reorganization into "Client Service Teams" to be an effective way of handling administrative functions and this change has enhanced the Board's operations.

An organization chart of the Board and a summary of position titles, authorized positions, and actual expenditures for the last four fiscal years is included at the end of this section.

EXPENDITURES BY PROGRAM COMPONENT

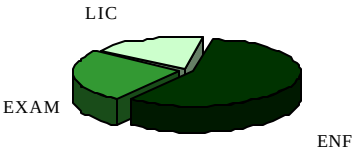
FISCAL YEARS 1993/94 THROUGH 1996/97

Fiscal Year 1993/94



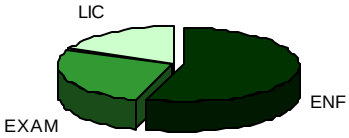
ENFORCEMENT	$ 2,775,097	(61%)
EXAMS	$ 1,000,855	(22%)
LICENSING	$ 773,388	(17%)

Fiscal Year 1994/95



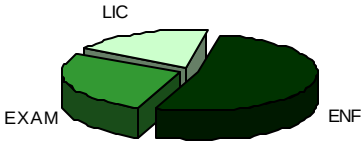
ENFORCEMENT	$ 2,711,835	(57%)
EXAMS	$ 1,236,978	(26%)
LICENSING	$ 808,793	(17%)

Fiscal Year 1995/96



ENFORCEMENT	$ 2,446,884	(55%)
EXAMS	$1,201,198	(27%)
LICENSING	$ 800,798	(18%)

Fiscal Year 1996/97



ENFORCEMENT	$ 2,486,977	(53%)
EXAMS	$ 1,313,874	(28%)
LICENSING	$ 891,558	(19%)

Note: The administrative component (personnel, budget, etc.) for the above illustrated expenditures has been distributed accordingly in each of the program components.

ACTUAL EXPENDITURE HISTORY
Fiscal Years 1993/94 - 1996/97

EXPENDITURE CATEGORY	FY 93/94	FY 94/95	FY 95/96	FY 96/97
PERSONAL SERVICES				
Salaries & Wages	805,129	853,111	994,684	1,041,916
Blankets	420,477	132,270	73,953	84,150
Staff Benefits	266,183	270,863	321,105	341,869
Overtime	34,949	9,245	4,038	10,174
TOTAL PERSONAL SERVICES	**$ 1,526,738**	**$ 1,265,489**	**$ 1,393,780**	**$1,478,109**
OPERATING EXPENSES & EQUIPMENT				
General Expense	188,368	121,828	124,221	360,386
Printing	23,130	27,819	37,414	57,819
Communication	35,581	34,903	24,371	17,728
Postage	58,552	55,598	57,410	91,822
Travel In-State	44,921	32,463	34,658	29,722
Travel Out-of-State	0	0	2,909	1,281
Training	1,768	1,139	5,062	20,531
Facilities Operations	123,649	125,316	126,937	182,262
C&P Services - Interdepartmental	1,737	32,081	-114	26,928
C&P Services - External	6,187	100	0	0
C&P Services (Legal Non-State)	7,464	0	0	0
Departmental Prorata:				
DCS Prorata	52,026	48,653	49,130	0
FTB Billing	0	0	0	0
DP Billing	154,589	208,215	207,670	310,690
Indirect Dist. Costs	221,579	195,234	202,690	263,885
D of I Prorata	3,268	3,731	3,849	0
Consolidated Data Center	7,541	14,680	14,487	23,004
Data Processing	10,535	363	200	42,019
Admin. Prorata	161,718	126,066	138,020	133,350
Equipment Replacement	0	0	14,044	0
Equipment Additional	3,343	0	10,571	9,722
EXAM EXPENSES				
Exam Supplies/Materials	3,034	1,704	1,850	1,254
Exam Freight	627	5,321	5,556	8,310
Site Rental	56,782	87,007	94,435	107,360
Exam Administration Contract	0	410,597	137,469	256,267
Expert Examiners	0	0	308,162	301,976
ENFORCEMENT EXPENSES:				
Attorney General	635,848	483,122	649,293	478,294
Office of Administrative Hearing	118,381	190,815	104,423	92,402
Evid/Witness Fees	81,630	62,732	60,459	47,449
DOI - Investigation	1,020,344	1,210,541	639,816	347,499
Tort Payments	0	12,000	108	2,340
TOTAL OPERATING EXPENSES & EQUIPMENT	**$ 3,022,602**	**$ 3,492,117**	**$ 3,055,100**	**$3,214,300**
TOTAL EXPENDITURES	**4,549,340**	**4,757,606**	**4,448,880**	**4,692,409**
Reimbursements	-189,351	-164,331	-184,439	-180,378
NET TOTAL EXPENDITURES	**$ 4,359,989**	**$ 4,593,275**	**$ 4,264,441**	**$4,512,031**

BUDGET SCHEDULE OF EXPENDITURES

EXPENDITURE CATEGORY	APPROVED BUDGET 1997/98	PROJECTED BUDGET 1998/99
AUTHORIZED POSITIONS	40.5	40.5
PERSONAL SERVICES		
Salaries & Wages	1,121,618	1,144,050
Blankets	347,964	354,923
Staff Benefits	357,442	364,591
Overtime	15,893	16,211
Salary Savings	-45,500	-46,410
TOTAL PERSONAL SERVICES	**$1,797,417**	**$1,833,365**
OPERATING EXPENSES & EQUIPMENT		
General Expense	21,529	21,960
Fingerprint Reports	209,988	214,188
Printing	26,741	27,276
Communication	30,093	30,695
Postage	35,773	36,488
Travel In-State	20,924	21,342
Travel Out-of-State	3,870	3,947
Training	7,690	7,844
Facilities Operations	125,545	128,056
C&P Services - Interdepartmental	0	0
C&P Services - External	28,731	29,306
C&P Services (Legal Non-State)	0	0
Departmental Prorata:		
DCS Prorata	0	0
FTB Billing	0	0
DP Billing	277,625	283,178
Admin. Prorata	254,025	259,106
D of I Prorata	7,232	7,377
Consolidated Data Center	29,388	29,976
Data Processing	4,069	4,150
Central Admin. - Prorata	69,692	71,086
Equipment Replacement	7,150	7,293
Equipment Additional	24,140	24,623
EXAM EXPENSES		
Exam Supplies/Materials	0	0
Exam Freight	0	0
Site Rental	50,900	51,918
Exam Administration Contract	393,496	401,366
ENFORCEMENT EXPENSES:		
Attorney General	696,160	710,083
Office of Administrative Hearing	133,058	135,719
Evid/Witness Fees	56,724	57,858
DOI - Investigation	57,517	58,667
TOTAL OPERATING EXPENSES & EQUIPMENT	**$2,572,060**	**$2,623,501**
TOTAL EXPENDITURES	**4,369,477**	**4,456,867**
Reimbursements	-236,000	-240,720
BUDGET AUTHORITY	**$4,133,477**	**$4,216,147**

SCHEDULE OF REVENUE SOURCES
FISCAL YEARS 1993/94 - 1996/7

	Actual				Projected	
REVENUE CATEGORY	1993/94	1994/95	1995/96	1996/97	1997/98	1998/99
Other Regulatory Fees (125600)	55,114	43,130	63,073	71,732	91,180	93,004
Application/Licensing Fees (125700)	1,049,297	1,031,770	1,237,335	1,662,991	1,741,280	1,776,106
Renewal Fees (125800)	3,080,175	3,125,360	3,393,657	3,913,918	3,700,000	3,774,000
Delinquent Renewals (125900)	55,345	63,310	66,885	58,835	42,375	43,223
Sale of Documents (141200)	9,902	11,801	9,652	8,825	10,500	10,710
Miscellaneous (142500, 161400)	37,488	36,742	44,495	36,732	45,500	46,410
Interest (15030)	39,326	55,771	85,092	123,175	120,891	191,810
Transfers				311,283	351,000	351,000
TOTAL REVENUE & TRANSFERS	$ 4,326,648	$ 4,367,883	$ 4,900,189	$ 6,187,491	$ 6,102,726	$ 6,286,262
Miscellaneous (16100, 370200)	6,962	837	875	473	1,000	1,020
Reimbursements (Sched & Unsched)*						
Fingerprints (Scheduled)	155,128	86,160	96,312	106,320	210,000	210,000
Misc (Scheduled)	18,163	24,722	31,529	39,789	26,000	26,000
Cost Recovery (Unscheduled)**	16,059	53,449	56,598	34,269	60,000	60,000
TOTAL RECEIPTS	$ 4,522,960	$ 4,533,051	$ 5,085,503	$ 6,368,342	$ 6,399,726	$ 6,583,282

* Total reimbursements are applied against the Board's actual expenditures.
** Cost Recovery is considered an unscheduled reimbursement. Unscheduled reimbursements are part of the total reimbursements posted in the Governor's Budget.

FEE SCHEDULE

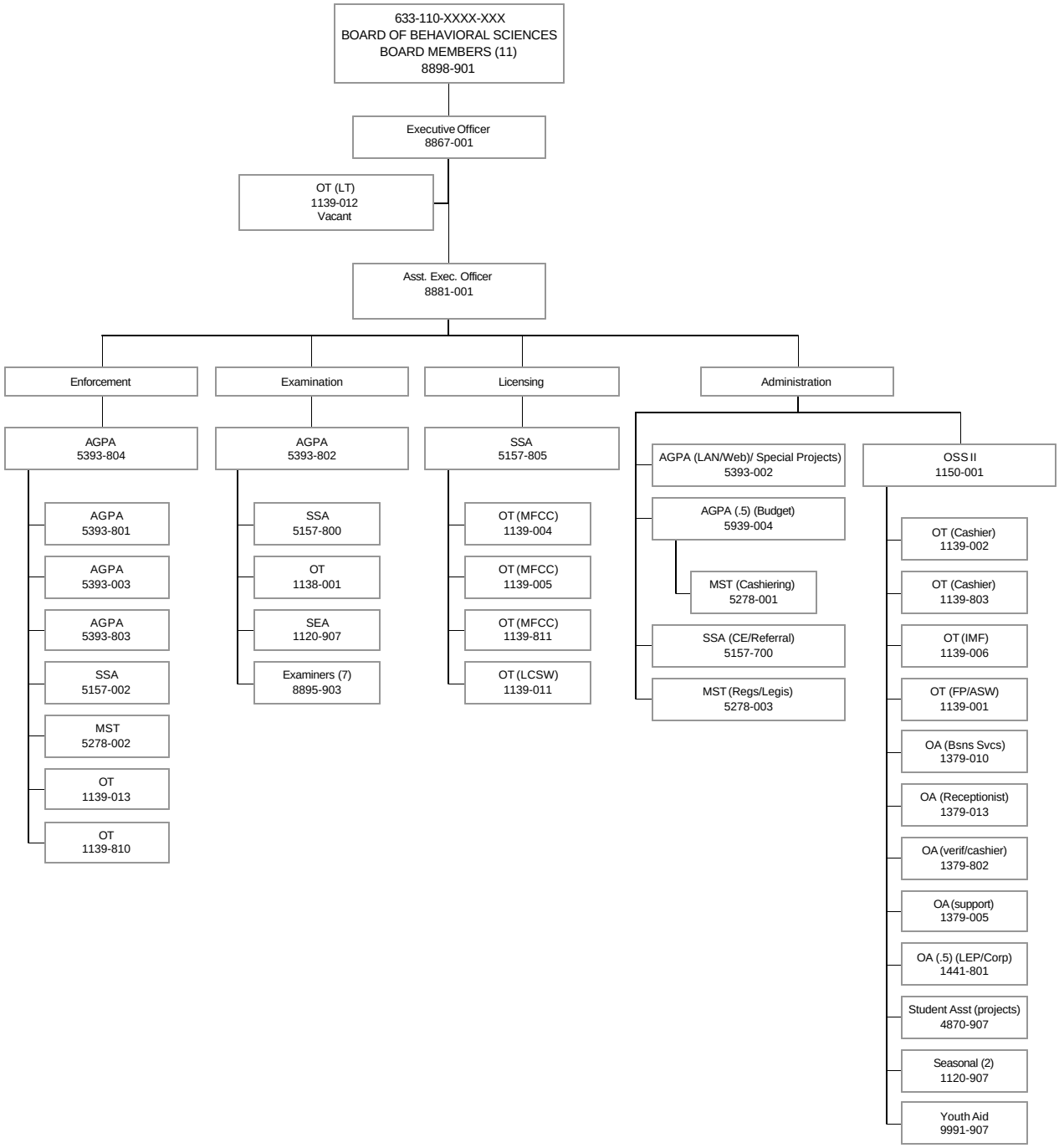
	Current Fee		Statutory Maximum
Marriage, Family & Child Counselor (MFCC)			
MFCC Corporate Registration Application	$100.00		$ 100.00
MFCC Intern Registration	$ 90.00		$ 90.00
MFCC Intern Extension	$ 75.00		$ 75.00
MFCC Application	$100.00		$ 100.00
MFCC Written Exam or Re-exam	$100.00		$ 100.00
MFCC Oral Exam or Re-exam	$200.00		$ 200.00
MFCC Initial License	$180.00		$ 180.00
MFCC Biennial License Renewal	$180.00		$ 180.00
MFCC Intern Renewal	$ 75.00		$ 75.00
MFCC Delinquent Renewal Penalty Fee	$ 90.00		$ 90.00
Licensed Clinical Social Worker (LCSW)			
LCSW Corporate Registration Application	$100.00		$ 100.00
LCSW Associate Registration	$ 90.00		$ 90.00
LCSW Associate Extension	$ 50.00		$ 50.00
LCSW Application	$100.00		$ 100.00
LCSW Written Exam or Re-exam	$125.00		$ 125.00
LCSW Oral Exam or Re-exam	$200.00		$ 200.00
LCSW Initial License	$155.00		$ 155.00
LCSW Biennial License Renewal	$155.00		$ 155.00
LCSW Associate Renewal	$ 75.00		$ 75.00
LCSW Delinquent Renewal Penalty Fee	$ 75.00		$ 75.00
Licensed Educational Psychologist (LEP)			
LEP Application	$100.00		$ 100.00
LEP Written Exam or Re-exam	$100.00		$ 100.00
LEP Initial License	$150.00		$ 150.00
LEP Biennial License Renewal	$150.00		$ 150.00
LEP Delinquent Renewal Penalty Fee	$ 75.00		$ 75.00
Miscellaneous			
MFCC Corporation Annual Report	$ 10.00		n/a*
MFCC Corporation Special Report	$ 5.00		n/a*
LCSW Corporation Annual Report	$ 10.00		n/a*
Continuing Education Provider Application Fee	$200.00		$200.00
Continuing Education Provider Biennial Renewal	$200.00		$200.00
LCSW Corporation Special Report	$ 5.00		n/a*
Laws & Regulations	$ 5.00		n/a*
Verification Fee	$ 3.00		n/a*
Certification of Licensure or Registration Fee	$ 25.00		$ 25.00
Declaration of Replacment License or Reg Fee	$ 20.00		$ 20.00
Appeal of Oral Exam	$100.00		$ 100.00
Re-Scoring Written	$ 20.00		$ 20.00
Loan Deferment Certification Fee	$ 10.00		n/a*
* Statutory Authority is not required on fees $10.00 or less.			

DETAIL OF AUTHORIZED POSITIONS

	Actual								Proposed Staff Changes			
	93/94		94/95		95/96		96/97		97/98		98/99	
Position Titles	Auth. Pos.	Salary Expended	Auth. Pos.	Salary Expended	Auth. Pos.	Salary Expended	Auth. Pos.	Salary Expended	Auth. Pos.	Projected Salary	Auth. Pos.	Projected Salary
AUTHORIZED POSITIONS												
Executive Officer	1	61,751	1	45,125	1	68,298	1	69,912				
Asst Exec Officer I	1	48,366	1	14,353	1	8,506	1	4,253				
Assoc Govtl Prog Analyst	3.5	161,367	4.5	239,434	7.5	293,817	6.5	307,212				
Staff Services Analyst - Gen	3	75,625	2	56,516	2	84,972	4	124,994	-0.5	-12808		
Office Services Supvr II - Gen	1	31,601	1	24,990	1	32,205	1	33,252				
Office Techn - Gen	0.5	22,711	0.5	29,168	0.5	29,724	0.5	29,724				
Mgmt Services Techn						23,269	3	92,169				
Office Techn - Typing	7	200,145	14	353,895	14	349,373	11	277,841				
Office Assist - Typing	10	191,674	4	76,988	4	91,692	4	90,065				
Office Assist - General	1.5	11,889	0.5	12,642	0.5	12,828	0.5	12,828				
SubTotal	**28.5**	**805,129**	**28.5**	**853,111**	**31.5**	**994,684**	**32.5**	**1,042,250**	**-0.5**	**-12808**	**0**	**0**
BLANKETS:												
Board Member		34,100		14,300		13,000		11,900				
Expert Examiner	4.6	288,297	4.6	37,175	4.6	0	4.6	0				
Exam Proctor	2.5	77,081	2.5	57,757	2.5	32,506	2.5	36,157				
Temporary Help	1.4	20,999	1.4	23,038	1.4	28,446	1.4	36,093				
Overtime		34,949		9,245		4,038		10,174				
SubTotal	**9**	**455,426**	**9**	**141,515**	**9**	**77,990**	**9**	**94,324**	**0**	**0**		
TOTAL	**37**	**1,260,555**	**37**	**994,626**	**40**	**1,072,674**	**41**	**1,136,574**	**-0.5**	**-12808**	**0**	**0**

* Note: Authorized positions compared to actual salary expenditures does not reflect position utilization.

Organizational Chart



AGPA: Associate Governmental Program Analyst
OA: Office Assistant
OT: Office Technician
MST: Management Services Technician
OSSII: Office Services Supervisor II
SSA: Staff Services Analyst

LICENSING

- As of July 1, 1997 there were 23,204 MFCCs; 13,632 LCSWs; and 1,579 LEPs licensed in California.
- The Board developed the *Answers to Frequently Asked Questions* booklets for the MFCC Interns and LCSW Associates.
- The Board decreased the MFCC and LCSW license application review time from 90 days to 60 days.
- Board members and staff continually visit schools, colleges and universities, and attend various professional association meetings to share information regarding licensure.

LICENSING OVERVIEW

The Board of Behavioral Sciences continues to protect the public by setting appropriate standards for entry into the professions it regulates.

To become licensed as a Marriage, Family, and Child Counselor (MFCC), Licensed Clinical Social Worker (LCSW), or Licensed Educational Psychologist (LEP) in California, an applicant must have the extensive education and supervised experience required by the Board and must pass a written examination. In addition, MFCC and LCSW applicants must pass an oral examination.

Background checks are conducted for all applicants to determine if the applicant has had criminal convictions or disciplinary action against another professional license. Those applicants with past convictions or disciplinary action may be required to undergo rehabilitation and may also be denied licensure. The Board considers these checks vital to the protection of consumers.

Except in the case of some professionals who have been licensed or certified for two years, California requires out-of-state and out-of-country applicants to have the education and experience required of those from in-state. Those applicants may also have to complete additional coursework. All new applicants for licensure from out-of-state or out-of-country must pass the examinations required by the Board and must have a background check.

