Board of Behavioral Sciences

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Memo

To: Board Members **Date:** April 28, 2025

From: Steve Sodergren
Executive Officer

Subject: **Discussion and Consideration of Draft Response to Sunset Issues Raised by the Legislative Oversight Committee**

At its November 15, 2024, meeting the Board discussed and directed staff to make any necessary changes and finalize the Board's 2025 Sunset Review Report (Report) for submittal. On January 5, 2025, staff submitted the Report to the Senate Committee on Business, Professions and Economic Development and Assembly Committee on Business and Professions (oversight committee).

On March 24, 2025, Chairperson Jones and Executive Officer Steve Sodergren represented the Board during the legislative oversight hearing. In preparation for this hearing, a background paper was drafted by the oversight committee that raised 16 issues (Attachment A). The Board is required to submit its responses to the issues raised within this report.

Recommended Motion

Direct staff to make any discussed changes and submit the final response to the legislative oversight committee.

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BACKGROUND PAPER FOR
The Board of Behavioral Sciences

Joint Sunset Review Oversight Hearing, March 24, 2025
Senate Committee on Business, Professions and Economic Development
Assembly Committee on Business and Professions

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS

BRIEF OVERVIEW OF THE BOARD OF BEHAVIORAL SCIENCES

History and Function of the Board of Behavioral Sciences

The Board of Behavioral Sciences (Board or BBS) licenses and regulates Licensed Clinical Social Workers (LCSWs), Licensed Marriage and Family Therapists (LMFTs), Licensed Educational Psychologists (LEPs), and Licensed Professional Clinical Counselors (LPCCs). Additionally, the Board registers Associate Clinical Social Workers (ASWs), Associate Marriage and Family Therapists (AMFTs), and Associate Professional Clinical Counselors (APCCs).

The Board is responsible for the regulatory oversight of over 148,000 licensees and registrants. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas.

- LMFTs are employed in mental health agencies, counseling centers, and private practice. LMFT's utilize counseling or therapeutic techniques to assist individuals, couples, families, and groups with a focus on marriage, family, and relationship issues.

  AMFTs have completed the required educational program and are in the process of obtaining the hours of supervisory experience required for licensure.

- LCSWs are employed in health facilities, private practice, and state and county mental health agencies. LCSWs utilize counseling and psychotherapeutic techniques to assist individuals, couples, families, and groups.

  ASWs have completed the required educational program and are in the process of obtaining the hours of supervisory experience required for licensure.

- LEPs work in schools or in private practice and provide educational counseling services such as aptitude and achievement testing or psychological testing. LEPs may not provide psychological testing or counseling services that are unrelated to academic learning processes in the education system.

- LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations. They apply counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations.

  APCCs have completed the required educational program and are in the process of obtaining the hours of supervisory experience required for licensure.

Business and Professions Code (BPC) §4990.16 states that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions.

In 2022, Governor Newsom, through Executive Order N-16-22, directed state agencies and departments to embed equity analysis and considerations into their policies and practices, including the strategic planning process. In 2024 the Board adopted an amended 2022-2026 Strategic Plan reaffirming the current mission statement to:

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

The Board is comprised of 13 members: 6 professional and 7 public members. The professional members consist of two LCSWs; two LMFTs; one LEP; and one LPCC. Each professional member must have at least two years of experience in their profession. The Governor appoints the six professional members along with five public members. The Senate Committee on Rules and the Speaker of the Assembly appoints one public member each. Each Board member may serve up to two, four-year terms.

The Board is statutorily required to meet at least twice annually, once in northern California and once in Southern California, however, the Board typically meets at least four times per year. Board members receive a $100-a-day per diem. Consistent with board meetings, committee meetings are subject to the Bagley-Keene Open Meetings Act.

Seven members constitute a quorum of the Board, which is required for the Board to act or make a decision on behalf of the Board. Currently, there are 11 appointed Board members with two public member vacancies. Since the last sunset review the Board has not had to cancel any meetings due to a lack of quorum.

The following is a listing of the current Board members and their background:

Name and Short Bio	Appointment Date	Term Expiration	Appointing Authority
Christopher Jones, Chair, Professional Member Mr. Jones is the President and CEO of Dynamic Interventions, the first incorporation of LEPs in the history of California. He worked as a school psychologists in Massachusetts and California, then left public education to open Dynamic Interventions in 2006. He is a Licensed Educational Psychologist and Nationally Certified School Psychologist.	6/29/20	6/1/28	Governor

