



Board of Behavioral Sciences

Memo

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To: Board Members

Date: April 26, 2022

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Subject: Discussion and Possible Action Regarding Proposed Revisions to Examination Waiting Periods, Professional Corporations, Accreditation Rulemaking Proposal

The purpose of this item is to consider regulation changes pertaining to examination waiting periods, professional corporations and accreditation of educational institutions. This proposal was initially brought before the Board in November 2019 but was held due to higher priority workload. Because most of the current Board members were appointed after that time and have not seen this proposal, and because the Board's regulation counsel has recommended two minor text changes, this item is being brought back before the Board for approval. This proposal would do all of the following:

Examination Waiting Periods (Section 1805.05)

Subsection (b): Reduce the waiting period for a retake of a board-developed clinical examination from 180 days to 120 days.

Currently, this change would only apply to the LMFT clinical exam, as the LCSW and LPCC exams are provided by national testing entities, and subsection (c) below will address the LEP exam. The reduction in waiting period is consistent with current practice, as the Executive Officer has already shortened the waiting period as allowed by subsection (d) (now (e)). This was possible because a sufficient pool of test questions has been developed to create additional exam versions.

Subsection 1805.05(c): Specify a 180-day waiting period for a retake of the LEP examination.

As discussed above, subsection (b) specifies a 180-day waiting period between retakes of a board-developed clinical exam, and this currently applies to the waiting period for the LEP exam. Applicants for LEP licensure only take one combined exam, where the LMFT, LCSW and LPCC professions take two - a clinical exam and a law and ethics exam. At this time the board is unable to shorten the waiting period for the LEP exam due to limitations in the test question pool, and thus the waiting period needs to remain at 180 days.

Name of Professional Corporations (Section 1850.6)

Add an LPCC code section to the reference citations, which will serve to make this section on naming of a professional corporation apply to LPCCs, for consistency with the LMFT and LCSW professions.

Shares of Professional Corporations (Section 1850.7)

- Make technical and non-substantive changes.
- Add LPCCs to subsection (a) pertaining to ownership and transfer of shares for consistency with the LMFT and LCSW professions and add LPCC code sections to the reference citations.
- Add codes to the reference citations for the LMFT and LCSW professions due to being newly identified as pertinent, and strike Business and Professions Code (BPC) section 4998.5 as it is unnecessary.

LMFT Accrediting Agencies (Section 1832)

Repeal this section as it is outdated and no longer necessary due to current statutory provisions.

Subsections (a) through (d) list equivalent regional accrediting bodies. Senate Bill 33 (Chapter 26, Statutes of 2009) allowed degrees from institutions accredited by a “regional or national institutional accrediting agency recognized by the United States Department of Education”, which means that the regional accrediting agencies listed as equivalent in regulation are now explicitly allowed in statute (BPC sections 4980.36 and 4980.37).

Subsection (e) specifies the credentials evaluation service that is acceptable for evaluating a “foreign degree.” However, these regulations are superseded BPC section 4980.76, which requires a degree earned outside of the U.S. to be evaluated by a service that is a member of the National Association of Credential Evaluation Services (NACES).

Subsection (f) specifies an agency that was dissolved in 2007 and reformed in 2010 as the Bureau for Private Postsecondary Education (BPPE) per Assembly Bill 48 (Chapter 310, Statutes of 2009). Degrees from BPPE-approved schools are explicitly allowed in statute (BPC sections 4980.36 and 4980.37).

LEP Equivalent Degrees (Section 1854)

Specify the accrediting agencies acceptable for LEP applicant degree programs, and allow any organization that is a member of NACES to serve as the evaluator of a degree earned by an applicant from a school located outside of the U.S.

BPC section 4989.20(a)(1) requires a degree that qualifies for LEP licensure to be obtained from an educational institution approved by the board via regulation. The

Board has specified in section 1854 that to qualify, the college or university must possess a certain type of accreditation.

The regional accrediting agencies listed in section 1854 is proposed to be replaced by language that would allow degrees from educational institutions accredited by a “regional or national accrediting agency recognized by the United States Department of Education” (USDE). The USDE does not recognize a specific category of regional-only accrediting agencies. Instead, the USDE recognizes institutional accrediting agencies (which may be regional or national), and programmatic (specialized) accrediting agencies. This change would create consistency with the LMFT and LPCC professions, and may allow a small number of additional individuals with out-of-state degrees to qualify for LEP licensure.

Subsection (g) currently specifies the International Education Research Foundation (IERF) as approved to evaluate a “foreign degree.” The LMFT, LCSW and LPCC professions allow foreign degree evaluations to be performed by any member of NACES, of which the IERF is a member. This change will provide LEP applicants with a broader range of evaluation agencies to choose from.

Recommendation

Approve the proposed regulatory text for section(s) 1805.05, 1850.6, 1850.7, 1832 and 1854, direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review, and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested. If no relevant, adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations at section(s) 1805.05, 1850.6, 1850.7, 1832 and 1854 as noticed.

Attachment

Proposed Regulatory Language

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Attachment

PROPOSED REGULATORY LANGUAGE

California Code of Regulations
Title 16. Professional and Vocational Regulations
Division 18. Board of Behavioral Sciences

LEGEND

- Originally proposed text additions are indicated with an underline.
- Originally proposed text deletions are indicated by ~~strikethrough~~.
- Newly proposed text additions are indicated with a **yellow highlight** AND double underline.
- Newly proposed text deletions are indicated by **yellow highlight** AND either ~~strikethrough and underline~~ OR ~~double strikethrough~~.