The Board continuously reviews licensure requirements and procedures, and recommends changes accordingly. It has considered alternative requirements for licensure at various times, but has determined that the

requirements in place are needed to protect consumers. The Board is not considering and has not adopted any national models for licensure.

The Board's focus is on licensing and enforcement, so the Board is not currently involved in data collection efforts to determine where there may be a shortage or surplus of professionals under its jurisdiction. However, the Board reviews any information on shortages or other trends relating to its licensees to determine if a change in laws or regulations may be appropriate. This information comes from various sources, including licensees, professional associations, consumers, and the media.

EDUCATION

Although the Board does not accredit or approve any educational institutions or programs, it does maintain contact with the agencies that do, including the Western Association of Schools and Colleges, the Northwest Association of Secondary and Higher Schools, and the Council for Private Post-secondary and Vocational Education. The Board also maintains contact with various schools, colleges and universities in California regarding their programs in behavioral sciences, and receives input on educational issues from the professional associations.

California law requires all MFCCs, LCSWs, and LEPs to hold a master's or doctor's degree.

MFCCs must possess a master's degree in marriage, family, and child counseling; marital and family therapy; psychology; clinical psychology; counseling psychology; counseling with emphasis in marriage, family, and child counseling; or social work with a emphasis in clinical social work. The degree must have been earned at an accredited or approved institution.[10]

LCSWs must possess a master's degree from a school or department of social work accredited by the Council on Social Work Education's Commission on Accreditation.[11]

LEPs must possess a master's degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent by regulations. They must have completed 60 semester or 90 quarter units of postgraduate coursework devoted to pupil personnel services. Such degree or training must be obtained from an educational institution deemed acceptable by the Board.[12]

EXPERIENCE

Before becoming licensed as an MFCC, LCSW, or LEP, all applicants must complete the required hours of supervised work experience in addition to the education requirements. The way in which these hours may be

[10] Business and Professions Code Section 4980.40(b).
[11] Business and Professions Code Sections 4996.18(a) and 4996.2 (b).
[12] Business and Professions Code Section 4986.20(a) and California Code of Regulations Section 1855.

completed vary among the professions the Board regulates. The various needs of each profession dictate that these hours of supervised work experience may be completed through a variety of methods.

MFCC applicants may earn work experience first as a trainee and then as an intern registered with the Board. Trainees have not yet completed the necessary degree and are not registered with the Board, while interns must have completed their degree and be registered with the Board. MFCC applicants must complete at least 3,000 hours of supervised experience during a period of at least 104 weeks. No more than 1,300 of these hours may be obtained prior to the applicant's completion of the required degree. At least 1,700 post-degree hours of experience must be completed as a registered intern. Hours of experience may be completed at a governmental entity, school, college, university, nonprofit and charitable corporation, licensed health facility,[13] or private practice. [14] Interns register for one year and may renew their intern registration for five years. An extension may be granted upon yearly application for up to three years.[15] This extension statute is scheduled to be repealed effective January 1, 1999.

LCSW associates are not allowed to earn work experience credit until after they have completed the required degree. LCSW applicants must complete at least 3,200 hours of supervised experience during a period of at least two years while the applicant is registered with the Board as an associate. Of the 3,200 hours of supervised experience, 2,200 hours must be completed under the supervision of an LCSW. The remaining 1,000 hours may be completed under the supervision of a licensed mental health professional acceptable to the Board. Up to 1,600 hours may be under group supervision and the remainder must be under an individual supervisor. Hours of experience may be completed at a governmental entity, school, college, university, nonprofit and charitable corporation, licensed health facility, or private practice.[16] Associates register for one year and may renew their registration for five years. An extension may be granted upon yearly application for up to three years.[17]

LEP applicants do not register with the Board while gaining the required supervised experience. LEP applicants must have at least two years experience as a full-time, credentialed school psychologist in the public schools or have experience that the Board deems equivalent, which may include work as a credentialed school psychologist in a private or parochial school. The applicant must have at least one year of supervised professional experience either in an accredited school psychology program or under the direction of a licensed psychologist, or comparable experience as determined by the Board's regulations. One year in a public school or its equivalent may fulfill the latter requirement, if that year includes supervision by a licensed psychologist.[18]

OUT-OF-STATE AND OUT-OF-COUNTRY REQUIREMENTS

Education

[13] Health and Safety Codes 1250, 1250.2 and 1250.3.
[14] Business and Professions Code Sections 4980.40(f) and 4980.42 through 4980.45 and California Code of Regulations Section 1833.
[15] Business and Professions Code Section 4980.44(b).
[16] In part, Business and Professions Code Sections 4996.18 and 4996.20.
[17] Business and Professions Code Section 4996.18 (c).
[18] Business and Professions Code Section 4986.20 and California Code of Regulations 1832.

Education completed outside California is accepted toward the licensure requirements for MFCC, LCSW, and LEP applicants if it is substantially equivalent to the education requirements in California.

MFCC applicants who completed their education outside California must complete additional coursework in child abuse assessment and reporting, and California law and professional ethics. Coursework on human sexuality and alcoholism and other chemical substance dependency is also required by California law, but may have been completed out-of-state. In addition, those applicants who completed out-of-country degrees must provide the Board with a detailed report of their transcripts from The Credentials Evaluation Services of the International Education Research Foundation in Los Angeles to assist the Board in determining equivalency.[19]

LCSW applicants who completed their education outside California must complete additional coursework in child abuse assessment and reporting. Coursework on human sexuality, and alcoholism and other chemical substance dependency is also required by California law, but may have been completed out-of-state. LCSW applicants with out-of-country degrees are referred to the Council on Social Work Education's Commission on Accreditation to assist the Board in determining equivalency.

LEP applicants who earned their degrees out-of-state are reviewed by the Board on an individual basis. Those applicants with out-of-country degrees must provide the Board with a detailed report of their transcripts from The Credentials Evaluation Services of the International Education Research Foundation in Los Angeles to assist the Board in determining equivalency.[20]

Experience

MFCC applicants who do not have licensed experience outside California must complete all work experience and examinations required of in-state applicants. MFCC applicants may count experience completed outside California toward the licensure requirements, but at least 250 hours of experience must be completed in California while registered with the Board as an intern.[21]

MFCC applicants with two or more years licensed experience outside California may not have to complete all the supervised hours required for other applicants. Those applicants may be licensed in California if they have education and experience that is substantially equivalent to that required in California, if they pass the Board's written and oral examinations, and if they complete the additional coursework described above.[22]

Experience of LCSW applicants from outside California is reviewed for substantial equivalency by the Board.[23]

Experience of LEP applicants from outside California is reviewed for substantial equivalency by the Board.

The Board feels that the reciprocity statutes in place ensure adequate protection of consumers, and changes to the process are not needed at this time.

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[19] Business and Professions Code Section 4980.90.
[20] California Code of Regulations 1854.
[21] Business and Professions Code Section 4980.80 and 4980.90(a).
[22] Business and Professions Code Section 4980.80.
[23] Business and Professions Code Section 4996.17.

REQUIREMENTS OF SUPERVISORS

Supervisors are licensed professionals who oversee the practical experience required of MFCC trainees, MFCC interns, LCSW associates, and those wishing to be licensed as LEPs. Supervisors are expected to ensure that those under their direction properly assess and examine patients, and have a treatment plan which falls within the scope of practice. They are required to know the appropriate types of settings where experience may be gained. To be a supervisor, the licensee's professional license must be free of disciplinary actions. Supervisors are not required to register with the Board as supervisors.[24]

MFCC supervisors are required to be licensed in California prior to supervision for at least two years as an MFCC, LCSW, Licensed Psychologist, or a Physician certified in psychiatry by the American Board of Psychiatry and Neurology. MFCC supervisors must have experience, training, or education in the practice of marriage, family, and child counseling, and personally maintain at least five hours of patient contact per week. Supervisors must provide at least one hour of direct individual or two hours of direct group supervision per week per setting for every ten hours of client contact for a registered intern, or five hours of client contact for a trainee. Trainees are not permitted to work in private practices. Supervisors in a private practice setting may not charge interns for supervision and the intern may be either a paid employee or a volunteer. The Board encourages private practitioners to provide fair remuneration. In a setting other than a private practice, trainees and interns may pay for supervision and may be either a paid employee or a volunteer.

LCSW supervisors are not required to be licensed for any specified number of years prior to supervision. Supervisors in a private practice setting may not be paid for supervision and are encouraged to pay associates a fair remuneration. In a setting other than a private practice the supervisor need not be employed by the same employer as the associate.

LEP supervisors are not required to be licensed for a specified number of years prior to supervision. Supervised professional experience for LEP applicants must be completed in an accredited school psychology program or under the direction of a licensed psychologist, or in an equivalent setting acceptable to the Board. Supervisors of LEP applicants are required to meet with the applicants at least once a week.

The Board is currently formulating regulations that would require potential supervisors of MFCC trainees, MFCC interns, and LCSW associates to have additional training or education prior to supervision.

[24] California Code of Regulations Sections 1833.1 (MFCC), 4996.20(b) (LCSW), and 4986.20(h) (LEP).

Educational and Experience Requirements Overview

TITLE	EDUCATION	EXPERIENCE	SUPERVISION	EXAMS
Marriage, Family, and Child Counselor	Any of the master's degrees named in law from an accredited or approved institution.	3,000 hours of work experience over at least two years. No more than 1,300 hours may be gained prior to earning the required degree.	All experience must be completed under supervision of a licensed mental health professional acceptable to the Board.	Oral and written.
Marriage, Family, and Child Counselor Intern	Any of the master's degrees named in law from an accredited or approved institution.			

Licensed Clinical Social Worker	Master's degree in social work from an accredited institution.	3,200 hours of work experience over at least two years. Experience must be gained after earning the required degree.	At least 2,200 hours of experience must be under an LCSW. The remaining hours may be earned under licensed mental health professionals acceptable to the Board.	Oral and written.
Licensed Clinical Social Worker Associate	Master's degree in social work from an accredited institution.			

Licensed Educational Psychologist	Any of the master's degrees named in law from an institution acceptable to the Board.	Three years of professional experience. At least two years must be as a credentialed school psychologist.	At least one year of supervised experience.	Written.

APPLICATION PROCESSING

APPLICATION FORMS

The Board processes two different registration applications and three different examination applications. These applications are for MFCC intern registration, LCSW associate registration, and MFCC, LCSW, and LEP licensure examinations. An applicant's eligibility for registration or examination is determined by evaluating certified original transcripts and verification forms for educational requirements and supervised experience requirements. (*See appendix B: Application Packets*)

All transcripts and experience verification forms are evaluated to determine if they meet California law and regulation.[25] The applications and requirements for each application packet are:

- **Marriage, Family, and Child Counselor Intern Registration Application Packet**

Application; photograph; fingerprint card; fee; verification of education; and, if applicable, required documentation explaining prior convictions and the resulting disciplinary actions along with letters attesting to the applicant's rehabilitation.

- **Marriage, Family, and Child Counselor Application Packet**

Application; two photographs; personal data card; fingerprint card, if applicant did not submit it with an intern application (example: out-of-state applicant); fee; required education and training verification experience and psychotherapy verification forms; verification of licensure in another state form, if applicable; and, if applicable, required documentation explaining prior convictions and the resulting disciplinary actions along with letters attesting to the applicant's rehabilitation, if such information was not provided with an intern application or a new conviction has occurred since that application was submitted.

- **Associate Clinical Social Worker Registration Application Packet**

Application; photograph; fingerprint card; fee; verification of education; and, if applicable, required documentation explaining prior convictions and the resulting disciplinary actions and letters attesting to the applicant's rehabilitation.

- **Licensed Clinical Social Worker Application Packet**

Application; two photographs; personal data card; fingerprint card, if applicant did not submit it with an associate application (example: out-of-state applicant); verification of education and required training; experience verification forms; verification of licensure in another state form, if applicable; and, if applicable, required documentation explaining prior convictions and the resulting disciplinary actions and letters attesting to the applicant's rehabilitation, if such information was not provided with an associate application or a new conviction has occurred since that application was submitted.

- **Licensed Educational Psychologist Application Packet**

[25] Business and Professions Code of California, Chapter 13; and California Code of Regulations, Title 16, Division 18.

Application; two photographs; personal data card; fingerprint card; verification of education; experience verification form; and, if applicable, required documents explaining prior convictions and the resulting disciplinary actions and letters attesting to the applicant's rehabilitation.

INDIVIDUAL REVIEW PROCESS

Applicants seeking registration as an MFCC intern or LCSW associate, or licensure as an MFCC, LCSW, or LEP who believe they have completed the requirements may begin the appropriate application process by submitting an application accompanied by education and supervised work experience verification forms. The application evaluation process, which applies to applicants with out-of-state or out-of-country experience as well as those with California experience, is similar for those seeking registration and those seeking licensure. The process, portrayed later in this section in a flowchart, is as follows:

For both those seeking registration as an intern or associate and those seeking licensure:

- The applicant is assigned a Board of Behavioral Sciences file number, if he or she has not already been assigned one.

- A hardcopy file is created for the applicant, if he or she has not already been assigned one.

- The applicant's application information is entered into the Consumer Affairs System (CAS), a database maintained by the Department of Consumer Affairs (DCA).

- Files are reviewed by the fingerprint unit.

- The applicant's application is evaluated to determine whether the educational and experience requirements have been satisfied. Registration applications require program certification forms in addition to the official school transcripts. Examination applications require experience verification forms. These forms may also require supporting documentation such as: 501(c)(3) letters from the IRS, licenses from the Department of Health Services, volunteer letters of agreement, copies of W-2 forms, and contracts.

For those seeking licensure, the process continues as follows:

- An applicant approved to take the examinations is sent an eligibility notice and candidate handbook. An applicant's eligibility for the written or oral examination is valid for one year. MFCC and LCSW applicants must contact Assessment Systems, Inc., the examination vendor, to schedule their written examination dates. Examinations for LEP applicants are scheduled by the Board. MFCC and LCSW applicants who have passed the written examination are automatically scheduled for the next oral examination. No oral examination is required for LEP applicants.

- An applicant submitting an incomplete application is issued a deficiency letter. In order to establish eligibility, a applicant must submit additional documentation which must be received within two years from the date of the deficiency letter. An applicant failing to establish eligibility within that two-year period is required to begin the process over by submitting a new application.

RE-EXAMINATION

Applicants who have failed the written or oral examination may submit a request for re-examination, along with the appropriate fee. Applicants must wait six months before they are eligible to retake a written or oral re-examination, and they must retake the entire examination. *(See appendix B: Requests for Re-Examination)*

APPLICATION FOR LICENSURE

Applicants who have passed the Board's required examinations and met all other Board requirements must submit the Initial Licensing Fee Application. These applications are then processed:

- The fee is received and processed through the cashiering unit.
- The applicant's application is updated on the Applicant Tracking System.
- The applicant is issued a license number through CAS and a license is sent to the applicant.

BACKGROUND CHECKS AND DENIAL OF APPLICATIONS

The Board considers background checks of all applicants vital to the protection of consumers. Applications are reviewed for past criminal convictions and disciplinary actions against a professional license. If the Board discovers convictions or disciplinary actions, it may require rehabilitation or deny licensure.

Applicants are required to declare, under penalty of perjury, whether they have ever been convicted of, or pled guilty to or nolo contendere to, any misdemeanor or felony. Applicants must also declare, under penalty of perjury, whether they have ever been denied a professional license or had license privileges suspended, revoked, or disciplined, or if they have ever voluntarily surrendered a professional license in California or any other state.

If an applicant reports an act, the Board requires the applicant to provide a written explanation of the event and any rehabilitative efforts or changes made to prevent future problems. In addition, the Board requires applicants to provide certified copies of court documents describing the conviction and disposition of the case, or certified copies of the determination made by the applicable licensing agency.

The Board uses a variety of methods to determine the accuracy of an applicant's declarations. Criminal history is checked when the applicant's fingerprint cards are processed through the California Department of Justice, which checks all applicants, and the Federal Bureau of Investigation, which checks all out-of-state and out-of-country applicants. A check for disciplinary actions against MFCC applicants previously working out-of-state is conducted through the American Association of State Counseling Boards. A similar check for actions against LCSW applicants previously working out-of-state is conducted through the Disciplinary Action Reporting System list provided by the American Association of State Social Work Boards. The Board is developing a system for checking LEP applicants for prior disciplinary actions through the Commission on Teacher Credentialing and the Consumer Affairs System (CAS). The Board does not utilize the National Practitioner Data Bank. Because of the Board's dedication to protecting consumers, those licensed out-of-state or out-of-country are not allowed to practice independently in California before they have undergone a background check and been issued a license.

Once the information is reviewed, the application is either moved forward, held until the applicant undergoes rehabilitation, or denied.

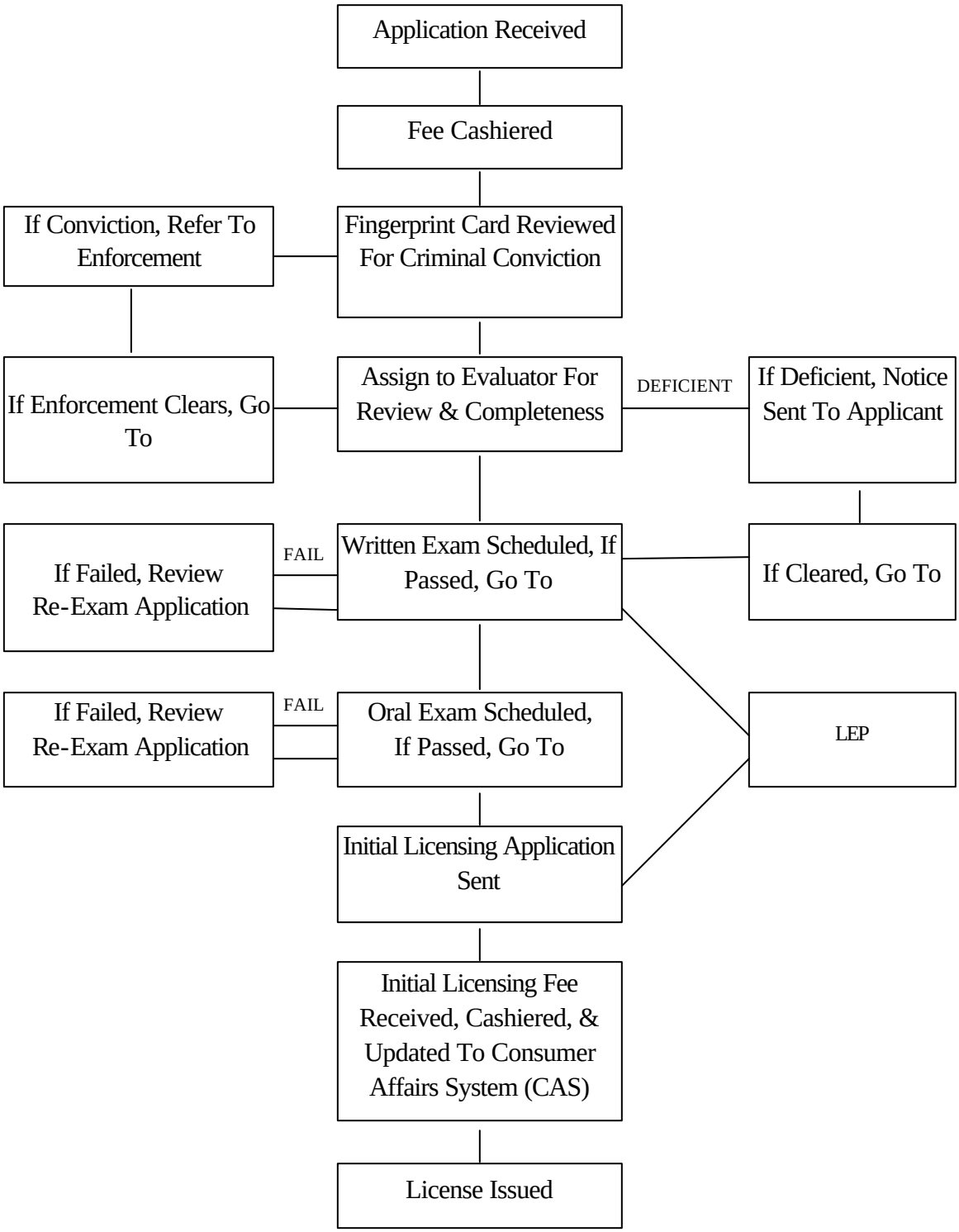
Decisions to deny a license or require rehabilitation are made after careful consideration of each case. The Board considers a crime or disciplinary action related to the qualifications of an applicant if it indicates the applicant will be unable to perform in a manner consistent with the public health, safety or welfare. The Board considers the nature and severity of the act, evidence of any act committed subsequent to those under consideration, the time that has elapsed since the act occurred, the extent to which the applicant has complied with the terms of probation or other sanction, and any evidence of rehabilitation. The Board's Executive Officer follows Board policy when making decisions regarding denial or requirement of rehabilitation, often receiving input from an enforcement analyst and, often, legal counsel.