Wendy Strack, Vice-Chair, Public Member Ms. Strack is the CEO of Wendy J Strack Consulting, LLC, with more than 20 years of experience in creating and delivering award winning advocacy, communications, and outreach programs in Southern California. She is a member of California Women Lead, Women's Transportation Seminar, and the California Association of Public Information Officials. She also holds certifications in Basic and Advanced Public Information Officer/Joint Information Center/Joint Information Systems from the California Office of Emergency Services and the Federal Emergency Management Agency.	1/29/20	6/1/27	Governor
Susan Friedman, Public Member Ms. Friedman was an Emmy-award winning network news producer for NBC News from 1982 to 2008 and from 1968 to 1977. She was a reporter and producer for the local Public Broadcasting Service from 1977 to 1982. She is a founding member of the Alliance for Children's Rights Board of Directors and vice chair and commissioner of the Los Angeles County Mental Health Commission.	3/5/20	6/1/26	Governor
Kelly Ranasinghe, Public Member Mr. Ranasinghe is currently a Deputy County Counsel in Imperial County, California practicing child welfare law in juvenile court. Previously, Mr. Ranasinghe was a partner at the law firm of Henderson and Ranasinghe LLP and a senior program attorney at National Council of Juvenile and Family Court Judges, where he focused on domestic violence and child sex trafficking. He is a member of the National Alliance of Mental Illness (NAMI) and a certified peer mental health facilitator through the NAMI Connections program. Mr. Ranasinghe is also a member of the National Association of Counsel for Children and a board certified child welfare law specialist.	6/29/20	6/1/25	Governor
John Sovec, Professional Member Mr. Sovec is a LMFT in private practice in Pasadena, California who specializes in supporting the needs of the LGBTQ community. He is the clinical consultant for The Life Group LA, adjunct faculty at Phillips Graduate Institute, and guest lecturer at Alliant University and USC School of Social Work. Mr. Sovec is a nationally recognized expert on creating affirmative LGBTQ support, and is the author of multiple publications and speaks at conferences nationwide. He provides training for community agencies, schools, non-profits, and provides professional consultation on LGBTQ competencies.	12/11/19	6/1/26	Governor
Justin Huft, Professional Member Since 2016, Mr. Huft has been a Marriage and Family Therapist and Clinical Program Director at Creative Care Calabasas, Adjunct Lecturer for the Psychology and Sociology Departments at California State University, Fullerton and since 2018 an Adjunct Lecturer for the Psychological Department at El Camino Community College. He was an Adjunct Lecturer in Psychological Sciences at the University of California Irvine from 2019-2020, and in Psychology at Saddleback College from 2016-2018. He is a member of the California Marriage and Family Therapy Association, American Association of Marriage and Family Therapists, American Sociological Association and Pacific Sociological Association.	9/23/21	6/1/25	Governor
Abigail Ortega, Professional Member Ms. Ortega has been a Licensed Clinical Social Worker at Love Listen and Play, a private psychotherapy practice, since 2016. Prior to starting her private counseling practice, she worked in several community and medical settings. Her diverse experience included providing assessments and therapy to people and families of all ages and backgrounds. Ms. Ortega was a Licensed Clinical Social Worker at the Wilmington	11/10/21	6/1/25	Governor

Community Clinic from 2016-2021 and at Counseling4Kids from 2017-2020. She was a Medical Social Worker at the Children's Clinic from 2014-2015 and held several positions at Children's Institute Inc. from 2011-2014, including Therapist II and Clinical Domestic Violence Team Lead. Ms. Ortega was a Psychiatric Social Worker at the Child Center of New York from 2010-2011.			
Dr. Annette Walker, Public Member Dr. Walker has served as a School Board Member at Hayward Unified School District from 2012 to 2020 where she was Personnel Commissioner from 2010-2011. She was a Diversity and Inclusion Officer at Life Chiropractic College West from 2020-2021 and Director of Graduate Admissions and Kaleidoscope Mentoring Program Coordinator at California State University, East Bay from 2005-2019. She was a Psychology Instructor from 1998-1999. She was a Bilingual Elementary School Teacher at Ravenswood City School District from 1993-1997. Dr. Walker earned a Master of Science degree in education and psychological studies from California State University, East Bay and a Doctor of Education Degree in Organization and Leadership from the University of San Francisco. She was a delegate for the California School Board Association, representing California's seventh district, and Legislative Committee member.	11/10/21	6/1/25	Governor
Eleanor Uribe, Professional Member Since 2012, Ms. Uribe has been the Faculty Field Liaison at California State University, Fresno. She worked as a Licensed Clinical Social Worker for the California Department of Corrections and Rehabilitation from 2008-2012 and as a Social Worker Practitioner at the Fresno County Department of Social Services from 1994-2008.	8/2/22	6/1/26	Governor
Lorez Bailey, Public Member Ms. Bailey is the Publisher of the North Bay Business Journal. As an accomplished media professional and community advocate, known as "The Connector", she excels in building professional networks and fostering collaboration. She was honored as "Woman of the Year" by U.S. Congressman Mike Thompson for her impactful work with Sonoma County students. She has led significant workforce development initiatives and served in leadership roles at Chop's Teen Club and Social Advocates for youth. She is an active member of Alpha Kappa Alpha Sorority, Inc., and serves on several advisory boards in her community.	8/7/24	6/1/27	Senate
Dr. Nicholas Boyd, Professional Member Dr. Boyd is a California LPCC and a Nationally Certified Counselor by the National Board of Certified Counselors. He has held various clinical, research, and leadership appointments with the Department of Defense (DOD), Veterans Affairs (VA), and community. He is the Lead Licensed Professional Mental Health Counselor (LPMHC) and LPMHC Director of Clinical Training with the VA San Diego Healthcare System and Assistant Professor with the University of San Diego. He was an Adjunct Professor in the San Diego City College Alcohol and Other Drug Studies Program and was also the Clinical Director and Cofounder of e3 Civic High's school-based mental health counseling program. He was a California Association for Licensed Professional Clinical Counselors (CALPCC) board member and the Legislative and Advocacy Committee co-chair. He is an Army Veteran and has served in the Oregon and California Army National Guard as enlisted military police. He continues to serve in the California State Guard as a Behavioral Health Officer supporting National Guard soldiers across Southern California.	6/28/23	6/01/28	Governor
Vacant, Public Member			
Vacant, Public Member			