§ 1805.05. REEXAMINATION.

(a) A 90-day waiting period is required between attempts for applicants retaking a California law and ethics examination.

(b) A ~~180~~120-day waiting period is required between attempts for applicants retaking a clinical examination, except as indicated in subdivision ~~(e)~~(d).

(c) A 180-day waiting period is required between attempts for applicants retaking the licensed educational psychologist examination.

~~(e)~~(d) Waiting periods for national examinations that are accepted by the board shall be determined by that national testing entity.

~~(d)~~(e) The Board's Executive Officer may allow for a lesser waiting period, as long as the integrity of the examination or examination security is not compromised.

Note: Authority cited: Sections 4980.60 and 4990.20(a), Business and Professions Code. Reference: Sections 4980.50, 4984.72, 4989.22, 4992.1, 4996.4, 4999.52, 4999.54 and 4999.64, Business and Professions Code.

§ 1850.6. NAME OF CORPORATION.

The wording or abbreviation denoting corporate existence shall be limited to one of the following: "Professional Corporation," "Prof. Corp.," "Corporation," "Corp.," "Incorporated," or "Inc."

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4987.7, ~~and 4998.2,~~ and 4999.125, Business and Professions Code.

§ 1850.7. SHARES: OWNERSHIP AND TRANSFER.

(a) The shares of a marriage and family therapist ~~therapist, licensed clinical social worker, or licensed professional clinical counselor~~ corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.

~~(b) The shares of a licensed clinical social worker corporation may be issued or transferred only to the issuing corporation or to an appropriately licensed person in accordance with Section 13401.5 of the Corporations Code.~~

~~(c)~~(b) Where there are two or more shareholders in a corporation and one of its shareholders dies, or becomes a disqualified person as defined in Section 13401(d) of the Corporations Code, for a period exceeding ninety (90) days, ~~his or her~~ the person's shares shall be sold and transferred to a licensed person or to the issuing corporation, on such terms as are agreed upon. Such sale or transfer shall not be later than six (6) months after any such death and not later than ninety (90) days after the date the shareholder became a disqualified person.

~~(d)~~(c) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when ~~he or she~~ the person again ceases to become a disqualified person.

~~(e)~~(d) The restrictions of subdivisions subdivision (a) or (b) where appropriate and, if appropriate, subdivision ~~(e)~~(b) of this section shall be set forth in the corporation's by-laws or articles of incorporation.

~~(f)~~(e) The income of the corporation attributable to professional, licensed services rendered while a shareholder is a disqualified person shall not in any manner accrue to the benefit of such shareholder or ~~his or her~~ the person's shares.

~~(g)~~(f) The share certificates of the corporation shall contain either:

(1) An appropriate legend setting forth the restriction of subdivision (a) ~~or (b) where appropriate~~, and where applicable, the restriction of subdivision ~~(e)~~(b), or

(2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the by-laws or articles of incorporation of the corporation wherein the restrictions are set forth.

Note: Authority cited: Sections 4980.60, 4988.2 and 4990.20, Business and Professions Code. Reference: Sections 4987.8, 4988, 4998.3, 4998.4, 4998.5, 4999.126 and 4999.127, Business and Professions Code; and Sections 13401, 13401.5, 13403 and 13407, Corporations Code.

§ 1832. EQUIVALENT ACCREDITING AGENCIES.

~~The following accrediting agencies are essentially equivalent to Western College Association, which has been renamed the Western Association of Schools and Colleges, and Northwest Association of Secondary and Higher Schools:~~

~~(a) Middle States Association of Colleges and Secondary Schools.~~

~~(b) New England Association of Schools and Colleges.~~

~~(c) North Central Association of Colleges and Secondary Schools.~~

~~(d) Southern Association of Colleges and Schools.~~

~~(e) The Credentials Evaluation Service of the International Education Research Foundation, Inc. when it evaluates the foreign degree as being equivalent to the required degrees, and those foreign degree programs meet the educational requirements for equivalent degrees and the specific course content and educational requirements as set forth in sections 4980.40 and 4980.41 of the Code.~~

~~(f) State of California, Department of Education, Bureau of School Approvals with respect to its functions under Education Code section 29023(a)(2), when applied to master's degree and/or doctoral programs which meet the requirements for an equivalent degree pursuant to section 1830 of these regulations, and the specific course content and educational requirements as set forth in sections 4980.40 and 4980.41, of the Code.~~

~~*Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4980.40, 4980.41 and 4999.12, Business and Professions Code.*~~

§ 1854. EQUIVALENT DEGREES APPROVED EDUCATIONAL INSTITUTIONS.

Educational institutions approved by the board are defined as a college or university accredited by a regional or national institutional accrediting agency recognized by the United States Department of Education. The board **may shall** accept a degree deemed equivalent to that required by section 4989.20 of the Code by a foreign educational credentials evaluation service that is a member of the National Association of Credential Evaluation Services. ~~one of the following agencies:~~

~~(a) Western Association of Schools and Colleges.~~

~~(b) Northwest Commission on Colleges and Universities.~~

~~(c) Middle States Association of Colleges and Secondary Schools.~~

~~(d) New England Association of Schools and Colleges.~~

~~(e) North Central Association of Colleges and Secondary Schools.~~

~~(f) Southern Association of Colleges and Schools.~~

~~(g) The Credentials Evaluation Service of the International Education Research Foundation, Inc., where it evaluates the foreign degree as being equivalent to the required degree.~~

~~*Note: Authority cited: Section 4990.20(a), Business and Professions Code. Reference: Section 4989.20(a)(1), Business and Professions Code.*~~