An applicant not reporting a conviction or a disciplinary action against a license is required to explain why the information was not disclosed. Such concealment may result in the application being denied or in other disciplinary action.[26]

For an applicant whose license has been denied, the Board utilizes applicable laws to develop criteria to evaluate rehabilitation efforts.[27]

[26] In part, Business and Professions Code Sections 475 and 480.
[27] California Code of Regulations, Title 16, Section 1813.

APPLICATION HANDLING PROCESS FLOW CHART



LICENSE RENEWALS

BIENNIAL RENEWAL

MFCC, LCSW, and LEP licenses are required to be renewed every two years, and licenses are processed on a biennial basis. Because renewal dates are based on the licensee's birth month, initial licenses may need to be renewed any time within 13 to 24 months from issuance, depending on the time of initial application. Licenses are renewed if the appropriate renewal form and fee are submitted.

When the renewal fee is submitted with an automated cashiering renewal application, renewals for current licenses and licenses that have been delinquent for less than two years are processed by DCA's automated cashiering team. Renewals submitted without an automated cashiering renewal application and renewals for licenses that have been delinquent for more than two years but less than five years are cashiered by Board staff.

MFCC and LEP licenses that are more than five years delinquent may not be renewed, though the licensee may apply for a new license. LCSWs may renew a license no matter how long it has been delinquent by paying all back renewal and delinquent fees. The Board is seeking legislation that would allow it to treat delinquent LCSW licenses the same as delinquent MFCC and LEP licenses.

EXPIRED LICENSES

An MFCC license that is renewed more than 30 days but less than five years after the license expiration date requires the payment of a delinquency fee, in addition to the fees the licensee would have paid if the license had not become delinquent.[28] An MFCC license that is not renewed within five years after its expiration date may not be renewed or reinstated. The licensee may, however, obtain a new license if no fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension, and all fees which are required for a first time license application are paid.[29]

A delinquent LCSW license may be restored upon payment of delinquency fees and fees that would have been required if the license had not become delinquent.[30]

An LEP license that is renewed more than 30 days but less than five years after the license expiration date requires the payment of a delinquency fee, in addition to fees the licensee would have paid if the license had not become delinquent.[31] An LEP license that is not renewed within five years after its expiration date may not be renewed or reinstated. The licensee may, however, obtain a new license if no fact, circumstance, or condition

[28] Business and Professions Code Section 4984.1.
[29] Business and Professions Code Section 4984.4.
[30] Business and Professions Code Section 4996.6.
[31] Business and Professions Code Section 4984.1.

exists which, if the license were issued, would justify its revocation or suspension, and all fees which are required for a first time license application are paid.[32]
The DCA has a general statute for inactive status which allows boards to issue inactive licenses to licensees who request it.[33] With the passage of its new continuing education requirement, the Board is developing an information packet for its licensees to request inactive license status. The Board is also pursuing legislation for an inactive license status in the DCA's 1998 Omnibus bill. This legislation would allow a licensee who is not currently practicing to request that her or his license be put on an inactive status, pay a biennial fee and half of the license renewal fee, and not be required to submit continuing education until such time as the license is placed back in an active status.

The statistics reflected on the following page for "Licensees (Inactive—renewable)" are those licenses that are expired but can be renewed if the appropriate fees are paid.

The public has access to the names, addresses, license numbers, license issue and expiration dates, and the license status of licensees. The public may not obtain education, training information, employment history, or credentialing history of licensees.

[32] Business and Professions Code Section 4984.4.
[33] Business and Professions Code Section 701.

LICENSING INFORMATION

Marriage, Family, and Child Counselors	1993/94	1994/95	1995/96	1996/97
Licensees (Active)	21,981	22,550	22,960	23,204
Licensees (Inactive-Renewable)	1,812	1,940	1,975	2,109
Licenses Issued	972	949	760	733
Renewals Received	10,558	10,779	10,831	11,565
Applications Received	1,126	999	1,060	1,039
Applications Denied *	1	0	1	4
Potential Licensees (MFCC Intern)	9,286	9,693	10,195	10,437
Average Time between Submission of Application to an Applicant's Approval for Written Exam	70 days	60 days	60 days	60 days
Average Time between Written and Oral Exam	180 days	105 days	105 days	105 days
Average Time from Completion of Applicant's Oral Exam and License Issuance	37 days	45 days	37 days	60 days

Licensed Clinical Social Workers	1993/94	1994/95	1995/96	1996/97
Licensees (Active)	12,949	13,165	13,481	13,632
Licensees (Inactive-Renewable)	2,943	3,120	3,286	3,505
Licenses Issued	240	411	533	394
Renewals Received	6,501	6,313	6,520	6,710
Applications Received	643	629	629	602
Applications Denied	0	0	0	0
Potential Licensees (LCSW Associate)	4,001	4,549	4,709	4,821
Average Time between Submission of Application to an Applicant's Approval for Written Exam	60 days	45 days	35 days	35 days
Average Time between Written and Oral Exam	120 days	120 days	105 days	105 days
Average Time from Completion of Applicant's Oral Exam and License Issuance	38 days	36 days	47 days	60 days

Licensed Educational Psychologists	1993/94	1994/95	1995/96	1996/97
Licensees (Active)	1,501	1,516	1,567	1,579
Licensees (Inactive-Renewable)	206	214	198	212
Licenses Issued	34	48	73	63
Renewals Received	735	729	754	757
Applications Received	36	57	56	89
Applications Denied	0	0	0	0
Potential Licensees	n/a	n/a	n/a	n/a
Average Time between Submission of Application and an Applicant's Approval for Written Exam	60 days	60 days	60 days	60 days
Average Time between Written and Oral Exam	90 days	n/a	n/a	n/a

Average Time from Completion of Applicant's Examination and License Issuance	45 days	46 days	48 days	48 days

Marriage, Family, and Child Counselor Interns	**1993/94**	**1994/95**	**1995/96**	**1996/97**
Registrants (Active)	7,406	7,857	8,356	8,513
Registrants (Inactive-Renewable)	1,880	1,836	1,839	1,924
Registrations Issued	1,881	2,107	2,113	1,948
Renewals Received	6,299	6,270	6,267	6,726
Applications Received	1,885	2,265	1,382	1,986
Applications Denied*[34]	0	1	1	1

Licensed Clinical Social Worker Associates	**1993/94**	**1994/95**	**1995/96**	**1996/97**
Registrants (Active)	3,270	3,601	3,837	3,919
Registrants (Inactive-Renewable)	731	948	872	902
Registrations Issued	797	932	1,022	1,010
Renewals Received	2,679	2,872	2,809	2,966
Applications Received	758	968	656	999
Applications Denied*	0	0	1	1

The number of licensees who may have been grandfathered into the profession and who are currently in practice as of May 1, 1997 are:

- 1,358 Marriage, Family, and Child Counselors and
- 458 Licensed Clinical Social Workers.

[34] *These applications were denied by the Department of Consumer Affairs, Family Support Unit pursuant to Section 11350.6 of the California Welfare and Institutions Code.

CONTINUING EDUCATION

- The continuing education regulations for MFCCs and LCSWs became effective on May 19, 1997.
- Licensees have the flexibility to take courses they feel are pertinent to their practice as long as the courses relate to the MFCC or LCSW scope of practice.
- The Board is approving as continuing education providers many county departments and health facilities which offer free training to their employees. Because of this, MFCCs and LCSWs employed by these entities will be able to take advantage of free continuing education.
- The Board's approval of providers is a two-year blanket approval covering any qualified course offered. This reduces obstacles to course planning, making the continuing education program user-friendly for providers.

Senate Bill 26 (Alquist), which became effective January 1, 1996, required the Board of Behavioral Sciences to implement a continuing education requirement for the renewal of licenses for Marriage, Family, and Child Counselors (MFCCs), and Licensed Clinical Social Workers (LCSWs). There is no similar requirement for Licensed Educational Psychologists (LEPs).

Corresponding codes specify that after January 1, 1999, MFCC and LCSW licenses will only be renewed if the licensee has completed 36 hours of continuing education during the two years prior to license expiration.[35] Continuing education courses may be obtained from accredited or approved educational institutions, or from other Board-approved providers.

Continuing education for MFCCs and LCSWs was deemed necessary by the Legislature and the Board because those licensees must have an intimate understanding of changing social conditions. Providing consumers with appropriate and effective therapy requires that MFCC and LCSW licensees continually update and maintain their current knowledge and skills. The new continuing education requirement provides a mechanism to accomplish that goal.

The continuing education program includes courses that are related to the diagnosis, assessment, and treatment of clients. As required by statute, continuing education courses must be related to the MFCC or LCSW scope of practice. The courses must include:

[35] Business and Professions Code Sections 4980.54 and 4996.22.

- aspects of counseling or social work that are fundamental to the understanding or practice of counseling or social work,
- aspects of counseling or social work in which significant recent developments have occurred, or
- aspects of other disciplines that enhance the understanding or practice of counseling or social work.

Regulations implementing the continuing education program were approved by the Office of Administrative Law on May 19, 1997. The regulations contain procedures for approving course providers, exceptions to the continuing education requirement, criteria for mandatory alcohol and other chemical substance dependency courses, criteria for mandatory HIV/AIDS courses, and other criteria for courses, instructors, record-keeping, and advertising.

The average costs for continuing education courses have not been determined because the continuing education program has only recently been implemented and the Board does not regulate these costs. However, the approximate costs for different types of courses have been determined and are as follows:

workshops/seminars	$12.50 per hour
courses/classes	$9.00 per hour
self-study/home-study	$8.50 per hour
conferences	$20.50 per hour
health facility training/in-services	free to employees

Following the recommendation of the Legislature,[36] the Board requires two mandatory, one-time continuing education courses for MFCCs and LCSWs. Those two courses are alcohol and other chemical substance dependency, and HIV/AIDS. Except for the two required courses, licensees may fulfill the requirement by taking any continuing education course related to the MFCC or LCSW scope of practice. This gives licensees the flexibility to choose courses they feel are relevant to their practices.

The Board requires licensees to submit a signed statement indicating the continuing education requirement has been completed. Licensees are not required to submit proof of completed continuing education courses except when requested to during a random audit.

The Board will audit licensees on a random basis to verify completion of the continuing education requirement. If audited, a licensee will be required to submit records of course completion, and the Board will verify the

[36] Business and Professions Code Sections 29 and 32.

number of continuing education hours accrued, the course matter, and the providers of the courses. If further verification is needed, the provider of a specific course may be contacted.

The Board has developed a number of exceptions to the continuing education requirements. These exceptions are:

- licensees who have just received their initial licenses are only required to complete 18 hours of continuing education,
- licensees with inactive licenses,
- licensees who were absent from California due to military service, for at least one year during their previous renewal period, and
- licensees who suffered a substantial disability, or had the primary responsibility for an immediate family member who suffered a substantial disability, during their previous renewal period.

The primary providers of continuing education courses are accredited or approved educational institutions, and Board-approved providers. Board-approved providers may include other educational institutions and organizations, professional associations, licensed health facilities, corporations, partnerships, and individuals.

As of July 1, 1997 there were 337 continuing education providers and 83 accredited/approved schools. These are the accredited or approved educational institutions defined as continuing education providers by state law.

Application for approval requires a provider to submit a *Continuing Education Provider Application* and application fee to the Board. The Board has 30 days to notify the applicant that the application is complete or deficient, and 60 days after receiving a completed application to issue or deny provider status. Approved providers are issued a provider number that is valid for two years. Since individual courses or programs are not approved by the Board, the Board does not maintain information on the number of courses or programs available. The Board maintains information on applicants which are denied.

The Board requires continuing education providers to administer tests at the end of self-study courses. Providers of other types of courses are not required to test.

Because the Board's continuing education program has only recently been fully implemented, evaluation of its effectiveness is not yet possible. The Board anticipates a gradual decline in enforcement activity as a result of increased licensee competency through continuing education.

One staff services analyst is needed to coordinate the continuing education program. Other Board staff provide clerical backup for the program when it is needed.

The Board's other primary mechanism for addressing professional competency of licensees is in pursuing disciplinary action. Remedial education or other rehabilitation may be required as part of a disciplinary action.

At this time, the Board is not considering any other alternatives to ensure the professional competency of its licensees. Some private associations may conduct peer reviews after receiving complaints regarding their members.

The Board recommends that administration of its continuing education program remain under its jurisdiction and not be centralized through the Department of Consumer Affairs. The Board's continuing education statutes and regulations are significantly different from those of other boards. Centralizing the various continuing education programs and developing a system that could administer each program would be costly. The Board's continuing education program is closely linked to its cashiering unit in handling license renewals and moving the program would make license renewal processing less efficient.

EXAMINATION

- The Board continually evaluates and strengthens the criteria for selecting subject matter experts to ensure the quality of examination development workshops.
- The Board hired lead oral examiners in April 1995 to monitor and enhance the performance of oral examiners.
- The Board implemented project planning in October 1995 for examination development and administration to ensure deadlines and goals are met.
- The Board reduced the cost of oral examination administration beginning in September 1995 by examining more applicants each day, and by scheduling oral examinations on consecutive days, which lessens the need to ship materials to and from testing sites.
- The Board augmented oral examiner training sessions beginning in January 1996 by preparing training programs for participants, and by creating content outlines.

EXAMINATION OVERVIEW

In all three licensing programs that the Board of Behavioral Sciences administers, applicants who have the necessary education and experience must pass examinations before being issued a license. Marriage, Family, and Child Counselors (MFCCs), and Licensed Clinical Social Workers (LCSWs) must pass both a written and oral examination. Licensed Educational Psychologists (LEPs) must pass a written examination.[37] The purpose of the examinations is to ensure public safety by licensing only applicants who demonstrate that their knowledge, skills, and abilities qualify them to independently provide safe and effective services to the public.

MFCC applicants are administered a Board-constructed written examination and a Board-constructed oral examination.

LCSW applicants are administered a national written examination which has been adopted for use in California by the Board, and a Board-constructed oral examination. The written examination is created and administered by the American Association of State Social Work Boards (AASSWB), which administers the examination in one of four classifications: basic, intermediate, advanced, or clinical. The Board requires applicants for licensure in California to pass the test for clinical classification.

LEP applicants are administered a Board-constructed written examination. However, LEPs are not administered an oral examination. The LEP oral examination was discontinued after 1993 because the Board and those in the profession determined that the knowledge and skills required for practice could effectively be

[37] Business and Professions Code Sections 4980.40 (MFCC), 4996.1 (LCSW), and 4986.20 (LEP).

tested with a written examination. This is because the work performed by LEPs differs from the work performed by MFCCs and LCSWs. LEPs perform educational evaluations, diagnosis, and test interpretations, and they are limited to assessments of academic ability, learning patterns, achievement, maturation, and personality factors directly related to academic learning problems. Their counseling services are related to amelioration of academic learning problems and so differ from the services provided by MFCCs and LCSWs, who might deal with potentially life-threatening situations during therapy sessions.

There are numerous written standards and guidelines concerning the examination process. These include packets and handouts provided to applicants regarding both the oral and written examinations. *(See appendix B: Written Standards for the Examination Process)*

WRITTEN EXAMINATIONS

All three written examinations are designed to test applicants' knowledge, professional skills, and ability to make judgments about the techniques and methods that are appropriate in the field's scope of practice.[38] The examinations are based on the occupational analyses conducted by the Board every five years.

On each examination, pre-test items are included that do not affect the applicant's score. There are typically 25 pre-test items in addition to the regular items. Using pre-test items helps the Board and AASSWB, which creates the LCSW examination, determine whether an item should be used in future examinations.

The MFCC written examination is administered in one part and consists of 175 multiple-choice items. The examination lasts four hours. It is graded by Assessment Systems, Incorporated, which immediately notifies applicants of the results at the test site.

The LCSW written examination is administered in one part and consists of 150 multiple-choice items. It lasts four hours. It is graded by Assessment Systems, Incorporated, which immediately notifies applicants of the results at the test site.

The LEP written examination is administered in one part and consists of 100 multiple-choice items. It lasts two and one-half hours. The LEP examination is graded by the Office of Examination Resources.

The Office of Examination Resources determines the passing standards for MFCC and LEP applicants by conducting workshops with licensed practitioners. The licensees help determine the minimum competency needed to practice independently and assess the level of difficulty of each examination version. The AASSWB determines the passing standard for the LCSW written examination by the same method, although workshop participants from other states are included.

[38] Business and Professions Code Sections 4980.02 (MFCC), 4996.9 (LCSW), and 4986.10 (LEP).

ORAL EXAMINATIONS

MFCC and LCSW oral examinations are administered to assess job-related knowledge and skills that cannot be assessed in any other format. The examinations are designed to determine whether applicants are able to apply their education and experience in a situation similar to one they would likely encounter in practice. Oral examinations allow examiners to observe and evaluate an applicant's personal functioning, interactive skills, and ability to provide safe and effective clinical services. Oral examinations are appropriate for professions that require practitioners to interact verbally with clients, assess a problem in real time when additional research or consultation is generally not possible, and solve problems that pose an immediate threat to the safety or welfare of the public.

The Board's oral examinations require applicants to demonstrate skills and abilities that the professional community has defined as necessary to perform safely and effectively in independent practice.