The Board is a current member of the Association of Marriage and Family Therapy Regulatory Board (AMFTRB), the American Association of State Counseling Boards, National Board of Certified Counselors (NBCC), and the Association of Social Work Boards (ASWB). The Board's membership in each of these associations includes voting privileges. The Board is also a member of the Council on Licensure, Enforcement, and Regulation. This membership does not include any voting privileges. Rather, the membership allows the Board to access resources and information relating to regulatory agencies and licensure examinations.

The Board appoints the Executive Officer. The previous Executive Officer of the Board, Kim Madsen, retired in 2020 and Steve Sodergren was appointed the interim Executive Officer of the Board and as the permanent Executive Officer in 2021. Mr. Sodergren previously served as the Board's Assistant Executive Officer. In 2021, Marlon McManus was hired as the Board's Assistant Executive Officer. Mr. McManus previously served as the Board's Consumer Complaint Manager.

The Board currently has 65.5 authorized positions. Since 2020, due largely to retirements and staff transitions to other state agencies or higher classifications within the Board, the Board has maintained an average vacancy rate of approximately 14% across all positions. At this time, the Board has filled all vacant positions and now has only one vacancy.

The Board does not have any statutorily required committees; however, the Board utilizes ad-hoc committees on as-need basis. The Board Chair appoints the committee membership and each committee is comprised of four Board members. The Board currently has three standing ad-hoc committees: a policy and advocacy committee, a workforce development committee and an outreach and education committee. The workforce development committee was established in 2023 and took the place of the licensing committee. The outreach and education committee was established in 2024 and held its first committee meeting on January 30, 2025.

Fiscal, Fund and Fee Analysis

As a Special Fund agency, the Board does not receive General Fund support and instead relies solely on fees set by statute and collected from licensing, renewal fees, and other administrative fees in order to fund operating costs. Currently, the Board's fee schedule includes at least 47 separate fees applicable to its four distinct licensing classifications and three registration programs. Fees are assessed for initial licensing, original application, examination and re-examination, associate registration, biennial license renewal, annual registration renewal, inactive license, retired license, delinquent license, along with various others. All Board fees are specified in statute and regulations.

All board licenses are renewed biennially and registrants are renewed annually. All other fees are for examinations and initial licensure and are processed and received on an on-going basis. There is no mandated reserve level for the Board; however, BPC § 128.5 prohibits the Board from maintaining a reserve balance that exceeds 24 months of the Board's operating budget.

Historically, the Board had not increased its fees in over 20 years. However, it became apparent in approximately 2012 - 2017 that the Boards licensing fees were no longer sufficient to cover operating costs. Factors such as an increase in application volume and registrant/licensee population coupled with increasing costs in staff salary, health insurance and operating costs contributed to the structural imbalance of the Board. Because of an anticipated operating deficit in FY 2019/20, the Board sought a fee increase for licensing and renewal fees in 2020. AB 3330 (Calderon, Chapter 359, Statutes of

2020) provided increases for various fees for licensees under the Board's jurisdiction including fee increases for examinations, (both clinical and the law and ethics examination), initial license, renewal and application. Since the increase in fees in 2021, the Board has experienced a positive operating budget in each subsequent FY and anticipates total revenue for FY 2024/25 at $21.5 million and expenditures at $15.29 million.

Fund Condition (dollars in thousands)						
	FY 2020-21	**FY 2021-22**	**FY 2022-23**	**FY 2023-24***	**FY 2024-25****	**FY 2025-26****
Beginning Balance[1]	$3,597	$6,195	$11,194	$18,461	$15,971	$21,590
Revenues and Transfers	$13,041	$17,422*	$20,422	$21,064	$20,914	$20,855
Total Resources	$16,638	$23,617	$31,616	$39,525	$36,885	$42,445
Budget Authority	$12,046	$13,132	$13,593	$14,148	$14,300	$14,307
Expenditures[2]	$11,102	$12,569	$13,155	$13,554	$15,295	$15,566
Loans to General Fund	$0	$0	$0	-$10,000	$0	$0
Accrued Interest, Loans to General Fund	$0	$0	$0	$0	$0	$0
Loans Repaid From General Fund	$0	$0	$0	$0	$0	$0
Fund Balance	$5,536	$11,048	$18,461	$15,971	$21,590	$26,879
Months in Reserve	5.3	10.1	14.7	12.5	16.6	20.1

[1]*Actuals include prior year adjustments.*
[2]*Expenditures include reimbursements and direct draws to the fund.*
**Includes EO transfer to GF (AB 84)*
***Estimate*

The Board's reserve fund at the end of FY 2023-24 was $15.97 million, equivalent to 12.5 months in reserve. The Board estimates FY 2024-25 reserve balance to be approximately $21.59 million equaling 16.6 months in reserve. Board staff are pursuing regulatory amendments to realign the current reserve fund to avoid exceeding 24 months of the Board's operating budget.