The MFCC oral examination consists of 19 questions, which are brief and designed to test one idea or concept. The LCSW oral examination consists of 10 questions, which are longer and may test for more than one idea or concept. Both oral examinations are based on one vignette, which is a brief description of a clinical situation a licensee would likely encounter in practice. The oral examination lasts approximately 35 minutes, with the first five minutes set aside for applicants to review and take notes on the vignette. There are core content areas tested in each oral examination.

The MFCC oral examination consists of five core content areas:

- **Assessment and Diagnosis**

The ability to identify the presenting problem(s) and collect relevant information in order to make provisional diagnoses.

- **Treatment Plan**

The ability to develop a treatment plan from preliminary assessments and provisional diagnoses. The applicant demonstrates this ability within a theoretical model consistent with clinical issues.

- **Clinical Intervention**

The ability to implement the objectives of the treatment plan. The applicant demonstrates this ability by evaluating and modifying clinical interventions throughout the course of treatment.

- **Law and Ethics**

The ability to apply legal and ethical standards to professional judgments in clinical practice to ensure consumer protection.

- **Therapeutic Relationships**
  The ability to understand and respond to the client experience and therapeutic needs. The applicant demonstrates professional presence by responding directly to questions, articulating ideas effectively, demonstrating empathy, and maintaining a link between verbal and non-verbal communication.

The LCSW oral examination consists of seven core content areas:

- **Organization and Application of Social Work to Clinical Practice**

The ability to conceptualize and apply biological, psychological, environmental, and cultural factors to clinical social work practice. The applicant demonstrates this ability by applying principles of human behavior, growth, and development in clinical social work practice.

- **Identification, Evaluation, and Application of Elements of Clinical Assessment**

The ability to identify, evaluate, and apply elements of clinical assessment.

- **Formulation and Refinement of Treatment Plans**

The ability to formulate and refine a treatment plan.

- **Identification and Utilization of Relevant Adjunctive Resources**

The ability to identify and utilize relevant community and adjunctive services.

- **Intervention to Facilitate Therapeutic Change**

The ability to achieve therapeutic change.

- **Professional Use of Self in Professional Situations**

The ability to achieve therapeutic change through self-awareness of clinical and professional interaction.

- **Recognition and Application of Legal and Ethical Responsibilities in Clinical Practice**
  The ability to recognize legal and ethical issues and apply legal and ethical responsibilities to clinical social work practice.

For each oral examination, there are five ratings used to assess applicants' performance in each content area. They are:

- **Superior**

The applicant's response demonstrates depth and breadth of knowledge, is accurate, sophisticated, and clear.

- **Adequate**

The applicant's response demonstrates basic, sound, and consistent knowledge and abilities.

- **Deficient**

The applicant's response demonstrates superficial, incomplete, or inconsistent knowledge and abilities.

- **Unqualified**

The applicant does not identify problems, lacks skill, or needs further training.

- **Very Unqualified**

The applicant is dangerous to clients or is a discredit to the profession.

Each rating is further described as it applies to each content area in order to help applicants prepare for the examination and to help examiners make assessments. Applicants must receive an average rating of "adequate" to pass the oral examination. Applicants who do not pass are required to retake the entire oral examination, including any content areas they may have passed, prior to licensure.

EXAMINATION VALIDITY

The written and oral examinations are validated on a continuous basis, and examination validation is never "complete." Each examination is based upon the results of an occupational analysis which identifies the job-related critical skills necessary for a safe and effective practice. The examinations are designed to assess those skills.

Except for the national written examination administered to LCSW applicants, all examinations are developed, evaluated, and administered by licensed MFCCs, LCSWs, and LEPs. Those who administer the tests work under the direction of the Board with guidance from the Department of Consumer Affairs' Office of Examination Resources.

To ensure that examinations are job-related, practicing licensees develop the written and oral examinations, create the structured oral examination vignettes, develop evaluation criteria for oral examinations, conduct the oral examinations, and evaluate applicants. New oral examination vignettes are created continuously to ensure that applicants are not given the same vignette during a possible re-examination and because the standards of practice change. Oral examiners receive extensive training prior to each examination cycle to ensure that the examinations are standardized. The training sessions are conducted by lead oral examiners who present Board-required content and materials. Lead oral examiners are licensees who are selected for the extent and quality of their prior work as oral examiners. They act as on-site consultants to the oral examiners, monitor oral examiner performance, and assist the Board in improving the oral examination programs.

The oral examinations were standardized in 1992. They have been designed to be as objective as possible, and follow standardized procedures which ensure that all applicants are assessed under equal conditions. All applicants are provided with one of the Board's numerous standardized vignettes. All applicants are presented the same standardized questions. Standardized questions allow all applicants the same opportunity to

demonstrate their abilities related to the therapeutic responsibilities inherent to the profession. The applicants' responses are evaluated using a clearly defined set of rating scales with their responses rated in terms of observable behaviors. Instead of determining whether applicants pass or fail questions, examiners determine the ratings which describe applicants' performance in each core content area.

Each of the examinations, written and oral, are psychometrically evaluated after each administration. Statistical findings consistently indicate that the examinations are psychometrically sound, legally defensible, and valid.

EXAMINATION ADMINISTRATION

The MFCC and LCSW written examinations are administered electronically on a continuous basis at five sites throughout California. The LEP written examination and the MFCC and LCSW oral examinations are administered twice per year, in both Northern and Southern California. Applicants may take the examinations once every six months.

Examination security is maintained by requiring applicants to sign a security agreement and show a picture identification at the examination site. In addition, trained proctors monitor all testing.

MFCC and LCSW written examinations are administered electronically, which enables the questions to be scrambled on each test. The LEP examination is paper-based. A new version of each written examination is implemented at least once every six months. Oral examination vignettes are assigned randomly, which helps maintain the security of the vignettes during each cycle of test dates.

The MFCC and LCSW written and oral examinations are separate examinations. However, applicants must pass the written examination before taking the oral examination.

The examination requirements are the same for out-of-state and out-of-country applicants as they are for in-state applicants. However, LCSW applicants who have passed the national written examination at the clinical level as required by the Board are not required to re-take the examination.

CRITICALITY

If any of the examinations required for licensure by the Board were eliminated, public health and safety would be jeopardized. Unprepared, unethical, or potentially harmful people could become licensed as independent practitioners.

Graduation from an approved institution of higher education does not in itself prepare applicants for independent practice, and such a limited requirement would not serve as a reasonable method for ensuring that applicants would be responsible practitioners. The supervision required during and after university enrollment is critical for preparing applicants for independent practice. Ultimately, the only way in which California can ensure that applicants are qualified to practice safely and effectively without supervision is to require applicants to pass the required examinations, and thus demonstrate their mastery.

State licensing boards have been mandated to protect the public by preventing unqualified people from entering the professions they regulate. An important way of establishing such protections are examinations that test entry-level competency for those who wish to be licensed to practice independently. The examinations required by the Board are particularly important because the practitioners it regulates have a direct impact on the mental health and well-being of clients and, therefore, an indirect effect on all those who come in contact with that client.

COMPARISON TO OTHER STATES

When comparing California's oral examination requirement for MFCCs and LCSWs to the lack of such requirement in most other states, factors influencing those other states' decisions must be considered. These factors include differing scopes of practice, lack of fiscal or consultative resources, varying enforcement issues, and differences in philosophy regarding the role of government.

Most states differ from one another in their definitions of the scope of practice. For example, some states offer a case management type of license for the practice of social work and some allow social workers to engage in psychotherapy. In states that define a more narrow role for MFCCs and LCSWs than California, oral examinations might not be necessary.

Creating and maintaining an oral examination that is psychometrically sound, valid, and legally defensible requires significant fiscal and consultative resources and a strong dedication to consumer protection. States with fewer licensees, lower resources, or differing philosophies may be unable or unwilling to make the necessary investment.

States with limited resources may also be less likely to pursue disciplinary actions against licensees. This may create the perception that there are fewer problems requiring discipline, and that there may not be a need for more stringent licensing requirements. Differing scopes of practice may also impact the number of violations in other states.

Each of the licensing programs maintained by the Board is compared to other states:

MFCC

Currently, 33 states issue a marital and family counselor/therapist license. Thirty-one states use the American Association of Marital and Family Therapists'(AAMFT) national written examination, while the remaining two, California and Texas, create their own examinations. Seven states have title and/or certification regulations for marital and family counselors/therapists.

California is the only state that requires MFCCs to pass a standardized oral examination designed to assess the applicant's ability to provide therapy. Four other states (Arkansas, Minnesota, Oklahoma, and Tennessee) require different forms of oral examinations that are taken in front of a regulatory board, and the passing rates of these examinations range from 70 to 90 percent. Alaska is in the process of instituting an oral examination.

MFCC WRITTEN AND ORAL EXAMINATIONS

Year	Total Written Examinees	Total 1st Time Takers	Total Repeaters	Total Oral Examinees	Total 1st Time Takers	Total Repeaters
1993/94	1,708 73% passed	1,145 86% passed	563 22% passed	2,672 36% passed	1,211 38% passed	1,461 35% passed
1994/95	1,589 67% passed	1,140 80% passed	449 32% passed	2,511 38% passed	894 39% passed	1,617 35% passed
1995/96	1,513 64% passed	1,087 74% passed	426 36% passed	2,060 37% passed	789 44% passed	1,271 33% passed
1996/97	1,346 64% passed	882 76% passed	464 42% passed	2,183 33% passed	945 35% passed	1,238 32% passed

MARRIAGE AND FAMILY THERAPIST WRITTEN EXAMINATION AAMFT NATIONAL EXAMINATION 35 STATES

Year	Total Written Examinees	Total 1st Time Takers	Total Repeaters
1993	412 86% Passed	n/a	n/a
1994	984 88% Passed	n/a	n/a
1995	689 85% Passed	n/a	n/a
1996	710 76% Passed	n/a	n/a

LCSW

All 50 states and one territory license social workers. However, some states only require that licensees have a bachelor's degree, some offer a case management type of license, and some license several levels of social workers. All use one or more of the written examinations offered by the AASSWB, which includes the basic, intermediate, advanced, and clinical levels. California uses the clinical examination, as do 43 other states.

California is the only state that requires an oral examination for licensure of social workers.

LCSW WRITTEN AND ORAL EXAMINATIONS

Year	Total Written Examinees	Total 1st Time Takers	Total Repeaters	Total Oral Examinees	Total 1st Time Takers	Total Repeaters
1993/94	675 79% passed	520 90% passed	155 41% passed	1,082 37% passed	507 42% passed	575 32% passed
1994/95	657 83% passed	554 93% passed	103 32% passed	1,160 40% passed	575 39% passed	585 41% passed
1995/96	605 87% passed	539 94% passed	66 36% passed	844 37% passed	316 38% passed	528 36% passed
1996/97	580 88% passed	518 94% passed	62 39% passed	1,135 35% passed	536 39% passed	599 32% passed

AASSWB NATIONAL EXAMINATION

Year	Total Written Examinees	Total 1st Time Takers	Total Repeaters
1993	n/a	n/a	n/a
1994	79% Passed	86% Passed	42% Passed
1995	81% Passed	87% Passed	45% Passed
1996	6,126 83% Passed	n/a	n/a

LEP

The practice of educational psychology varies from state to state. Approximately ten other states license school psychologists for independent practice, but refer to them as school psychologists at the "specialist" level. States that issue this type of license, usually require an examination, either written, oral, or both.

LEP WRITTEN AND ORAL EXAMINATIONS

Year	Total Written Examinees	Total 1st Time Takers	Total Repeaters	Total Oral Examinees	Total 1st Time Takers	Total Repeaters
1993/94	82 59% passed	64 70% passed	18 17% passed	39 87% passed	33 91% passed	6 50% passed
1994/95	83 58% passed	59 63% passed	24 46% passed	Oral Exams Discontinued 01/01/94		
1995/96	107 74% passed	62 82% passed	45 62% passed	n/a	n/a	n/a
1996/97	123 57% passed	87 60% passed	36 50% passed	n/a	n/a	n/a

APPLICANT FEEDBACK

Applicants who take the oral examination are asked to complete a questionnaire regarding their testing experience. Completing the questionnaire is voluntary.

MFCC Oral Examination Questionnaire	
3,059 applicants have completed this questionnaire since September 1995	
Question	**Yes**
1. Was your oral examination administered in a comfortable setting?	97%
2. Did your examiners act professionally toward you during your oral examination?	99%
3. Did you understand the instructions given to you at the oral examination?	99%
4. Were you given sufficient time to review the vignette and take notes?	67%
5. Were the oral examination questions clearly worded?	76%
6. Did the candidate handbook clearly describe the oral examination process, policies, and procedures?	89%
7. Was the oral examination implemented as described in the candidate handbook?	93%
8. Did the oral examination test your knowledge of the profession?	75%
9. Was the oral examination site easily accessible?	95%

LCSW Oral Examination Questionnaire	
1,376 applicants have completed this questionnaire since October 1995	
Question	**Yes**
1. Was your oral examination administered in a comfortable setting?	95%
2. Did your examiners act professionally toward you during your oral examination?	99%
3. Did you understand the instructions given to you at the oral examination?	100%
4. Were you given sufficient time to review the vignette and take notes?	75%
5. Were the oral examination questions clearly worded?	92%
6. Did the candidate handbook clearly describe the oral examination process, policies, and procedures?	92%
7. Was the oral examination implemented as described in the candidate handbook?	97%
8. Did the oral examination test your knowledge of the profession?	77%
9. Was the oral examination site easily accessible?	91%

ENFORCEMENT

- In November 1995, the Board adopted a Public Disclosure Policy which expanded the type of information provided to the public regarding enforcement cases.
- The enforcement program underwent a staffing reorganization in 1995, which has resulted in a significant decrease in the backlog of enforcement complaints and cases, and an improvement in processing time.
- The Board created a probation monitor position to oversee licensees and registrants who have been placed on probation.
- Statewide training was provided to the Office of the Attorney General and the Division of Investigation regarding the types of cases received by the Board.
- The Board developed the *Board of Behavioral Sciences Expert Guidelines* to aid expert consultants in enforcement cases.
- In February 1997, the Board's Citation and Fine regulations became effective.
- The Board's Disciplinary Guidelines became effective as regulation on July 1, 1997.

ENFORCEMENT OVERVIEW

The Board of Behavioral Sciences has an active enforcement program designed to ensure that laws governing Marriage, Family, and Child Counselors (MFCCs), Licensed Clinical Social Workers (LCSWs), and Licensed Educational Psychologists (LEPs) are enforced in a fair and judicious manner. Entry into the various mental health professions is usually restricted through rigorous qualification standards in education, experience, and examinations. These standards protect the public by screening out incompetent people who could cause severe harm. Enforcing appropriate standards for licensure is an important duty of any licensing board's regulatory program.

In evaluating the Board's enforcement program, it is important to consider the nature of the professions being regulated. Many of the Board's licensees work independently and are expected to assess, diagnose, make treatment plans, and make appropriate referrals while demonstrating an understanding of the dynamics of their interaction with clients. There may be physical danger to the client or others, alcohol or drug abuse, physical or emotional abuse, family relationship problems, work relationship problems, and issues related to loss. In many cases, clients seeking guidance are vulnerable and susceptible to harm, particularly through sexual misconduct or

sexual abuse by the therapist. An accurate diagnosis and well-implemented treatment can, in some cases, be the difference between life and death.

The client places enormous trust in the licensee. If a licensee abuses that trust through negligence or a failure to follow the law and ethics of the profession, the Board imposes discipline such as monitoring or limiting practice, or requiring remedial education. Through the Board's enforcement effort, the public has recourse against negligent and dangerous licensees who, although they have mastered tests of knowledge, have failed to observe the law and their ethical obligations.

Recent improvements in the Board's enforcement efforts have come from a reengineering of its enforcement program. That effort began in 1994, when the Board formed a Complaint Evaluation - Case Monitoring Unit (CECM) with the Division of Investigation (DOI). Two analysts and an office technician were hired to work in the unit, which existed for one year. During that time, the complaint and investigation process was handled by the CECM, and cases referred to the Office of the Attorney General (AG) for discipline and probation monitoring were handled by the Board's enforcement staff. In July 1995, the CECM was terminated and its staff was merged into the Board's enforcement program.

The program now consists of eight staff who manage the enforcement process from the time the complaint is received through completion of the disciplinary process. There are four associate governmental program analysts who handle licensee and registrant caseload; a staff services analyst who handles unlicensed matters and cases involving licensees who hold a duel license with the Board of Psychology; a management services technician who serves as the probation monitor for the Board; and two office technicians who provide clerical support.

Because of this reengineering and the establishment of a prioritization system, the Board is able to address the most serious cases quickly while reducing backlog. Training provided to staff, expert consultants, the DOI, and the AG has improved the quality and quantity of work. The Board in recent years has processed more complaints, filed more accusations, and rendered more disciplinary actions. At the same time the number of complaints and cases pending has been reduced. There has also been a reduction in the resources the Board has expended for the DOI and the AG.

Statistical information and a flow chart delineating the complaint handling process are at the end of this section.

COMPLAINT INTAKE

The Board's staff receives all allegations of misconduct by MFCCs, LCSWs, LEPs, MFCC interns, and LCSW associates. The Board encourages anyone to file a complaint if they believe a licensee or registrant of the Board has engaged in illegal or unethical activities related to her or his professional responsibilities. All complaints must be in writing and must be signed. Most of the complaints received by the Board involve unprofessional conduct, incompetence, and negligence, which includes sexual misconduct, breach of confidentiality, and emotional or physical harm. Although ethical expectations are that licensees will support

clients' efforts to report misconduct, there is no law that requires licensees to report unprofessional conduct or other violations by other licensees. *(See appendix C: Complaint Information and Complaint Form)*

Consumers contact the Board about complaints both in writing and by telephone. Complaint forms and information packets are mailed to those who request one. The Board established a website that provides consumer complaint information, including who can or should file a complaint, how to file a complaint, the complaint process, and the Board's disclosure policy. Also available at the site is a complaint form which can be downloaded by the user. However, complaint forms may not be electronically transmitted to the Board because handwritten signatures are required to obtain client records. *(See appendix C: Consumer Complaint Information on the Board's Website)*

Complainants often have questions about the licensee they are complaining about or about the complaint process itself. The *Consumer Complaint Information Packet*, which accompanies the complaint form, provides information about seeking disciplinary action against a licensee of the Board. The Board also publishes the brochure, *Professional Therapy Never Includes Sex*, to educate consumers about sexual misconduct. *(See appendix C: Professional Therapy Never Includes Sex)*

A complainant may inquire about whether the individual he or she wants to file a complaint against is a licensee of the Board or whether any disciplinary action has been taken against the licensee. They may also receive information regarding the Board's laws and regulations.

Approximately 10 percent of the inquiries that the Board receives are informal complaints. These consumers typically receive the information they need from the enforcement staff and do not file a formal written complaint.

To file a formal complaint, a complainant must provide a written statement which explains the nature of the complaint in as much detail as possible, including dates, times, and locations of therapy whenever possible. Copies of any documentary evidence that verifies a client/therapist relationship along with the name, address, and phone number of anyone who can corroborate the complaint or verify the events, should also be submitted. A complainant must sign a release of information form, which comes as part of the complaint package, so the complaint can be investigated. Because of confidentiality laws regarding the therapeutic relationship, an investigation cannot proceed without the signed release.

When a written complaint is received, an enforcement staff member verifies whether the subject of the complaint is a licensee or registrant of the Board through the Consumer Affairs System (CAS). A complaint file is opened and the data is entered into CAS. As the complaint progresses, CAS is updated. Allegations are tracked as the complaint progresses and statistics are developed regarding the number and subject matter of complaints filed. Alleged violations are monitored for possible trends, and that information is used to adopt new regulations.

Complainants are contacted in writing within 10 days of the Board's receipt of their complaint. They are told whether there is sufficient information to pursue the complaint and whether the Board has jurisdiction. If the Board does not have jurisdiction, the complainant may be referred to another agency.

While most of the complaints received by the Board are initiated from the client or consumer, some are received from law enforcement agencies or other DCA boards or programs. Complaints are also received in cases in which there has been a settlement or arbitration award involving its licensees of more than $10,000.[39] The staff receives information on such cases because every insurer that provides professional liability insurance to a person licensed pursuant to Chapter 13, as well as every self-insured governmental agency, must send a complete report to the Board regarding any settlement or arbitration award of more than $10,000.

When the Board is informed of pending criminal prosecution of one of its licensees, it usually does not take action until it has conferred with the authority in charge of prosecuting. The criminal prosecution may be hindered if the Board takes action first, and waiting often works to the Board's advantage. The Board can request during trial that the licensee surrender her or his license, avoiding a subsequent administrative procedure. The Board may also ask the judge to award investigative costs the Board may have incurred. If a request for the licensee to surrender her or his license is not made during the criminal trial, and the conviction is successful, the conviction makes the Board's administrative action much easier.

The Board may choose to proceed with disciplinary action while awaiting a court decision. It might do so following civil filings if the violation would endanger the public health, safety, or welfare of the consumer.

Complaint Activity

	1993/94	1994/95	1995/96	1996/97
Inquiries				
Jurisdictional	1037	636	650	595
Complaints Filed/Handled Formally	813	625	615	540
Complaints Dismissed/Closed	537	821	876	577
Complaints Pending (6/30)	797	601	340	303

[39] Business and Professions Code section 801(c), and 801.1(c).

The average time from the receipt of a complaint to the beginning of an investigation is six months, and fourteen months for investigations involving the Division of Investigation (DOI). Resolution of a complaint may take up to two years if the process includes formal disciplinary action through the AG or Office of Administrative Hearings. Complainants are kept informed of the progress of their complaints in writing by the enforcement staff assigned to the case. They are notified at critical junctures in the review process, including when a complaint is:

- received,
- opened,
- closed,
- referred to the DOI
- referred to the AG, and
- when an accusation is filed.

UNLICENSED ACTIVITY

The scopes of practice of the professions regulated by the Board are clearly defined in Business and Professions Code Sections 4980.02 (MFCC), 4986.10 (LEP), and 4996.9 (LSCW).

The Board's limited jurisdiction over unlicensed individuals who are providing services within the scope of practice of one or more of its licensees, hampers enforcement efforts in this area. The Board may order individuals to cease and desist providing services for which a license is required. In cases of noncompliance, these matters are referred to the DOI for formal investigation. If evidence of a violation of the Business and Professions Code is established, the investigator may submit a Criminal Complaint Investigation Report to the appropriate district attorney. The district attorney then decides whether to file criminal charges. The Board's new cite and fine authority will allow the Board to pursue more of these cases in the future.

Unlicensed Activity

	1993/94	1994/95	1995/96	1996/97
Cease & Desist Orders Issued	15	30	41	21
Notices of Warning Issued	0	2	9	9
Notices of Violation	0	1	2	1
Administrative Citations Issued *	n/a	n/a	n/a	n/a
Cases Referred to the DA/CA	7	2	2	4

* The Board did not receive regulatory authority for citations until 1997.

INVESTIGATIONS

Once a complaint is opened, the technical and jurisdictional aspects of the complaint are evaluated by the Board's enforcement staff. Staff also determines whether sufficient evidence has been provided by the complainant. Complaints containing allegations that would warrant disciplinary action are investigated by the enforcement staff. The enforcement staff does much of the initial investigation of a complaint, unless they believe that their investigation would hinder efforts by the DOI.

The enforcement staff gathers all preliminary evidence in the investigation of an allegation. This includes speaking to the parties involved, obtaining documents, and performing general fact finding. The Board's enforcement staff is not required to contact licensees who are being investigated, and decisions to contact licensees under investigation are made on a case by case basis.

The Board and its staff do not perform inspections or conduct audits of licensees or their places of business.

Complaints are divided into distinct areas, which are: Fraud, Health and Safety, Negligence and/or Incompetence, Unlicensed Activity, and Non-Jurisdictional. The staff follows priorities established by the Board when selecting cases for formal investigation. The Board uses a priority system to maximize the effective use of its resources, and has set the following investigative priorities:

- Matters in which the complainant's or other individual's life, health, safety, or welfare is in immediate danger.
- Matters in which the facts of the complaint may affect the life, health, safety, or welfare of present or future clients.
- Matters which can be quickly resolved or remedied by immediate minimal intervention by the Board.
- Matters of licensees aiding and abetting illegal practices.
- Matters in which an unlicensed person is engaged in unlawful practices.
- Matters concerning illegal advertising.

The Board's enforcement staff seeks to obtain compliance on a voluntary basis whenever possible.

After their initial review of the case, staff determines whether and where the case should be forwarded. In more complex cases, additional evidence may be needed before a decision can be made.

The Board contracts with necessary consultants who hold an appropriate license for assistance in its enforcement program. Often a determination requires technical opinions, and these consultants are heavily relied upon to provide expertise in their field. In August 1996, the Board developed its *Board of Behavioral*

Sciences Expert Guidelines to aid expert consultants. In conjunction with the AG, the Board is currently developing a training program for experts. *(See appendix C: BBS Expert Guidelines)*

Advertisements for potential experts are placed in trade magazines and the Board's newsletter. The Board has a team that reviews the curriculum vitae and schedules interviews with the most qualified candidates. The best candidates are asked to serve as expert consultants.

The Board does not employ sworn investigators, so cases requiring extensive investigation, undercover work, or the issuance of subpoenas, are usually referred to the DOI.

As the Department of Consumer Affairs (DCA) investigative body, the DOI annually receives approximately 2,500 cases from its client agencies, including the Board. It has the authority to gather evidence, perform site inspections, and issue subpoenas. The DOI is supported by the various agencies that use its services, including the Board of Behavioral Sciences. The DOI employs approximately 100 people, half of whom are sworn peace officers, and has eight field offices and one satellite office. The Sacramento office is the DOI headquarters and houses the Chief, the Chief's staff, and assistants. The field offices have supervisors, senior investigators, investigators, and clerical support.

The enforcement staff initiates a request for a formal, or field, investigation by preparing a *Request for Service* that is forwarded to the DOI. The request indicates the actions the Board staff want taken. For example, in investigations involving sexual misconduct, the DOI would be asked to investigate whether a dual relationship existed between the therapist and client. The investigator would be asked to obtain evidence of photos, cards, or letters between the therapist and client, and any other documentation to substantiate a violation. The investigator assigned to the case maintains contact with the Board, both to provide updates and to receive direction as the case progresses. The DOI field offices supervise the activities of its staff.

The enforcement staff places an hours-per-case limit on its investigations. In 1996 the DOI provided the Board with averages for each case type. Based upon those averages, the enforcement staff determines a realistic number of hours that should be assigned. If additional hours are needed, the investigator submits a request to her or his supervisor. The DOI supervisor contacts the enforcement staff with the status of the investigation and the request for additional hours. The enforcement staff is then able to discuss why additional hours are needed. Through this process with the DOI, the enforcement staff is able to determine when it is appropriate to utilize additional resources to continue an investigation.

AFTER INVESTIGATION

After the DOI investigative report is received, the enforcement staff member in charge of the case determines if clinical expert evaluation is required. Next, the enforcement staff member determines the action, if any, which should be taken against the licensee or registrant. All complaints are evaluated on a case by case basis. The staff member considers:

- the gravity of the violation,
- the harm, if any, to the complainant,
- the level of the public concern or interest,
- the ease to remedy the violation or situation.

If, after weighing all of these factors, the staff member finds that there is insufficient evidence to continue the investigation, the complaint is closed.

COMPLIANCE ACTIONS

If, after the completion of an investigation, the staff member determines that the evidence substantiates a minor violation of the law, a compliance action may be issued. Compliance actions may include a notice of violation, letter of warning, or a request for corrective action which is pursued until the licensee complies.

CITE AND FINE

The Board may also cite and fine an individual, an authority it received on February 17, 1997.[40] The Board estimates that 20 percent of its complaints will be citable violations and approximately 25 percent of citable violations will result in a citation or fine. This level is not expected to be reached for three years. The citation and fine system will result in fines ranging from $100 to the statutory maximum of $2,500 for each investigation. The Board projects that it will take approximately three years to reach a median fine level of $1,250, resulting in an annual increase in revenue of $45,000.

[40] Article 7, Sections 1886 through 1996.70.

DISCIPLINARY ACTIONS

If after completion of an investigation, evidence substantiates gross negligence, incompetence, or unprofessional conduct, the enforcement analyst, in consultation with the Executive Officer, determines whether the case should be forwarded to the AG's Office for disciplinary action.[41]

Once a case has been investigated and forwarded to the AG, the Deputy Attorney General (DAG) can request further investigation. These cases are typically referred to the DOI to obtain documentary evidence, and can take 90-120 days. During the last four years, at the request of the DAG, the Board has conducted 35 additional investigations; six in 1993/94, five in 1994/95, sixteen in 1995/96, and seven in 1996/97.

FILING FORMAL CHARGES

Formal charges are almost always filed in cases in which the health and safety of the consumer has been compromised, and in which supporting evidence can be established. The Board's Executive Officer determines whether to file formal charges for any violation of the Board's licensing laws.

One typical case example of sexual misconduct involved an MFCC charged with gross negligence and sexual misconduct with two separate clients. One complainant in this case was a young woman who sought therapy for depression and stress due to school and family problems. The respondent in this case, a former priest, pursued a course of therapy which included kissing and touching the woman sexually. With another female client (a former nun), therapy commenced primarily for personal identity issues. The respondent directed the woman to remove all of her clothing at times during therapy, wherein sexual contact later transpired. After filing an accusation, the license was subsequently revoked in February, 1995.

An accusation is filed so that the Board may seek to discipline a license, which may include suspension, revocation, or probation. A Statement of Issues (SOI) is filed for the denial of an application for licensure. In each accusation and SOI, the Executive Officer of the Board is the complainant. Accusations and SOIs are administratively adjudicated in compliance with the California Administrative Procedure Act.[42]

The Board completed an extensive review and update of its disciplinary guidelines in 1996/97. It developed recommended penalties and conditions of probation which are intended to be guidelines. Mitigating or aggravating circumstances and other factors may necessitate deviations. *(See appendix C: BBS Disciplinary Guidelines)*

[41] Business and Professions Code Sections 4982 (MFCC), 4986.70 (LEP), 4992.3 (LCSW).
[42] Government Code section 11370 through 11530.

The factors that are evaluated when formal charges are being considered include:

- nature and severity of the act(s), offense(s), or crime(s),
- actual or potential harm to any consumer or client,
- prior disciplinary record,
- number and/or variety of current violations,
- mitigation evidence,
- rehabilitation evidence,
- in the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation,
- overall criminal record,
- time elapsed since the act(s) or offense(s) occurred,
- whether the respondent cooperated with the Board's investigation, other law enforcement or regulator agencies, and/or the injured parties, and
- recognition by respondent of her or his wrongdoing and demonstration of corrective action to prevent recurrence.

The disciplinary guidelines were established in an effort to provide consistency in determining penalties. They are considered by staff when determining whether to seek revocation, suspension, and/or probation of a license. Board members use them when considering cases during hearings. The guidelines are updated when necessary and are distributed to DAGs and Administrative Law Judges (ALJs) who work on cases with the Board.

PROSECUTION

Depending on the type of complaint, cases may be referred to local law enforcement entities or the AG.

All cases in which there is sufficient evidence to file charges against a licensee, registrant, or person performing unlicensed activity are referred to the appropriate city or district attorney's office. Criminal actions include, but are not limited to, violations of the licensing laws of the Board.

The AG is responsible for prosecuting the administrative case against licensees and registrants (respondents). A respondent might be suspended from practice or have her or his license revoked, and an applicant may be denied licensure or licensed with probation. Attorneys in the AG's Licensing Unit handle these cases. The attorneys work with the Board's enforcement staff to determine whether the necessary evidence exists for a successful prosecution. The burden of proof for licensing violations is clear and convincing evidence.

Based on the evidence, the AG makes recommendations regarding prosecution. Although the Board generally takes the advice of counsel, the Board has the discretion to take other action.

Once an accusation has been filed, the respondent may file a notice of defense and request an administrative hearing. All hearings are held before an ALJ from the Office of Administrative Hearings. If the respondent does not respond within 15 days of receiving the accusation, the Board issues a default decision. In making its final decision, the Board may take into consideration a respondent's failure to present a defense or mitigating evidence. Defaults generally result in the revocation of a license. At any stage of this process, the Board may withdraw the accusation for any reason or enter into a stipulated settlement with the accused.

Rather than proceeding to a formal hearing, the parties may stipulate to a determination of the violations charged against the respondent and to a proposed penalty. The Board encourages stipulations as long as the public interest is served. Stipulations eliminate the six months to one year delay that may result from attempting to schedule a mutually agreeable hearing date. The public is often better served because the resolution time is reduced and lengthy appeals are avoided, and the Board and respondent save time and money. The Board may also consider seeking restitution for the complainant as part of a stipulated agreement.

Stipulation terms are given to the DAG representing the Board by the enforcement staff, utilizing the Board's disciplinary guidelines. Stipulations are negotiated and drafted by the DAG, the respondent, and the respondent's legal counsel. In negotiating a stipulation, the DAG is encouraged to work closely with the Board's Executive Officer to arrive at a stipulation that will be acceptable to the Board. The number of stipulated agreements has remained relatively stable in recent years, from 36 in 1993/94 to 32 in 1996/97.

Pre-hearing conferences are a more formal method for developing a stipulated agreement. These hearings involve the Executive Officer, the respondent, and an ALJ, and can take from one to three days depending on the complexity of the case.

Cases that cannot be resolved by another method are scheduled for a full hearing. The Board may deny, suspend, or revoke the registration or license of any registrant or licensee who is guilty of unprofessional conduct.[43] It may issue interim orders that suspend a licensee's license or impose restrictions on a licensee.[44] *(See appendix C: Disciplinary Decisions and Subsequent Actions for Each Case)*

In addition, the Board, AG, or a district attorney may seek an injunction or other order from a superior court to prevent someone who has violated the Board's licensing laws from doing so again, or to prevent someone who is about to violate those laws from doing so.[45] The Board would seek such orders and injunctions if the following conditions apply:

- The licensee has engaged in acts or omissions that violate the licensing law or has been convicted of a crime substantially related to the licensed activity.

- ermitting the licensee to continue with the licensed activity would endanger the public health, safety, or welfare.

BOARD REVIEW OF ALJ DECISIONS

Disciplinary hearings are presided over by an ALJ. These hearings are expensive for both the Board and the respondent. They can take up to three weeks and cost up to $4,000 per day, depending on the evidence and the number of expert witnesses.

Once the hearing is finished, the ALJ has 30 days to prepare the proposed decision and send it to the Board. The Board then has 100 days to take action to either adopt or non-adopt. If the Board adopts the decision, the respondent is notified and has 30 days to accept or appeal the decision.[46]

If Board members do not agree with any aspect of the ALJ's proposed decision, they may non-adopt, order the transcript, and modify or reject the decision. The Board uses disciplinary guidelines when making such decisions. In recent years, the Board has nearly always adopted the ALJ decision, and when it does not, it generally chooses to increase the penalty. When the Board chooses to increase the penalty, it must first pass a motion of nonadoption, and then issue its own decision.

[43] Business and Professions Code Sections 4982 and 4992 et sec.
[44] Business and Professions Code Section 494.
[45] Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.
[46] See Appendix C: Disciplinary Decisions and Subsequent Actions.

PUBLIC DISCLOSURE

The Board adopted a public disclosure policy in 1995 clarifying the information about licensees it will make available to the public. The Board believes providing this information enhances the public's safety. Upon request by a member of the public, the following information, if known, will be disclosed:

- Current status of a license, issuance and expiration date of a license, prior discipline, accusations filed, temporary restraining order or interim order of suspension issued or the resulting discipline.

- Malpractice judgments of more than $30,000 reported to the Board, on or after July 1, 1995.

- Felony convictions reported to the Board, on or after July 1, 1995.

The Board attempts to educate practitioners and consumers about specific problem practices by proactively notifying them of disciplinary actions. This is accomplished through news releases; circulation of the Board's "hot sheets," which are listings of disciplinary actions taken during a quarterly cycle; publication in the newsletter; and providing the information on the Board's website.

PROBATION MONITORING

To best protect the public health and safety, the Board provides options for each case, choosing among such conditions of probation as:

- practice suspension,
- supervised or restricted practice,
- psychological evaluations or psychotherapy,
- drug or alcohol rehabilitation and fluid testing,
- education, oral licensing examinations,
- cost recovery or restitution.

The average length of probation is five years and the license is restored upon successful completion of probation.

A probationary file is established to allow monitoring of individual probation requirements (i.e., cost recovery payments, remedial education course completion, quarterly reports). The Board's management services technician monitors approximately 80 probationary cases annually. The Board uses the services of the DOI for probation monitoring and field investigations in cases where random drug testing is a condition of probation.

When a probationer violates the terms of probation, the Board has the option to revoke probation and impose previously stayed discipline. Within some stipulated agreements, language is included that provides for automatic revocation of a license if certain conditions of probation are not met.

DISCIPLINARY CASE AGING DATA

The Board has improved the disciplinary processing times through:

- restructuring the enforcement program and providing more training for staff members, who have become more knowledgeable regarding investigative and legal procedures,
- providing training to the Office of the Attorney General and making revisions to the disciplinary guidelines which assist the AG handling the Board's cases, and
- providing training to the DOI when investigating the Board's licensees and registrants.

ENFORCEMENT COSTS

The Board makes every effort to minimize the cost of its enforcement activities while maintaining the level needed to protect the public.

Its use of the investigative time of the DOI has been reduced dramatically in recent years, in part due to a more efficient contracting system. Its use of the AG's time has also been reduced. At the same time, the Board has been more aggressive at ordering and collecting cost recovery. Cost recovery ordered has risen from $29,195 in 1993/94 to $95,790 in 1996/97.

Prior to January 1, 1997, the Board's authority to recoup the costs of investigation and prosecution was contained in Section 4990.17 of the Business and Professions Code. The Board now uses the DCA general section, which is in Section 125.3 of the Business and Professions Code.

LITIGATION COSTS

Over the past four fiscal years the Board has been involved in five litigation cases, three of which it prevailed in.

In the 1993/94 fiscal year, the Board did not prevail in a case which involved an applicant whose out-of-state hours of experience were originally denied. The Board's litigation fees in this case were $15,673.