On average, during the last four FYs, the Board has spent approximately 30% on enforcement; 16% on examinations; 20% on licensing, and 13% on administrative expenses.

From FYs 2020-21 through 2023-24, the Board spent approximately $1.427 million on BreEZe.

The Board's expenditures are noted below:

Expenditures by Program Component								
	FY 2020-21		FY 2021-22		FY 2022-23		FY 2023-24	
	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E	Personnel Services	OE&E
Enforcement	$1,791	$1,783	$2,130	$1,248	$2,187	$1,201	$2,252	$1,227
Examination	$534	$591	$635	$1,414	$777	$1,503	$733	$1,436
Licensing	$1,677	$372	$1,995	$142	$2,041	$218	$2,513	$267
Administration[1]	$1,118	$219	$1,321	$84	$1,504	$146	$1,505	$144
DCA Pro Rata		$2,262		$2,608		$2,553	$0	$2,527
Diversion	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
TOTALS	$5,120	$5,227	$6,081	$5,496	$6,509	$5,621	$7,003	$5,601
[1]Administration includes costs for executive staff, board, administrative support, and fiscal services.								

Per BPC § 125.3, BBS is authorized to request reimbursement for the enforcement-related costs from licensees who are disciplined by the Board through the administrative process, known as cost recovery. The Board also has authority to seek cost recovery as a term and condition of probation, which must completely be paid prior to the end of the licensee's probation. In disciplinary cases where a licensee is ordered to surrender their license, cost recovery may be ordered. If an individual who surrenders a licensee seeks to reapply for licensure, they must pay the ordered cost recovery in full prior to issuance of a new license. In revocation cases where cost recovery is ordered but not collected, the Board will transmit the case to the Franchise Tax Board (FTB) for collection. However, the Board notes that the majority of cost recovery ordered is for probationary cases.

Licensing

The Board oversees the licensing, regulation, and professional practice of various mental health professionals in California. The licensure structure under the Board includes several categories of mental health professionals, divided into two specific groups:

- Registered Associates: individuals seeking associate registration must first demonstrate that they have obtained a qualifying master's degree. A registration allows them to work under supervision while accumulating the required supervised experience hours for full licensure. During their registration period, associates must take the California Law & Ethics Examination each renewal period until they pass. Associate registrations are valid for five renewal periods and expire six years from the original issuance date. If an individual has not completed the necessary supervised experience hours or met licensure requirements within this timeframe, they may apply for a subsequent registration. This additional registration permits them to continue working under supervision and collecting hours but prohibits them from providing services in a private practice or a professional corporation.

- Licensed Individuals: these individuals have competed all education, supervised experience, and examination requirements and are licensed to practice independently. They include LCSWs, LMFTs, LPCCs, and LEPs.

The Board's total licensing and registrant population currently is approximately 148,000. Those figures include the following:

55,002 LMFTs;
39,425 LCSWs;
2,280 LEPs;
4,862 LPCCs;
16,945 AMFTs
19,574 ASWs
7,248 APCCs

The Board oversees the highest number of marriage and family therapists and clinical social workers of any jurisdiction in the world. Since the Board's last sunset review, the population has grown by 23% with an average growth rate of 5% per year. The number of applications has steadily increased since the Board's prior sunset review, by 30% for registration applications and 3% for license applications. The Board reports having had difficulty meeting the aforementioned processing times, taking 57 days on average to process registration applications, and nearly 100 days for LMFT and LCSW applications. The Board has made a number of administrative changes to improve processing times.

The Board's established application processing timeframes are as follows:

APCC Registration - 30 business days
LPCC Application for Licensure - 60 business days
AMFT Registration - 30 business days
MFT Application for Licensure - 60 business days:
ASW Registration - 30 business days
LCSW Application for Licensure - 60 business days
LEP Examination Eligibility Application - 60 business days
Initial License Issuance - 30 business days
All Renewals - 30 business days

From FY 2019-20 to FY 2023-24, the Board expedited 229 licensure applications from applicants married to, or in a domestic partnership or other legal union with, an active-duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders, pursuant to BPC§ 115.5. The Board also waived renewal requirements and fees for nine registrants and 12 licensees.

All Board applicants are required to submit a Livescan background check. Applicants are not required to disclose their criminal history, but California law allows the Board to conduct mandatory DOJ and FBI background checks for licensure eligibility. Applicants must submit fingerprints to the DOJ, which accesses the Criminal Offender Record Information Database. Voluntary disclosure of criminal history is addressed in the application materials, and applicants are informed that choosing not to disclose will not affect the Board's decision, which will be based on the information it obtains independently.

Applicants must disclose if they have ever been denied a professional license, or if they had a license suspended, revoked, disciplined, or voluntarily surrendered in California or any other state. If any of these apply, the applicant must provide a written explanation, relevant documentation, and details on rehabilitative efforts or preventive actions taken. The Board verifies the accuracy of these disclosures through various methods. For out-of-state applicants, the Board checks licensure status and disciplinary history with the relevant state boards. For in-state applicants, the DCA BreEZe System is used to review any past disciplinary actions.