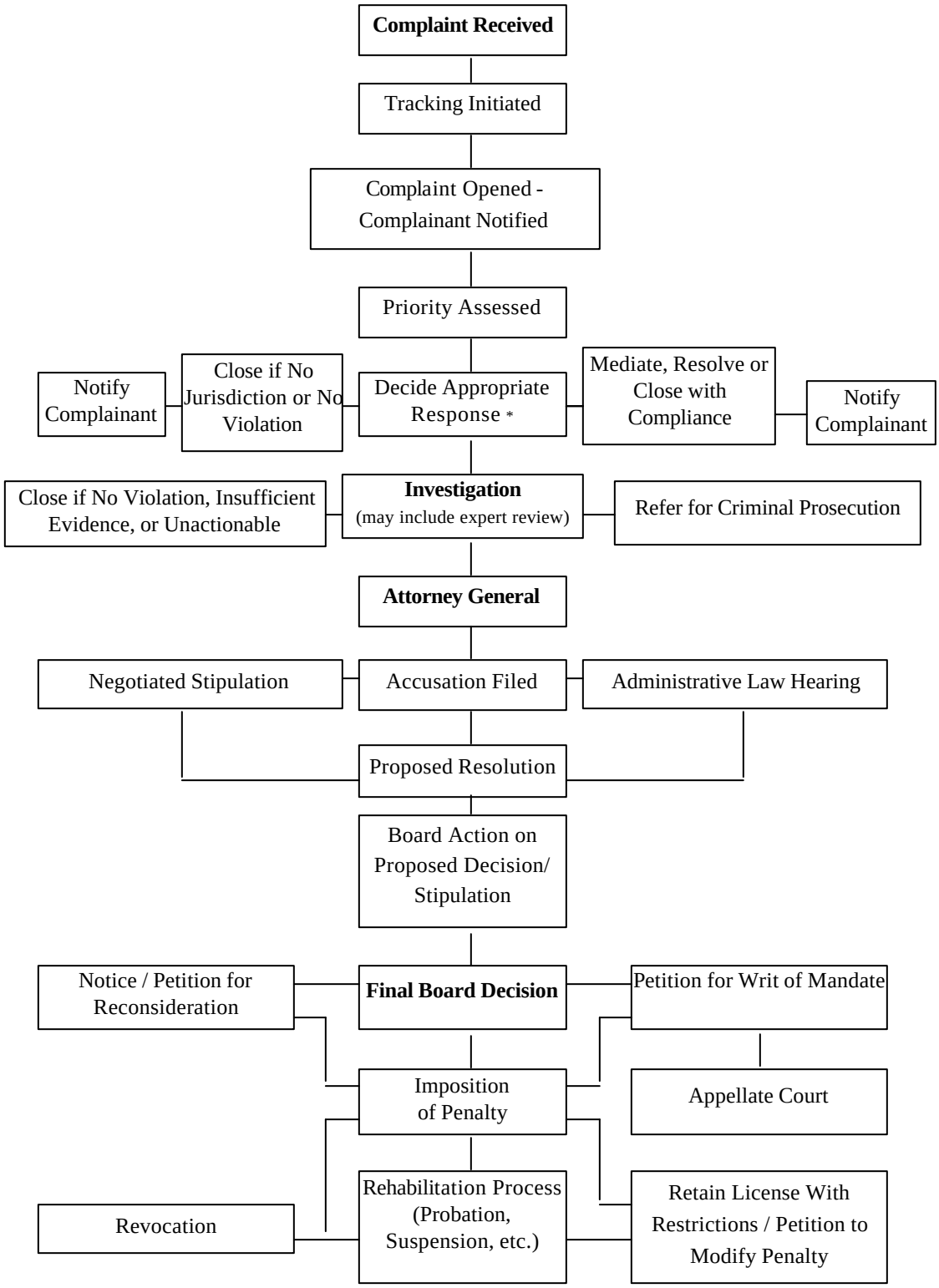
The Board had two litigation cases in the 1994/95 fiscal year. The first involved an applicant whose experience was not approved because the degree title was not acceptable as defined by law. The Board prevailed and spent $2,778 litigating this case. The second case involved an applicant whose hours of supervision were denied because the supervisor's license was delinquent. The Board did not prevail and spent $13,802 litigating this case.

The Board prevailed in two litigation cases in the 1996/97 fiscal year. The first case involved an applicant whose experience was not approved because the degree title was not acceptable as defined by law. The litigation fees in this case were $4,214. The second case, which was demurred, involved a nonprofit organization which believed the Board should retroactively reinstate one of its supervisor's MFCC license which had been expired in excess of three years. The litigation fees in this case were $2,033.

DIVERSION PROGRAM

The Board does not operate a diversion program for licensees with alcohol and substance abuse problems.

COMPLAINT HANDLING PROCESS FLOW CHART



* analyze, determine jurisdiction/alleged violation, collect more evidence if necessary

OVERVIEW OF COMPLAINT ACTIVITY

Complaints Received by Source				
Source	1993/94	1994/95	1995/96	1996/97
Public	671	543	505	454
Licensees	3	0	5	1
Internal	45	39	24	28
Other DCA Board or Program	59	17	12	13
Societies and Trade Organizations	2	0	0	0
Law Enforcement	1	2	3	4
Other State of California Agency	2	1	3	6
State Other than California	0	0	0	0
Miscellaneous	1	0	0	0
B & P Code Section 800	24	10	5	0
Federal Government	0	2	0	0
Other Governmental Agency	3	3	10	3
Anonymous	3	8	44	31
Industry	0	0	0	0
Total	814	625	611	540

Complaints Filed/Handled Formally by Type				
Category	1993/94	1994/95	1995/96	1996/97
Contractural	8	0	0	0
Fraud	23	25	20	14
Health & Safety	5	0	0	0
Non-Jurisdictional	191	279	260	202
Competence-Negligence	110	89	79	59
Other	126	6	1	1
Personal Conduct	29	31	16	27
Unprofessional Conduct	208	139	172	165
Sexual Misconduct	42	36	27	33
Unlicensed Activity	71	20	40	39
Total	813	625	615	540

Complaints Dismissed / Closed by Type				
DCA Category	1993/94	1994/95	1995/96	1996/97
Contractural	21	1	0	0
Fraud	14	31	38	23
Health & Safety	24	0	0	0
Non-Jurisdictional	104	301	311	228
Competence-Negligence	42	114	142	77
Other	135	21	7	1
Personal Conduct	29	41	28	23
Unprofessional Conduct	100	175	236	165
Sexual Misconduct	10	57	51	41
Unlicensed Activity	58	80	63	19
Total	537	821	876	577

INVESTIGATIVE ACTIVITY

Investigations

	1993/94	1994/95	1995/96	1996/97
Opened	121	51	116	78
Completed	134	243	115	101
90 Days	3	2	2	1
180 Days	5	2	2	1
1 Year	35	14	7	17
2 Years	42	110	49	39
3 Years	25	90	33	33
3+ Years	24	25	22	10
Pending (As of 6/30)	298	104	105	82
Hours Used	7487.25	3115.75	2843.25	3365.25

Formal Investigations Opened by Category

DCA Category	1993/94	1994/95	1995/96	1996/97
Contractural	2	0	0	0
Fraud	3	2	16	1
Health & Safety	2	0	0	0
Non-Jurisdictional	1	0	4	1
Competence-Negligence	26	8	31	22
Other	6	1	0	0
Personal Conduct	6	2	2	4
Unprofessional Conduct	29	21	22	24
Sexual Misconduct	23	15	29	20
Unlicensed Activity	23	2	12	6
Total	121	51	116	78

	1993/94	1994/95	1995/96	1996/97
Criminal Actions Filed	5	3	1	3
Civil Actions Filed	0	0	0	0

FORMAL DISCIPLINE

Cases Referred to the Attorney General by Type

DCA Category	1993/94	1994/95	1995/96	1996/97
Contractural	0	0	0	0
Fraud	2	3	1	5
Health & Safety	2	0	0	0
Non-Jurisdictional	0	0	0	0
Competence-Negligence	6	8	11	4
Other	7	3	3	3
Personal Conduct	9	21	17	10
Unprofessional Conduct	9	6	9	5
Sexual Misconduct	10	26	15	15
Unlicensed Activity	0	2	1	0
Total	45	69	57	42
Hours Used	7147.25	7784	6727	4808

Accusations Filed

DCA Category	1993/94	1994/95	1995/96	1996/97
Fraud	2	1	3	2
Health & Safety	1	0	0	0
Non-Jurisdictional	1	0	0	0
Competence-Negligence	8	6	11	6
Other	3	1	4	2
Personal Conduct	2	6	14	5
Unprofessional Conduct	9	10	8	5
Sexual Misconduct	22	11	27	8
Unlicensed Activity	1	2	1	0
Total	49	37	68	28

Accusations Withdrawn or Dismissed

DCA Category	1993/94	1994/95	1995/96	1996/97
Fraud	0	2	0	0
Health & Safety	1	3	0	0
Non-Jurisdictional	0	1	0	0
Competence-Negligence	1	0	4	0
Other	3	0	0	0
Personal Conduct	0	1	0	0
Unprofessional Conduct	1	1	0	1
Sexual Misconduct	0	2	5	1
Unlicensed Activity	0	0	0	0
Total	6	10	9	2

Statement of Issues Filed

DCA Category	1993/94	1994/95	1995/96	1996/97
Fraud	0	0	0	0
Health & Safety	0	0	0	0
Non-Jurisdictional	0	0	0	0
Competence-Negligence	0	0	0	0
Other	0	0	1	1
Personal Conduct	4	7	7	1
Unprofessional Conduct	0	0	0	0
Sexual Misconduct	0	1	0	0
Unlicensed Activity	0	0	0	0
Total	4	8	8	2

SOI's Withdrawn or Dismissed

DCA Category	1993/94	1994/95	1995/96	1996/97
Fraud	0	0	0	0
Health & Safety	0	0	0	0
Non-Jurisdictional	0	0	0	0
Competence-Negligence	0	0	0	0
Other	0	0	0	0
Personal Conduct	0	1	2	0
Unprofessional Conduct	0	0	0	0
Sexual Misconduct	0	0	1	0
Unlicensed Activity	0	0	0	0
Total	0	1	3	0

	1993/94	1994/95	1995/96	1996/97
License Denied	2	3	4	4
License Granted	2	3	2	1

Decisions

DCA Category	1993/94	1994/95	1995/96	1996/97
Fraud	5	0	2	2
Health & Safety	1	0	0	0
Non-Jurisdictional	0	0	0	0
Competence-Negligence	2	5	10	12
Other	12	0	1	7
Personal Conduct	7	3	11	5
Unprofessional Conduct	10	12	10	9
Sexual Misconduct	14	25	23	22
Unlicensed Activity	1	0	4	0
Total	52	45	61	57

Disciplinary Decision Outcomes

	1993/94	1994/95	1995/96	1996/97
Revoked	13	18	30	18
Revoc. Stayed: Susp & Prob	5	9	6	7
Revoc. Stayed: Prob Only	18	7	13	11
Surrender of License	13	7	9	17
Suspension	1	0	0	1
Susp., Stayed, Susp & Prob	0	0	1	0
Susp., Stayed, Probation	0	1	1	1
Susp & Prob. Only	0	1	0	0
Public Reprimand/Reproval	1	2	1	1
Other Decisions	1	0	0	1
Total	52	45	61	57

Disciplinary Information

	1993/94	1994/95	1995/96	1996/97
Stipulated Agreements	36	28	32	32
Decision & Orders	16	17	29	25
Non-Adopt Decisions	3	1	2	2
Penalty Increased	3	1	1	2
Penalty Decreased	0	0	0	0
Reconsideration Granted	0	0	2	0
Reconsideration Denied	2	1	0	2
Judicial Review Employed	0	1	4	3
Decision Overturned	0	0	0	0
Decision Stayed	0	0	0	2
Modification of Probation Granted	0	0	0	1
Termination of Probation Granted	0	2	1	0
Reinstatement Granted	0	0	0	0
Temporary Restraining Orders	0	0	0	0
Interim Orders (sought)	0	2	1	1
Interim Orders (issued)	0	2	1	1

Disciplinary Case Aging

	1993/94	1994/95	1995/96	1996/97
Cases received	45	69	57	42
Cases completed	90	105	100	76
Pending (as of 6/30)	185	145	100	66
Cases closed within 1 Year	21	15	26	16
Cases closed within 2 Years	33	47	27	30
Cases closed within 3 Years *	20	28	14	10
Cases closed within 4 Years *	7	11	19	11
Cases closed over 4+ Years *	9	4	14	9
Total	90	105	100	76

Reasons for the delay for cases closed three years and over is identified below.

* Cases Closed Three Years and Over

Category				
Non-adoption / procedural delays	1	1	4	2
Additional investigation necessary	6	5	16	7
Hearing continuance / pending decisions	6	6	1	2
Petition to Compel Psychiatric evaluation prior to decision	0	6	0	1
Excessive delay at the AG's office	8	6	7	8
Attorney General review / AG closed - no merit	8	6	5	0

Cases Assigned to the Attorney General

(Pre-Accusation / Statement of Issues)	1993/94	1994/95	1995/96	1996/97
0-90 Days	10	18	9	11
91-180 Days	4	3	3	4
181-270 Days	5	5	5	5
271-365 Days	6	13	1	4
1 - 2 Years	47	3	4	2
2 - 3 Years	15	15	1	2
3+ Years	8	13	5	0
Average Days Pre Filing	532	546	408	224
(Post-Accusation / Statement of Issues)				
0-90 Days	8	7	22	7
91-180 Days	16	10	12	4
181-270 Days	10	12	9	4
271-365 Days	12	9	7	4
1 - 2 Years	24	14	10	13
2 - 3 Years	7	12	4	1
3+ Years	7	6	5	3
Average Days Post Filing	469	544	373	414

Case Aging Average

Prefiling	1 yr. 5 mo	1 yr. 6 mo	1 yr. 2 mo	7.5 mo
Post filing	1 yr. 3 mo	1 yr. 6 mo	1 yr.	1 yr. 1.5 mo
Complaint receipt to final disposition of case	3 yr. 3.5 mo	3 yr. 7 mo	4 yr. 2.5 mo	4 yr .75 mo

Enforcement Costs

	1993/94	1994/95	1995/96	1996/97
Division of Investigation				
Hours Used	7487.25	3115.75	2843.25	3365.25
Hourly Rate	$91.86	$99.81	$91.00	$89.00
Budgeted Amount	$ 1,204,880	$ 1,210,541	$ 819,816	$ 359,725
Actual Expenditure	$ 1,020,344	$ 1,210,541	$ 819,816	$ 347,499
Attorney General				
Hours Used	7147.25	7784	6727	4808
Hourly Rate	$90.00	$95.00	$98.00	$98.00
Budgeted Amount	$ 698,485	$ 483,159	$ 526,160	$ 806,160
Actual Expenditure	$ 635,848	$ 483,122	$ 649,293	$ 478,294
Expert Witness Costs	$ 81,630	$ 62,308	$ 59,109	$ 47,449
OAH Costs	$ 118,381	$ 190,815	$ 104,423	$ 92,402
Cost Recovery Ordered	$ 29,195.00	$ 70,817.13	$122,663.75	$ 96,790.28
Cost Recovery Received	$ 4,250.00	$ 30,486.00	$ 38,880.00	$ 32,778.13

The DOI receives funding from boards through a formula based on previous years' expenditures. This funding mechanism operates efficiently but can be misleading to a reviewer.

ASSESSMENT OF NEED TO REGULATE

SUNSET REVIEW REPORT

OVERVIEW

In order to safeguard the public's health, safety, and welfare, those licensed by the Board of Behavioral Sciences as Marriage, Family, and Child Counselors (MFCCs), Licensed Clinical Social Workers (LCSWs), and Licensed Educational Psychologists (LEPs) must meet the standards established by the State of California. It is important to prevent those who cannot meet these standards from misrepresenting themselves to the public.

It is a recognized, acceptable function of state governments to regulate activities that, though formally private, affect the public. One aspect of this role has been the regulation of the professions whose members are considered to have special responsibilities to the public and the individuals receiving services. The rationale and standard for such regulation was set forth by the U.S. Supreme Court in Dent v. West Virginia, 129 US 114, 122 (1889):

> *"The power of the State to provide for the general welfare of its people authorizes it to prescribe all such regulations as, in its judgment, will secure or tend to secure them against the consequences of ignorance and incapacity as well as of deception and fraud. As one means to this end it has been the practice of different States, from time immemorial, to exact in many pursuits a certain degree of skill and learning upon which the community may confidently rely, their possession being generally ascertained upon an examination of parties by competent persons, or inferred from a certificate to them in the form of a diploma or license from an institution established for instruction of the subjects, scientific and otherwise, with which such pursuits have to deal. The nature and extent of the qualifications required must depend primarily upon the judgment of the States as to their necessity."*

POTENTIAL FOR HARM TO THE PUBLIC'S HEALTH, SAFETY, AND WELFARE

Regulation by the Board provides a barrier which minimizes the number of unqualified people who enter the fields it regulates and reduces the chance of harm to consumers. An accurate diagnosis and well-implemented treatment could be the difference between life and death for some people in therapy. The majority of those in therapy, whether for organic problems, alcohol or drug problems, or issues surrounding loss and relationships, are vulnerable and generally unable to, or hesitant to, act on their own behalf. They are therefore highly susceptible to harm. Though they may be able to determine the availability of mental health services, or follow through on a referral, they are usually not equipped to judge the training or background of the therapist or to evaluate the therapist's ethics. In their vulnerable state, those in therapy tend to respond emotionally to the influence of the 'expert.'

Many of the practitioners licensed by the Board work independently. The Board is often the only forum in which consumers can complain of negligence or harm. Without regulation, the consumer would not have a mechanism available to inquire if a licensee had been subjected to disciplinary action by the Board. An

incompetent mental health practitioner could lose her or his job and simply move on to other employment, continuing to endanger the public because no action against a license had been taken and no "red flag" had been raised. The standards of practice enforced by the Board serve to protect the consumer against future harm, and often provide the only recourse available to the public for enforcement via formal proceedings. Without regulation, harm to vulnerable clients by practitioners would be greatly increased.

Because of the dramatic impact mental health professionals have on their clients and those who interact with their clients, the strongest possible regulation by the state is necessary. The regulation in place includes practice protection for the professions. Through licensing, the Board is able to validate good practitioners and to keep track of dangerous practitioners for the public. Licensing ensures that only licensed professionals under the Board's jurisdiction may legally perform the function described in law.

Simply protecting the title of these professions would be insufficient, because it would allow anyone working under a different title to perform the functions that the state has asserted an interest in regulating. Title protection provides important protection for professionals, but its protection of consumers is limited.

NECESSITY FOR REGULATION

The Board's regulation of MFCCs, LCSWs, and LEPs benefits three groups of people:

- **The clients**

It is important that those who hire therapists are not victimized by incompetent or dishonest practitioners. It is also important that clients have access to information about practitioners and a venue from which to seek redress.

- **The public**

Therapists are expected to apply the correct knowledge and skills when treating clients. A failure to do so could injure not only the client but others who interact with that client.

- **The professionals**

When there are high standards and appropriate enforcement, licensees retain the quality within their profession that certification indicates.

There is various evidence that the current level of regulation is necessary and effective. For instance, the Board has not had to discipline a single LCSW who was licensed after the standardization of examinations in 1992. The need to discipline MFCCs has also declined since the standardization. Further evidence of the need to regulate at the current level, and of consumer demand for regulation, is that consumers continue to contact the Board regarding complaints about practitioners. The public assumes that government will regulate mental health professionals and has found access to the Board to be a positive option. The Board received 814 complaints in 1993/94 and more than 500 complaints during each of the last three years.

If the professions regulated by the Board were deregulated, this important mechanism for protecting consumers would be lost. In a deregulated environment, consumers would have no assurance that practitioners were

competent. The performance of mental health professionals cannot be readily evaluated by the consumer because of the broad range of therapeutic practices and the vulnerable state of the patient/client during treatment. This is a problem common to many of the healing art professions, including physicians and psychologists.

Further, if the Board did not exist, consumers would not be protected by the Board's enforcement activities. Additionally, consumers benefit from the Board's consumer information, which can identify a problem. There are several approaches used by the Board to discipline and rehabilitate licensees, including continuing education, citation and fine, license suspension, probation, and revocation. If the Board determines a licensee poses an immediate threat to the public welfare, it may obtain an interim order of suspension from an Administrative Law Judge, or a restraining order from a superior court. In cases of unlicensed practice, the Board may issue cease and desist letters, citations and fines, and telephone disconnect measures to protect consumers.

Such actions by the Board relating to both licensed and unlicensed practice would not be available in a deregulated environment. Incompetent or dishonest therapists might be allowed to practice.

Without regulation, the courts and the marketplace would be the primary methods available to consumers to reduce their exposure to risk. Consumers would have to seek compensation for injuries in small claims court or through civil lawsuits, and in their vulnerable state would be subject to inquiry and pressure from people unfamiliar with mental health issues. Cases of fraud, embezzlement, or theft would be unlikely to be handled by the overburdened criminal courts, and the consumer protection efforts now undertaken by the Board might not be considered. Proactive consumer protection and education might not exist. Marketplace factors, generally, do not remove incompetent or dishonest practitioners from professional activity.

The Board has been successful in removing licenses from those who endanger the health, safety, or welfare of the public. Sexual misconduct with a client and emotional harm to a client are particularly serious matters which are given top priority by the Board. For example, one of the most egregious sexual misconduct cases recently required numerous legal steps to ensure consumer protection as the process to revoke the practitioner's MFCC license proceeded:

In that case, so many female clients alleged sexual misconduct by the therapist that the Board was able to obtain an Interim Suspension Order. The order prohibited the therapist from treating women in individual therapy. He was also prohibited from using touching techniques and was required to work under supervision. Following his original hearing, an Administrative Law Judge recommended probation for seven years. The decision was stayed, however, when a witness for the therapist revealed that she had not been truthful in her testimony and had in fact been harmed by the therapist. A supplemental accusation was served and another hearing was held. Following the second hearing, the Board adopted the judge's recommendation and revoked the therapist's license. Because of the Board's disciplinary action, the California Commission on Teacher Credentialing voided the former licensee's Clear Pupil Services Credential.

PUBLIC DEMAND FOR REGULATION

The public is entitled to demand that the professionals in the fields regulated by the Board follow high standards of behavior. The mental health professional increasingly serves the public. For example, they are often called to situations that directly affect consumers when they are in their most vulnerable state by providing service to and with emergency response teams, hostage negotiation teams, child protective services, juvenile courts, schools, prisons, and adult and child abuse agencies.

Because of the possibility of serious harm to clients, the public expects that mental health professionals be regulated, monitored, and held accountable for any type of negligent practice. Because mental health professionals have access to confidential client information, the public expects that regulatory authorities will remove dishonest or incompetent practitioners.

The public has a right to expect that professionals will be educated, monitored, and held accountable. The professionals also have a stake in promoting a safe and educated profession and in supporting the public's demand that practitioners be ethical and honest. The regulatory program is needed because of the reality that harm to clients can occur and can be severe. Possible harm includes physical injury or death of the client or others, and the possible escalation of dysfunction and distress.

All aspects of the Board's program are designed to protect the public. The examination program ensures that applicants have the necessary technical knowledge and ability to practice. The licensure program is designed to assure the public that licensed professionals are competent and ethical. The continuing education program provides a means to ensure that licensees maintain competency in their areas of practice. The enforcement program is designed to ensure that all licensees conform to established professional standards, and those who choose not to will be investigated, disciplined, and either rehabilitated or find their license to practice suspended or revoked.

In addition to considerations of federal antitrust law and public credibility, there are two reasons for state regulation rather than private regulation. First, public regulation has no interest other than the public interest. Private trade or professional groups might resist, or at least neglect, some aspects of the public interest. Second, public regulation is binding on all the members of the profession. In contrast, a professional organization's regulatory scheme and its authority to enforce that scheme is voluntary, and does not necessarily cover everyone in the profession.

The danger that any regulatory board may favor particular interests over the public interest is a problem subject to public protest, action by the Governor or Legislature, or resort to the courts. Abuses by private professional groups are not equally subject to such controls.

States that have adopted legislation regulating the practice of MFCCs, LCSWs, and LEPs, including California, continue to see violations of both law and ethics within the practices. This is a strong indicator that state regulation of these professions continues to be essential to the health, safety, and welfare of its citizens.

FEDERAL MANDATES AND OTHER LEGAL CONSIDERATIONS

There are no federal mandates requiring California to license the three professions regulated by the Board. However, numerous state and federal laws refer to these licensed practitioners and require licensure for consumer benefits. Often these laws mandate the highest level of licensure available. Some of these laws, and areas covered by other areas of law, are:

- Americans with Disabilities Act,
- Family Medical Leave Act,
- Special Education Code, Title 5,
- California's Victims of Crime Program,
- child abuse reporting,
- therapist-patient privilege protection,
- access to patient records,
- "freedom of choice" laws regarding insurance reimbursement policies,
- MediCal and Medicare,
- Federal Employees Health Benefit Program,
- CHAMPUS – federal health program for military dependents and retirees' Medicare,
- employment in the veteran's affairs system,
- employment in county health and mental health,
- employment in the Department of Corrections and California Youth Authority, and
- vendorship by health care service plans and disability insurance companies.

Hospitals' accreditation often requires licensure for one or more of the professions licensed by the Board. Many other employers regard licensure as a way to assure the competency of its staff.

DEGREE OF SKILL OR KNOWLEDGE REQUIRED / LEVEL OF INDEPENDENCE WITHIN THE PRACTICE

The professionals licensed by the Board practice psychotherapy, counseling, and guidance. Their clientele is diverse socially, economically, and ethnically, and come from all age groups. Licensees treat clients individually, as couples, and in groups. They often work in private practice, but can also work in licensed health facilities, governmental entities, schools, colleges, universities, and nonprofit and charitable corporations. These

professionals focus on assisting people to achieve more adequate, satisfying, and productive life adjustments when faced with psychological conflict, trauma, loss, and other stressors.

Licensed practitioners make numerous professional judgments regarding their clients' lives. Their judgments and interventions may significantly affect the financial well-being, health, quality of life, and general safety of the individual in psychotherapy.

In therapy, various clinical assessments are made prior to interventions, and often this process is continuous. During a clinical assessment a review is made to determine a client's psychological capacities, strengths, and weaknesses. Psychological functions are assessed regarding thought patterns and levels of stress, depression, and anxiety, and the client is assessed for risks to herself or himself and others, including risks for substance and alcohol abuse. The clinical assessment is sensitive to client needs, ethnicity, culture, and gender.

In a life assessment, societal, cultural, and economic impacts on the client's life are examined. Legal difficulties, abuse, neglect, and economic change can all have a significant impact on the client's well-being. The practitioner can begin to piece together the clinical picture of the client and the various systems which impact the individual. A psychological diagnosis may be made, which leads to possible referrals for medication or physical examination and evaluation, as well as strategies for intervention.

Psychotherapy is an intimate, interactive, and personal profession, in which both conscious and unconscious processes interact. Clients are in the position of requesting help, sometimes reluctantly, and are very vulnerable. The relationship that develops during therapy sessions is powerful and one-sided. The mental health practitioner must be continually self-aware during sessions so important boundaries of trust and influence are not compromised.

At the core of psychotherapy is the premise of self-determination. Therapists attempt to help clients discover new ways of coping and making decisions. However, therapists must also routinely make judgments regarding their clients' lives. For example, in some cases involving depression or suicidal tendency, clients may be in grave danger. In other cases, the client may not understand that he or she is facing or is causing harm by accepting or applying abuse. In cases such as these, practitioners must intervene quickly and decisively by making referrals to protective agencies or law enforcement, or by educating the client about the situation and suggesting corrective steps.

The practitioner must constantly be aware of the influence exerted during therapy. It is difficult for the practitioner to refrain from placing her or his agenda on the client or urging action prematurely. Timing is crucial. "Agreeing" too quickly with a scenario as it is presented by a client may block information which could be useful in the long run. Not acting quickly enough may place the client in danger.

EVALUATING KNOWLEDGE, SKILLS, AND ABILITIES IN REGARDS TO COMPETENCE AND STANDARDS OF PRACTICE

The generally accepted core of knowledge required by the Board to qualify for examination is attained by earning the required degree and completing the required experience. To protect the public, California has implemented strict standards for all three mental health professions the Board regulates. These standards are more rigorous than standards in most other states, as are the standards for most professions in California.

MFCC applicants must possess a master's degree in either marriage, family, and child counseling; marital and family therapy; psychology; clinical psychology; counseling psychology; or clinical social work from an accredited or approved institution. They must complete 3,000 hours of internship and at least 1,700 hours of the internship requirement must be completed after the completion of the master's degree.

LCSW applicants must have a master's degree from an accredited school of social work. Following completion of the master's degree, applicants must complete 3,200 hours of internship.

LEP applicants must have a master's degree in psychology, educational psychology, or counseling from an institution acceptable to the Board. They must have three years of professional experience. At least two of those years must have been completed as a credentialed school psychologist and at least one year must have been completed under supervision.

While the applicant is engaged in an internship the scope of practice becomes the focus of learning. Supervisors, who are professionals who have been licensed at least two years, make a contract with the applicant in which the responsibilities of the supervisor and applicant are clarified. The supervisor is responsible for the clinical appropriateness of the setting, regular supervision hours, and adequate clinical guidance of the applicant. The supervisor ensures that applicants work at a level at which they are competent and that they properly examine and assess patients.

The written and oral examinations are the primary methods used by the Board to define the knowledge base and skills required of applicants. MFCC and LCSW applicants must pass both written and oral examinations and LEP applicants must pass a written examination. Ongoing occupational analyses of the professions ensure that these examinations reflect current practice. Except for the written examination given to LCSWs, which is constructed by a national organization, the examinations given by the Board are constructed by the Office of Examination Resources.

Written examinations are given to qualified applicants throughout the year and the oral examination is given twice per year. Applicants who are required to take an oral examination must pass the written examination first.

The purpose of the oral examination is to determine that the entry-level practitioner can apply the knowledge shown in the written examination which has preceded it. This is done by observation and evaluation of the applicant's personal functioning, interactive skills, and ability to provide safe and effective counseling services.

The examination is an experiential process. Through the use of a vignette, which depicts a typical scenario that would be encountered by a licensed professional, the applicant is expected to describe, demonstrate, and defend the use of knowledge necessary to make positive interventions.

The strongest effort is made to ensure the oral examination content does not follow one particular theory of intervention. The oral examinations are designed to allow applicants to integrate skills and values which transcend single level theory. Each oral examination is based on core content areas.

In the MFCC oral examination, there are five core content areas:

- assessment and diagnosis,
- treatment plan,
- clinical intervention,
- law and ethics, and
- therapeutic relationships.

In the LCSW oral examination, there are seven core content areas:

- organization and application of social work to clinical practice,
- identification, evaluation, and application of elements of clinical assessment,
- formulation and refinement of treatment plans,
- identification and utilization of relevant adjunctive resources,
- intervention to facilitate therapeutic change,
- professional use of self in professional situations, and
- recognition and application of legal and ethical responsibilities in clinical practice.

The Board is responsible for defining core competencies and the required knowledge base for standards of practice. The Executive Officer works with the Office of Examination Resources to construct examinations for content and construct validity based on the most current occupational analyses and evaluations of core practice modules.

Through the use of the occupational analyses, general consensus is reached regarding the requirements to practice as a mental health professional licensed by the Board. Although there is a range of theory, the practices of psychotherapy and counseling are based on a solid understanding of human development, abnormal psychology, cultural and social diversity, and the legal and ethical applications of therapy.

The indicators of competent practice are described in each of the profession's code of ethics. For regulatory purposes, activities that constitute incompetent and unsafe practice are defined by the Board's *Disciplinary Guidelines*. The *Guidelines* serve as standards of practice which, if breached and reported, constitute unsafe conduct, and, at the least, poor judgment on the part of the practitioner. Alleged violations of the standards of practice are addressed by the Board's enforcement program.

Standards of practice are occupationally related and primarily focus on the issues involved in psychotherapy relationships. Specifically addressed are issues of trust, managing personal biases and values, and the vulnerabilities of the client system.

New procedures and practices in the professions licensed by the Board are constantly evolving. They are developed through the interaction of the Board, university faculty, and practicing professionals according to the changing needs of society. The Board provides the public forum for discussing developments within the professions. All new procedures and practices must avoid harm to clients. Their legitimacy is determined through acceptance by mental health professionals, resolution by the Board of any consumer complaints about the new procedure or practice, and any case law which grows around the new procedure or practice.

DIFFICULTY IN EVALUATING PRACTITIONER QUALIFICATIONS

Most of the consumers of counseling and psychotherapy seek services through private or public allied health care agencies, a referral from their physician, court action, self-referral, an employee assistance program, or health insurance. The consumer may seek counseling for issues regarding loss, depression, anxiety, difficulties in relationships, employment problems, and chemical dependency.

Referring agencies, privileging and credentialing bodies, and consumers may contact the Board to determine if a practitioner's license is in good standing and without disciplinary action. Beyond this, the Board relies on complaints and investigations to protect consumers. Because of the confidential nature of psychotherapy, ongoing evaluation of practitioners is difficult. It is also difficult to assess attributes such as integrity, compassion, and emotional maturity in the therapist. The Board, through enforcement and public education, attempts to create awareness that failure to practice with integrity, maturity, and within stated regulations will be noted, investigated, and appropriately punished.

REGULATORY OVERLAP WITH OTHER PUBLIC AGENCIES

There are no other local state or federal agencies responsible for regulating the professions regulated by the Board. However, MFCCs, LCSWs, and LEPs may hold other occupational licenses, such as those required to work as registered nurses or psychologists. In those cases, the professionals are also regulated by the agency or agencies regulating the second license. Public agencies employing mental health professionals have their own rules and regulations governing those employees. When LEPs work within the schools, they are regulated by the California Commission on Teacher Credentialing.

SIMILAR OCCUPATIONS WHICH ARE REGULATED OR UNREGULATED

There is some overlap of functions among the three professions licensed by the Board, particularly between MFCCs and LCSWs. However, each profession approaches therapy from a different perspective, making each profession unique. MFCCs are focused on interpersonal relationships, LCSWs are focused on providing counseling related to the client's social backdrop, and LEPs are focused on testing and educational counseling.

There is some overlap of functions performed by other regulated professionals in California. The professions most similar to MFCCs and LCSWs which are regulated in California are psychiatry and psychology. Similar functions of these professions include diagnosis and treatment of mental disorders, psychological testing, psychotherapy, and mental health counseling. However, psychiatrists are physicians who are licensed to prescribe medication. The regulated profession most similar to LEPs are school psychologists, who generally have the same training as LEPs but are limited to working within the schools. Psychologists may also provide educational assessment, though they usually have little or no professional experience with the school system or educational issues.

There are also occupations in which similar work is performed which are not regulated in California. Pastoral counselors are one example. These counselors work in churches and other religious settings and typically include religious material in their counseling sessions. Other unregulated professions that perform similar work include drug and alcohol counselors, domestic violence counselors and hypno-therapists. These occupations provide crisis counseling and referral services, but unlike the professions regulated by the Board often rely on peer counseling. Other occupations which claim to provide services similar to those provided by LEPs are behavior analysts and educational therapists. With the exception of those specifically exempt by law, unregulated individuals may not perform the functions of the Board's licensees.[47]

Associations representing the unregulated occupations include:

- **American Board of Hypno-Therapy**
  16842 Von Karman Avenue, Suite 475
  Irvine, CA 92606
  (800) 634-9766

- **California Association of Alcoholism and Drug Abuse Counselors**
  3400 Bradshaw Road, Suite A5
  Sacramento, CA 95827.
  (916) 368-9412.

[47] Business and Professions Code Sections 4980.01 and 4996.13.

REGULATION IN OTHER STATES

Regulation of the three professions licensed by the Board in California vary from state to state. Some states require licensure, which requires extensive preparation and state oversight. Others require or offer certification, which indicates the practitioner has completed a prescribed program of preparation, and various states provide title protection. Some do not regulate one or more of the professions at all. As noted earlier, California's regulation of the three professions and of other professions tends to be more rigorous than regulation in other states.

There are no states that have deregulated any of the professions once they were regulated, though Virginia recently stopped administering an oral examination for LCSWs. Every state that has reviewed its regulation of these professions has continued regulation. During the last several years, numerous states, including Nevada, Kansas, Florida, Georgia, and North Carolina have strengthened regulation of one or more of the professions licensed in California. Illinois, the most recent state to conduct a review of marriage and family therapists (the equivalent of MFCCs), voted to continue regulation in spring 1997.

There is some evidence of consumer harm in states that do not regulate the three professions regulated by the Board. The American Association for Marriage and Family Therapy has pursued ethics violations by its members in four unregulated states during the last two years. The Association is only able to revoke membership, however. There is no ability to discipline practitioners in unregulated states. The Association has compiled media reports from various unregulated states that have detailed significant harm to the public caused by practitioners.

A comparison by state of the level of regulation of those professionals who perform the same functions as LEPs is not available. Education and experience requirements for these professionals vary significantly between states, as do the titles they use. Efforts have been made by national associations to standardize the requirements and titles, but have so far been unsuccessful.

The following chart highlights the level of regulation of MFCCs and LCSWs in each state. The professions may have different titles and scopes of practice in other states, and so direct comparisons are difficult.