To verify education, the Board requires a sealed or electronic transcript directly from the applicant's educational institution or a secure vendor, such as Parchment or the National Student Clearinghouse. Applicants who earned their degree is another country are required to provide an evaluation by a foreign credential service that is a member of the National Association of Credential Evaluation Service and their transcript. For out-of-state license holders, licensure certification from the issuing state board is also required.

The Board does not approve schools. Instead, the Board assesses whether or not the coursework completed during the degree program contained the appropriate coursework to satisfy the licensure requirements. Currently, Board staff conduct recurring reviews of existing programs, while a subject matter expert contracted by the Board reviews new programs. Additionally, the Board's registration and licensing evaluators review individual transcripts to ensure the required coursework has been completed by the applicants.

Applicants for licensure as a LMFT must obtain a doctor's or master's degree from a school, college, or university approved by or accredited by the following entities:

- BPPE
- Commission on the Accreditation for Marriage and Family Therapy Education; or,
- An accrediting agency recognized by the U.S. Department of Education.

Additionally, LMFT applicants are required to obtain at least 3,000 hours of supervised experience, of which 1,300 hours may be complete as a "trainee" prior to earning their degree, and 1,700 of which must be earned post-degree as an AMFT

Applicants for licensure as a LCSW must obtain a master's degree from a school of social work, accredited by the Council on Social Work Education Board of Accreditation. LCSW applicants are required to complete their degree and register as an ASW prior to earning supervised experience, of which 3,000 hours are required.

Applicants for licensure as a LEP must obtain a master's degree by a college or university from an accrediting agency recognized by the U.S. Department of Education. They must also complete 60 semester or 90 quarter units of postgraduate coursework in pupil personnel services from a Board-approved educational institution. LEP applicants are not required to register with the Board while gaining experience, but they must have at least two years of full-time experience as a credentialed school psychologist in public schools or equivalent experience in private or parochial schools. Additionally, applicants must complete either one year of supervised experience in a school psychology program or an additional year of full-time experience as a credentialed school psychologist in public schools under the direction of a LEP of licensed psychologist.

Applicants for licensure as a LPCC must obtain a master's or doctoral degree from a school, college, or university approved by or accredited by the following entities:

- BPPE
- An accrediting agency recognized by the U.S. Department of Education.

LMFT candidates are required to take and pass the LMFT California Law and Ethics Examination and a California-based clinical examination.

LCSW candidates are required to take and pass the LCSW California Law and Ethics Examination and the Association of Social Work Boards National Clinical Examination.

LPCC candidates are required to take and pass the LPCC California Law and Ethics Examination and the National Clinical Mental Health Counseling Examination.

LEP candidates are required to take only one examination, the LEP written examination. The LEP written examination is developed by the Board and the DCA's Office of Professional Examination Services and incorporates clinical and questions related to California law and ethics.

All examination candidates must meet their specific degree requirements to gain eligibility to participate in any of the examinations.

The Board, in consultation with the Office of Professional Examination Services at the DCA, develops the California Law and Ethics Examinations for each license type, the LEP written examination, and the LMFT clinical examination.

All examinations are computer based. Upon complete application review, the Board provides the applicant's information to the testing vendor. Applicants must schedule their own examination at the testing center specified for each examination. All Board exams are offered in English only, byt applicants may seek additional time to take exams if English is not their first language.

In total, the Board is responsible for the administration of five examinations: the LMFT Clinical, and LMFT Law and Ethics examinations; the LCSW and LPCC Law and Ethics examinations and the LEP licensing examination. Since FY 2020-21 the LMFT, LCSW and LPCC California Law and Ethics examination and the LMFT clinical examination first time pass rates were above 70% while the LEP licensing examination fell to 63% in FY 2021-22. However, the first time pass rates for the LEP licensing examination rose to 77% in FY 2023-24.

Continuing Education

The Board advises that its continuing education (CE) program is designed to ensure that licensees stay current with professional knowledge and maintain competence throughout their careers. Licensees, as a condition of their biennial licensure renewal, must complete 36 hours of CE in, or relevant to, the licensee's respective field of practice. A licensee who holds more than one license with the Board can apply the same CE courses to both licenses if it relates to the practice for each. All licensees are required to complete 6 hours of CE in Law and Ethics for each renewal cycle. Additionally, LMFTs, LCSWs, and LPCCs must complete a one-time, 7-hour course on the assessment and treatment of individuals living with HIV/AIDS during their first renewal period, a one-time suicide risk assessment course, and a one-time telehealth course. LEPs renewing their license for the time are required to complete coursework in Alcoholism and Other Chemical Substance Dependency and Abuse training. Effective January 1, 2023, all registrants renewing their registration or whose registration expires on or

after that date must also complete a minimum of 3 hours of CE in California law and ethics during each renewal period to be eligible for renewal.

Licensees must attest at the time of renewal that they have completed the required CE hours. Licensees must maintain records of completed CE coursework for a least two years. BBS relies on audits to verify a licensee/registrant has fulfilled their CE requirements, but has not worked with DCA to receive primary source verification of CE completion through the DCA's cloud.

BBS provides exemptions to the following from having to meet established CE requirements:

- The license is inactive
- For at least one year during the licensee's current license renewal period, the licensee had a physical or mental disability or medical condition that substantially limited one or more life activities and caused the licensee's earned income to drop below the substantial gainful activity amount for non-blind individuals.
- For at least one year during the licensee's previous license renewal period, the licensee or an immediate family member, including a domestic partner, where the licensee is the primary caregiver for that family member, had a physical or mental disability or medical condition. The physical or mental disability or medical condition must be verified by a licensed physician or psychologist.