Regulation by State

STATE	MFCC	LCSW
ALABAMA	licensure	licensure
ALASKA	licensure	licensure
ARIZONA	title and/or certification	certification and title
ARKANSAS	licensure	licensure
CALIFORNIA	licensure	licensure
COLORADO	licensure	licensure
CONNECTICUT	licensure	licensure and title
DELAWARE	n/a	licensure
FLORIDA	licensure	licensure
GEORGIA	licensure	licensure and title
HAWAII	n/a	licensure and title
IDAHO	n/a	licensure
ILLINOIS	licensure	licensure
INDIANA	licensure	certification and title
IOWA	licensure	licensure and title
KANSAS	licensure	licensure
KENTUCKY	title and/or certification	licensure
LOUISIANA	n/a	certification
MAINE	licensure	licensure
MARYLAND	licensure	certification
MASSACHUSETTS	licensure	licensure
MICHIGAN	licensure	certification and title
MINNESOTA	licensure	licensure
MISSISSIPPI	licensure	licensure
MISSOURI	licensure	licensure
MONTANA	n/a	licensure and title
NEBRASKA	title and/or certification	licensure and title
NEVADA	licensure	licensure
NEW HAMPSHIRE	title and/or certification	certification and title
NEW JERSEY	licensure	licensure
NEW MEXICO	licensure	licensure
NEW YORK	n/a	certification and title
NORTH CAROLINA	licensure	licensure
NORTH DAKOTA	n/a	licensure
OHIO	n/a	licensure
OKLAHOMA	licensure	licensure
OREGON	licensure	licensure and title
PENNSYLVANIA	n/a	licensure and title
RHODE ISLAND	licensure	licensure
SOUTH CAROLINA	licensure	licensure and title
SOUTH DAKOTA	licensure	certification
TENNESSEE	licensure	licensure
TEXAS	licensure	licensure
UTAH	licensure	licensure
VERMONT	title and/or certification	licensure and title
VIRGINIA	licensure	licensure
WASHINGTON	title and/or certification	certification and title

WEST VIRGINIA	n/a	licensure
WISCONSIN	title and/or certification	certification and title
WYOMING	licensure	licensure

ECONOMIC AND SOCIAL IMPACT OF REGULATION

It is clear society benefits from the regulation of the three professions licensed by the Board. While the Board cannot determine precisely how many people utilize the services of licensees every year, a reasonable estimate is that its 60,000 licensees provide about 1.2 million counseling sessions each year. Some of those sessions may be with the same client. Theoretically, through a ripple effect created by the mental condition of every individual, counseling could directly or indirectly impact every Californian.

It is difficult to determine the consumer costs of the services provided by licensees. There is not a uniform fee schedule for any of the three professions. Licensees work in numerous settings and only in some settings are clients billed directly. Often clients are given discounted fees based on their ability to pay. Like the medical professions, costs and fees for services are determined by a number of factors, including an increasingly forceful impact by managed care organizations. Because of this, it is not known how much consumers in California spend overall on services provided by the Board's licensees. Cumulative records of this spending are not maintained.

MFCC fees range from $50 to $150 an hour. Services averaged $76.31 per hour for individual counseling, according to the results of a survey conducted by the California Association of Marriage and Family Therapists in 1995.

LCSW fees range from $75 to $150 an hour, depending on the area of the state in which the services are provided. Fees in Southern California tend to be higher.

LEPs in private practice generally charge about $40 an hour for testing and consultation with individuals. Consultation and contracting services to agencies range from about $60 to $150 an hour.

In certain cases, the cost of the services provided by the Board's licensees could be reduced if California stopped regulating the professions. However, the quality of the services would not be maintained. Clients with lower income would be more likely to receive inadequate counseling from practitioners who would not have been licensed under current regulations. Meanwhile, those with higher income would be able to locate and afford the services of practitioners known in the marketplace. The Board does not consider the fees its practitioners may charge for services when it designs and implements regulations. Its regulations are designed to ensure that the practitioners who market their services are qualified and do not present a danger to the public.

The Board does not attempt to restrict the number of people who may hold one or more of its licenses, and continues to support an open and competitive marketplace. Consumers should benefit from a wide choice of qualified practitioners. In addition, the Board does not regulate the cost of services provided by its licensees, and does not intend to regulate these costs in the future.

The governmental intervention by the Board is necessary to protect the health and safety of consumers. The Board feels that current law provides sufficient regulation to accomplish this goal. It continues to monitor the professions and will support expansion or deletion of current law, as appropriate.

Recently, the Board has not been involved in defining the scope of practice of any of the professions it regulates. Historically, the professions themselves have dealt with issues related to the scopes of practice. The Board's role has been to evaluate and respond to proposed changes. The Board would oppose an expansion of the scopes of practice for which practitioners are not qualified. The Board would require the additional education and training it determined was necessary for any expansion of the scopes of practice. At this point, there is no compelling reason to change the way in which scopes of practice are evaluated, or for the Board to make modifications to any of the scopes of practice.

There have not been attempts in the past to make significant changes in the scope of practice of any of the three professions. All three scopes of practice are roughly the same now as when they were established. Because there have not been attempts to expand the scopes of practice in the past, the Board does not know which groups would oppose expansions. It is possible that any profession providing a similar service would oppose changes that would allow another profession to provide that service.

The Board does not feel there would be benefits to consumers in an expansion of the scopes of practice at this time. If there were benefits to the public for an expansion of any of the scopes of practice, it would be observed by practitioners and changes would evolve slowly as described above. Expansion of the scopes of practice is not a Board priority at this time. The Board is focused on increasing public protection within the current scopes of practice, an effort that includes strengthening the enforcement program, implementing continuing education, improving supervision of applicants, and continuing to monitor the examination program.

IMPROVING THE REGULATORY PROCESS

SUNSET REVIEW REPORT

OPERATIONAL EFFICIENCIES

IMPEDIMENTS

The Board makes a strong effort to regulate the three professions it licenses in the most effective and efficient way possible. Like other boards, it often makes improvements within the framework allowed by state law. Most of the statutes and regulations in place enhance the efforts of the Board. Nevertheless, there are some impediments to the Board's mission, many of which may also impede the mission of other boards.

For instance, state law contains restrictions on the way in which the Board utilizes its funds. At times, the Board is unable to spend additional funds on oral examinations, newsletters, and fingerprint checks as those funds are needed during the fiscal year. The Board also does not have much flexibility in hiring personnel. It must maintain salary savings within the budget while using the remaining funds to continue the regulatory program.

Numerous areas in the Board's licensing laws are difficult to utilize and could be better organized. Cleanup of the language would make the Board's efforts more efficient.

Finally, the Board's efforts are impeded by vacant appointments. At times, the Board is unable to establish a quorum for part or all of its meetings, and this delays decisions, especially in cases involving disciplinary actions. For example the Administrative Procedures Act indicates that a proposed decision shall be deemed adopted by the Board 100 days after delivery, unless within that time the board non-adopts the decision.[48] In addition, stipulations which are not acted on by the Board can be taken off calendar with the Office of Administrative Hearings. It can take up to eight months before the case is re-calendared for hearing. In both situations, a licensee is allowed to continue to practice and can potentially add to the degree of public harm.

EFFORTS TO IMPROVE

The Board constantly reviews its regulatory program to determine if changes are needed. In an effort to provide the best protection of consumers, the Board attempts to make changes before problems arise rather than being forced to respond to a problem. This effort, following the Board's philosophy that communication with interested parties is vital, involves substantial interaction with the public.

Board meetings provide a forum for discussion about the three professions the Board licenses. Meetings are well-attended, usually by representatives from the schools, professional organizations, and health care organizations, as well as licensees and members of the public. Often discussions between the Board and those in attendance are casual, and these discussions allow the Board to identify problems and keep current with the professions. The Board also asks technical experts to provide information at meetings and to staff. The public

[48] Government Code Section 11517(d).

participation the Board makes possible is one of the primary reasons for placing oversight and adjudication of the three professions with a Board made up of appointed professional and public members.

In recent years, the Board has made numerous changes to improve its operations.

It is currently completing new regulations that clarify and strengthen the requirements for MFCC supervisors. The most important new regulation increases the number of direct contact hours supervisors are required to maintain with interns from three to five. The regulations also allow those who want to be supervisors and had been licensed out-of-state to substitute two years as a certified AAMFT supervisor for the required two years of California licensure experience.

The Board has implemented regulations for its new cite and fine authority, which will give it new options for disciplining licensees and for pursuing those who are illegally practicing without a license. New regulations have also been completed for the new continuing education requirements. An increase in licensing fees in 1995 has allowed the Board to better carry out its mandate.

The Board has made numerous improvements in its test administration by, among other efforts, instituting better training for oral examiners and streamlining administrative procedures. The Board completed a standardization of the oral examinations in 1992. In 1993, it eliminated the oral examination for Licensed Educational Psychologists because it considered the examination unnecessary for a profession that does not deal with life-threatening situations. It has constantly strengthened educational and experience requirements for its licensees.

The Board made substantial revisions to its *Disciplinary Guidelines* well before the Legislature required it do so. It established its *Strategic Plan* two years before an Executive Order required it to do so. It was one of the first DCA boards to establish a presence on the World Wide Web, and the first to do so without a mandate.

To better communicate with its licensees, and to make sure licensees are aware of regulatory changes and issues within the professions, the Board has begun publishing a newsletter. It also regularly conducts surveys; licensees and registrants have been surveyed on continuing education, and schools have recently been surveyed on their law and ethics courses.

IMPROVEMENTS UNDER CONSIDERATION

As part of its ongoing review of its policies and procedures, the Board is considering numerous changes.

In the licensing program, the Board has nearly completed clarifications and improvements to the MFCC supervisor requirements, and is examining the requirements for LCSW supervisors. The Board would prefer that the requirements for each type of supervisor be as similar as possible. This would likely include requiring LCSW supervisors to have two years licensed experience.

In the examination program, the Board is considering adding a sixth rating to be used when assessing an applicant's performance on the oral examinations. There are currently five ratings, three of which are not

sufficient to pass. Oral examiners suggested a third passing rating, which would be not quite "superior" but better than " adequate." In addition, the Board continues to examine ways to make the oral examinations more accessible. It would like the examinations to be administered more often and at more locations, without increasing the examination costs. One possibility under consideration is contracting with one or more vendors which have permanent test sites available.

In the enforcement program, the Board is increasing efforts to recruit expert witnesses and is considering hiring expert consultants. Expert consultants would assist enforcement analysts early in the investigation, offering technical advice and identifying evidentiary documents that may be needed. They would also provide valuable training to staff. The Board is also seeking ways to distribute its brochure and other information to more consumers. This effort will include publishing information in more languages and utilizing consumer groups. As always, the Board is making efforts to improve its ability to respond to consumers and to reduce its case processing time frame.

The Board plans additional surveys of licensees and others involved in the professions on various issues. These surveys promote broad input from interested parties and allow the Board to identify needed regulatory changes. The next survey will question supervisors, interns, and associates about supervision issues.

The Board is continuing to examine new technology. It is considering migrating to DCA's Integrated Consumer Protection System, which is currently under development, so that it can identify and monitor various performance measures, conduct trend analysis, and improve public access to licensing and disciplinary information via the World Wide Web. The Board is also reviewing various technology issues to address and eliminate any potential problems that may arise with the new millennium.

LEGISLATIVE EFFORTS

Recently, the Board has not had an opportunity to be directly involved in pursuing new legislation, but intends to become more involved in coming years. It is particularly interested in legislation that will protect the rapidly growing number of consumers insured through managed care organizations. The associations representing the Board's licensees often sponsor or support legislation and request the Board's support. Often these proposals have developed from issues brought up at earlier Board meetings, and the Board may be asked to help with the language of the legislation. At other times, legislators, other government agencies, or members of the public request the Board's support for proposed legislation. The Board discusses these requests at its meetings, and generally supports legislation Board members feel would help regulate the three professions in the interest of protecting the public.

Recent legislation the Board has supported in the interest of improving its regulatory program includes:

- AB 3073 (Granlund), in 1996, which clarified the experience requirements for MFCCs; and allows the Board to issue the MFCC license to anyone who had been similarly licensed in another state for two years, had the experience and education required by the Board, and passed the Board's examinations.

- AB 3473 (Consumer Protection, Government Efficiency, and Economic Development), in 1996, which changed the name of the Board from the "Board of Behavioral Science Examiners" to the "Board of Behavioral Sciences"; and revoked the requirement that a licensee must pay any required cost recovery before the Board could renew or reinstate her or his license.

- SB 26 (Alquist), in 1995, which allows the Board to require continuing education for MFCCs and LCSWs; and increased the fees on all the Board's licenses.

- AB 610 (Bustamante), in 1995, which requires MFCC supervisors to have two years of licensed experience; and repealed the MFCC intern extension option beginning January 1, 1999.

- AB 1807 (Bronshuag), in 1994, which made changes to the out-of-state education and experience requirements for MFCCs and LCSWs; and allows boards to implement an "inactive" status for licenses.

- SB 2039 (McCorquodale), in 1994, which requires the Board to revoke the licenses of those who have sexual contact with a patient or former patient and prohibits Administrative Law Judges from staying the revocation.

- AB 2956 (V. Brown), in 1994, which prohibits granting an MFCC, LCSW, or LEP license to individuals who had either sexually abused children or registered as mentally disordered sex offenders.

- AB 890 (B. Friedman), in 1993, which requires the qualifying degree for MFCCs to include a course in spousal or partner abuse assessment and intervention.

- AB 1885 (V. Brown), in 1993, which limits the hours of experience MFCC applicants could complete before earning the required degree; designates inappropriate supervision as unprofessional conduct; directs the Board to review its supervision regulations; and ended registration of MFCC trainees.

LEGISLATIVE RECOMMENDATIONS

The Board is recommending the following actions which require legislative approval regarding specific sunset review and other legislative issues.

SUNSET REVIEW ISSUES

RETAIN CURRENT STRUCTURE

The Board's experience with other mental health professions licensing boards has led it to conclude that the most effective licensing agencies are semi-autonomous or autonomous boards which regulate and have a mix of licensed and public members. The Board is recognized by similar licensing boards in other states as an effective and efficient regulatory body and California's demonstrated effectiveness in this area should not be jeopardized.

RETAIN CURRENT COMPOSITION

The mental health profession has evolved greatly over the years and the complexity of the practices that the Board of Behavioral Sciences regulates necessitates continued technical and professional input and a broad range of input. There are numerous areas of regulation that require policy input and oversight from licensed Board members. The licensed Board members provide needed expertise on examination, enforcement, and licensing issues, as well as other services and responsibilities discussed elsewhere in this report. Similarly, the Board needs the input from various public members who bring different perspectives to the Board's operations.

AMEND REVIEW PROCESS

Under current law, the licensing boards within the Department of Consumer Affairs must undergo sunset review again four years after their initial review. While the process has benefited the Board of Behavioral Sciences in that it has helped the Board objectively look at its programs, policies, and procedures, and will result in a more effective and efficient organization, the work and effort it required distracted Board members and staff from other activities which are more directly related to the Board's mandate and mission. The Board recommends the process be reviewed for its impact on both boards and the Legislature. At a minimum, the Board recommends the four year re-review be extended to eight or ten years.

OTHER LEGISLATIVE ISSUES

CLEAN-UP AND REORGANIZATION OF THE BOARD'S LICENSING LAWS AND REGULATIONS

Throughout the years, numerous changes have been made to all three of the Board's licenses. Now, many of the laws regarding the licensees are intermingled and unorganized. Sections relating to the administration of the Board are scattered throughout Chapters 13 and 14 of the Business and Professions Code. There are also many sections of the licensing laws that are ambiguous or require a legal opinion in order to understand. The laws could be utilized better if they were separated by license type, organized in a logical, meaningful way, and clarified.

The Board has not recently adopted any new licensing or occupational category for licensure and is not proposing any new licensing or occupational category for licensure.

INACTIVE LICENSES

As stated earlier in this report, the Board submitted a proposal to the DCA to include in its 1998 Omnibus bill a statute to allow a licensee who is not currently practicing to request her or his license be put on an inactive status. A licensee with an inactive license would pay a biennial fee and half of the license renewal fee, and not be required to submit continuing education until the license was again active.

FIVE YEAR RENEWAL FOR LCSWS

The Board has also asked the DCA to include in its 1998 Omnibus Bill a statute that would require LCSWs who have not renewed their licenses for five years to pay the first-time fees, and retake and pass the licensing examinations. This places the same limit on renewals as currently exists for MFCCs.

OTHER RECOMMENDATIONS

OCCUPATIONAL ANALYSIS

The Board recently completed an occupational analysis for the MFCC examination which resulted in a redesign of the examinations. In the upcoming fiscal year, the Board will be conducting an occupational analysis for the LCSW examinations as well.

ADVERSE IMPACT STUDY

The Board has contracted with the Office of Examination Resources to perform an adverse impact study during the upcoming fiscal year to measure and identify any impact on applicants of protected groups who take the LCSW oral examinations.

GLOSSARY OF TERMS

SUNSET REVIEW REPORT

GLOSSARY

AAMFT	American Association for Marriage and Family Therapy
AASSWB	American Association of State Social Work Boards
AG	Attorney General
AGPA	Associate Governmental Program Analyst
ALJ	Administrative Law Judge
AMFTRB	Association of Marital and Family Therapy Regulatory Boards
BBS	Board of Behavioral Sciences
BCP	Budget Change Proposal
CAC	Citizens Advocacy Center
CALEP	California Association of Licensed Educational Psychologists
CAMFT	California Association of Marriage and Family Therapists
CAS	Consumer Affairs System
CASP	California Association of School Psychologists
CECM	Complaint Evaluation - Case Monitoring Unit
CSCSW	California Society of Clinical Social Workers
DAG	Deputy Attorney General
DCA	Department of Consumer Affairs
DOI	Division of Investigations
LCSW	Licensed Clinical Social Worker
LEP	Licensed Educational Psychologist
MFCC	Marriage, Family, and Child Counselor
MOU	Memorandum of Understanding
MST	Management Services Technician
NASW	National Association of Social Workers
OA	Office Assistant
OAH	Office of Administrative Hearings
OSS	Office Services Supervisor
OT	Office Technician
SOI	Statement of Issues
SSA	Staff Services Analyst
SWOT	Strengths, Weaknesses, Opportunities, and Threats

APPENDICES

The following documents and publications are contained in a separate notebook.

APPENDIX A: ADMINISTRATION

BBS Laws and Regulations
Agendas and Minutes
Board Member Policy/Procedure Guidelines
Appendix B of the DCA's Board Member Orientation Manual
Proposed Regulatory Changes
What Can the Board do for Me? A Consumer's Guide
BBS Strategic Plan

APPENDIX B: LICENSING AND EXAMINATIONS

Application Packets:
- MFCC Intern Registration Application Packet
- MFCC Application Packet
- Associate Registration Application Packet
- LCSW Application Packet
- LEP Application Packet

Requests for Re-Examination
- MFCC Request for Re-Examination
- LCSW Request for Re-Examination
- LEP Request for Re-Examination

Written Standards for the Examination Process:
- Candidate Information Handbook: MFCC Examination
- AASSWB Candidate Handbook for EXPro Electronic Test Administration
- Candidate Handbook: MFCC Oral Examination
- Candidate Handbook: LCSW Oral Examination
- Examination Information for Candidates: LEP

APPENDIX C: ENFORCEMENT

Consumer Complaint Information and Complaint Form
Consumer Complaint Information on the Board's Website
Professional Therapy Never Includes Sex
BBS Expert Guidelines
BBS Disciplinary Guidelines
Disciplinary Decisions and Subsequent Actions for Each Case

Acknowledgments

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Marsena Buck, Chair, LCSW Member
Lorie Rice, Vice-Chair, Public Member
Judy Brislain, LEP Member
Stephanie Carter, Public Member
Christina Y.C. Chen, Public Member
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California Association of Marriage and Family Therapists
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California Society of Clinical Social Workers
National Association of Social Workers