The Board has the authority to conduct audits to determine compliance with the CE requirements. Each month a random number of licensees are selected for an audit. The licensee is notified in writing, and provided a due date to submit copies of any CE certificates completed during the last renewal period. Upon receipt of the documentation, the certificates are analyzed to determine if the CE was obtained from an approved provider, and during the renewal period subject to the audit.

Licensees who comply with the CE requirements are notified in writing. Licensees that fail the audit are referred to the Board's Enforcement Unit for the issuance of a citation and fine. The fine amount is determined by the type (e.g., course required for each renewal cycle) and number of CE units that are missing. The fine may range from $100 to $1,200.

The Board does not approve CE providers, and instead requires licensees to obtain CE from providers approved by other national or statewide associations like: an accredited or approved postsecondary institution that meets specific requirements; a BBS-recognized approval agency or a CE provider that has been approved or registered by a BBS-recognized approval agency and; an organization, institution, association or other entity that is recognized by BBS as a CE provider.

Enforcement

The Board has received an average of approximately 1,910 consumer complaints every fiscal year since the Board's last sunset review. There was a slight increase in FY 2023-24 due to duplicative complaints being submitted. Although applications for licensing populations have increased, the Board has met its enforcement performance measures.

The Board established complaint prioritizations guidelines in 2009. The complaint prioritization guidelines allow the Board's enforcement staff to review and address the most serious complaints more

expeditiously than those complaints which do not rise to the level of consumer harm. BBS reports that complaints categorized as “urgent” demonstrate conduct or actions by the licensee or registrant that pose a serious risk to the public's health, safety or welfare. Examples of these complaints include practicing while under the influence of drugs or alcohol, sexual misconduct with a patient, or acts of serious patient harm. These complaints receive immediate attention of the Enforcement Manager. Complaints prioritized as “high” involve serious allegations of serious misconduct, but the actions do not pose an immediate risk to the public's health, safety or welfare. Examples of these complaints include prescribing or dispensing without authority, aiding and abetting unlicensed activity, or compromising an examination. Complaints prioritized as “routine” involve possible violations of the Board's statutes and regulation, but do not pose a risk to the public's health, safety or welfare including: recordkeeping violations, quality-of-service complaints, or complaints of offensive behavior or language.

In 2010, the DCA established standard performance measures for each board and bureau to assess the efficiency of enforcement programs. DCA set a goal to complete consumer complaints within 12 to 18 months and each entity was responsible for setting internal guidelines to meet the goal of closing a case resulting in discipline within the 12 to 18 month timeframe. The Board’s 2025 Sunset Review Report states that for FY 2019-20 to FY 2023-24, the average timeframe for the Board to close cases resulting in formal discipline of a licensee was 415 days. As commonly shared with many other licensing boards and bureaus, cases that rise to the level of formal discipline may be impacted by entities outside of the Board’s control including the Attorney General and the Office of Administrative Hearings. The required partnership between the three different administrative departments affects the timeframes for closing cases.

The table below identifies the actual formal disciplinary actions taken by the Board in the past four years.

Disciplinary Outcomes	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24
Revocation	26	10	14	7
Voluntary Surrender	15	9	13	9
Suspension	0	0	0	0
Probation with Suspension	0	0	0	0
Probation	35	18	25	24
Probationary License Issued	N/A	N/A	N/A	N/A
Other	0	0	0	1

During the last four FYs, the Board settled 219 cases, while 210 proceeded to a hearing, resulting in a settlement rate of 51%. The Board received a total of 7 reports for settlement or arbitration award. The average amount of the award paid on behalf of the licensee was $360,000.

The Board and its licensees are subject to certain mandatory reporting requirements for actions which result in a settlement or arbitration award to an individual.

- BPC § 801(b) requires every insurer providing professional liability insurance to a Board licensee to report any settlement or arbitration award over $10,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services. This report must be sent to the Board within 30 days of the disposition of the civil case.

- BPC § 802(b) requires Board licensees and claimants (or, if represented by counsel) to report any settlement, judgment, or arbitration award over $10,000 of a claim or action for damages for death or personal injury caused by the licensee's negligence, error or omission in practice, or by rendering of unauthorized professional services. This report must be submitted to the Board within 30 days after the written settlement agreement.

- BPC § 803(a) requires the clerk of the court to report, within 10 days after judgment made by the court in California, any person who holds a license or certificate from the Board who has committed a crime or is liable for any death or personal injury resulting in a judgment for an amount in excess of $30,000 caused by their negligence, error or omission in practice, or by rendering of unauthorized professional services.

- BPC § 803.5 requires a district attorney, city attorney, or other prosecuting agency to report any filing against a licensee of felony charges and the clerk of the court must report a conviction within 48 hours.

- BPC § 805(b) requires the chief of staff, chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to file an 805 report within 15 days after the effective date which any of the following occurs as a result of an action taken by the peer review body of a Licensed Marriage and Family Therapist, Licensed Clinical Social Worker, Licensed Educational Psychologist, or Licensed Professional Clinical Counselor: 1) The licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason; 2) The licentiate's membership, staff privileges, or employment is terminated or revoked for medical disciplinary cause or reason; or, 3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

- Penal Code section 11105.2 establishes a protocol whereby the DOJ reports to the Board whenever Board applicants, registrants, or licensees are arrested or convicted of crimes. In such instances, the DOJ notifies the Board of the identity of the arrested or convicted applicant, registrant, or licensee in addition to specific information concerning the arrest or conviction.

Additionally, registrants and licensees are required to disclose at the time of renewal whether they have had any convictions since their last renewal.

The Board notes that while the number of reports the Board received from the required entities is low, the Board is not currently experiencing any problems regarding the receipt of reports from entities required to report identified incidents to the Board.

The Board is subject to statute of limitations periods for filing cases as specified in BPC §§ 4990.32 and 4982.05. An accusation must be filed within three years from the date the Board discovers the alleged act or violation or within seven years from when the alleged incident occurred, whichever occurs first. Accusations regarding alleged sexual misconduct must be filed within three years from the date the Board discovers the alleged act or omission or within ten years from when the alleged incident occurred whichever occurs first. Cases involving a minor patient are tolled until the minor child reaches 18. The Board reports that it has implemented a monitoring program for case aging to ensure that cases are not lost based on the expiration of the statute of limitations. Further, the Board notes that in the last seven years, it has not lost a case to due to the statute of limitations expiring.

Cases which involve the procurement of a license by fraud or misrepresentation are not subject to the statute of limitation timeframes.

Cite and Fine

The Board utilizes cite and fine as an enforcement tool against a licensed or unlicensed individual who is found to be in violation of the Board's statutes or regulations. Cite and fine is used as a mechanism to address minor violations where formal probation, revocation, or suspension may not be warranted by the act that occurred. Examples of actions that result in a fine or citation include unlicensed practice, practicing with an expired license, record keeping violations, or failing to complete CE, among others.

The five most common violations for which a citation is issued are:

- Failure to complete required CE
- Failure to maintain patient confidentiality
- Providing services for which a license is required (unlicensed activity)
- Misrepresenting the license held
- Misrepresenting the CE completed

Licensees who fail to pay a fine are unable to renew their license until the fine is paid in full. Additionally, the Board utilizes the FTB Intercept Program, which allows tax returns to be intercepted as payment for outstanding fines. Utilization of the program requires specific consumer identifying information, which is not always available to the Board for those individuals who are fined for unlicensed practice.

The Board is authorized through BPC § 125.3 to request that licensees who are disciplined through the administrative process reimburse the Board for those administrative expenses. While the Board seeks cost recovery in every case, the Administrative Law Judge may reduce the amount proposed by the Board or decide not to pursue cost recovery. The Board may establish a payment schedule for a licensee; however, full compliance is only required for an individual to reapply or satisfy conditions of probation.

For more detailed information regarding the responsibilities, operations, and functions of the Board or to review a copy of the Board's *2025 Sunset Review Report*, please refer to the Board's website at www.bbs.ca.gov.

PRIOR SUNSET REVIEW: CHANGES AND IMPROVEMENTS

BBS was last reviewed by the Legislature through sunset review in 2019-2020. During the previous sunset review, 11 issues were raised. In January 2025, BBS submitted its required sunset report to the Committees. In this report, BBS described actions it has taken since its prior review to address the recommendations made. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under "Current Sunset Review Issues."

- **Board representatives are attending national meetings.** Since the Board's 2019 Sunset Review, Board representatives were approved to attend numerous professional association and national regulatory association meeting and committees.

- **Updated strategic plan is in place.** The Board adopted a new strategic plan to guide the Board through 2026.

- **Supervision regulations are in place.** In 2022, the Board implemented regulatory changes designed to strengthen supervised experience requirements in ways that benefit and provide clarity to supervisors, agencies, and supervisees; to address issues that may arise during supervised experience; and, to reduce the problems sometimes encountered by supervisees in the process of applying for licensure. Changes included clarifying documentation for deceased or incapacitated supervisors, amendments to required documentation of supervised experience, clarifications on placement by temporary staffing agencies, updating supervisor requirements, clarification of substitute supervisor requirements and amendments to supervisor training.

- **The registration and licensing unit was restructured.** In 2023, to enhance efficiency, improve productivity, and allow for more effective staffing alignment, the Board restructured its Registration and Licensing units. Previously, one licensing manager oversaw the Board's four licensing programs, while another manager managed a multidisciplinary unit that included registrants, cashiering and examinations. The addition of two managers reduced the span of responsibility for the licensing and registrant managers and enabled the creation of a standalone registration unit. Furthermore, the Board bolstered staffing by adding additional evaluator positions.

- **Public information about licensure has been enhanced.** Board staff partnered with the DCA's Office of Public Affairs to develop ten instructional videos for applicants. The topics include pathway to licensure, degree requirements for the different license types, tips for registrants, supervision overview, 90-day rule overview, and applicant conviction reporting. These videos were created to provide an additional resource for applicants when navigating the licensure process.

- **Technological advancements have been undertaken or are in the works.** Since 2019 the Board has established online applications for supervisor self-assessments, California Law and Ethics re-examinations, LMFT clinical re-examination, initial license, name changes, address changes, and license upgrades. Additionally, the Board entered a memorandum of understanding with DCA's Business Services Office—Records Imaging Services Unit to assist

in the conversion and imaging of licensing records. BBS also reports that it is working on redesigning its rank-based licensing structure which will allow the Board to better utilize BreEZe system capabilities and initiate online applications for AMFT, ASW, and APCC registration. The Board reports it is also exploring options to implement a BreEZe system upgrade or a compatible system that will allow for the electronic submittal and tracking of supervision forms and supervision experience hours.

- **New publications are available.** The Board published three new handbooks to assist applicants for LMFT, LCSW, and LPCC in understanding the pathways to licensure. Each handbook provides an overview of the licensure process and tips to help applicants avoid common pitfalls. Additionally, the Board created telehealth best practice documents: one for telehealth therapy providers, one for tele-supervision providers, and one for consumers receiving telehealth therapy. The Board also drafted a consumer outreach document to explain its regulated professions to the public. In response to the increased use of online therapy companies by it licensees, the Board published a guidance document for the use of online-only therapy platforms to provide psychotherapy.

- **Social media presence is enhanced.** Since January 2020, the Board has significantly increased its use of social media to enhance outreach efforts. This includes more frequent posts and the introduction of live Facebook events called "Facebook Fridays." These events provided updates on the Board's operations and allow registrants and licensees to ask questions and receive immediate answers. The Board's following has more than doubled, with Facebook followers increasing from approximately 5,000 in 2020 to 32,000 today.

- **Telehealth training is in place.** In 2022, the Governor signed AB 1759 (Chapter 520, Statutes of 2022). Under this new law, effective July 1, 2023, the Board began requiring both applicants for licensure and licensees to have completed a minimum of three hours of training or coursework in the provision of mental health services via telehealth, which must include law and ethics related to telehealth.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the BBS, or areas of concern that should be considered, along with background information for each issue. There are also Committee staff recommendations regarding particular issues or problem areas BBS needs to address. BBS and other interested parties have been provided with this Background Paper and BBS will respond to the issues and staff recommendations.

BBS ADMINISTRATIVE ISSUES

ISSUE #1: (BOARD COMPOSITION) Would BBS, patients, clients, professionals, and members of the public benefit from the addition of more licensees to the Board?

Background: The Board's 13-person membership is comprised of seven public members and six professional members (licensees of the Board). As prescribed in BPC § 4990, the professional members include two LMFTs, two LCSWs and one LEP and LPCC member each. This composition allows for a public majority on the Board.

When the LPCCs were added to the Board's jurisdiction in 2009 (SB 788, Wyland, Chapter 619, Statues of 2009), the enabling statute authorized only one additional Board member to represent the LPCC profession. The issue of LPCC representation on the Board was raised in the last 2019 sunset review report and both the Board and the profession have suggested that it should be discussed again this year. Although the number of licensed LCSWs and LMFTs are significantly higher than the number of licensed LEPs and LPCCs, since the last sunset review in 2019 the LPCC's population has risen 39%. In comparison, the LMFTs population rose 15% and LCSW's 20%. The Board noted in its 2025 sunset review report that the LPCC population is projected to increase as the APCC, the registrant level of licensure leading to an LPCC, has increased approximately 50% in the last four years. Overall, the LPCC licensees comprise only 3% of the Board's entire licensure population.

The Board reports it has not had any formal discussions regarding its professional membership representation.

Staff Recommendation: ***It would be helpful for the committees to understand the benefit of updating the Board's composition for only one type of licensee. How does adding one more type of licensee add value to the Board's work? Currently the Board is a public-member majority, does it make sense to add another licensee thereby changing the composition to a professional-member majority?***

ISSUE #2: (SUBJECT MATTER EXPERTS) What can the Board do to increase its pool of subject matter experts for case review and exam development?

Background: Subject matter experts (SMEs) are licensed by the Board and are called upon during consideration of a violation of law to review Board cases. An investigation is conducted by the Board and if evidence substantiates a violation may have occurred those cases are referred to a SME. SME's review the evidence to determine if a violation constitutes gross negligence, incompetence, and/or patient harm. When appropriate SMEs provide testimony during administrative hearings. Employing a body of qualified professionals with the expertise to meticulously examine investigative cases and

provide testimony during administrative hearings is essential and allows the Board to protect the public.

Although, the role of an SME is crucial to protecting the public, the Board notes it has experienced challenges recruiting and retaining these experts. According to the Board, various factors determine how many SME's are available including: limited compensation, time constraints due to case reviews, attending hearings and the volume of paperwork discourage qualified professionals from applying.

Staff Recommendation: ***The Board should advise the Committees on what steps are available to them to better recruit, train and compensate these vital SMEs. How can the Committees provide the Board with more tools to ensure they have an available pool of SMEs?***

BBS LICENSING ISSUES

ISSUE #3: (NATIONAL EXAM) Should the Board substitute the Board administered LMFT Clinical Exam with the National Exam offered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB)?

Background: To become a LMFT in California you must pass the Board administered LMFT clinical exam. The Board, in collaboration with the Department of Consumer Affairs' Office of Professional Examination Services (OPES) and Board SMEs, develop the examination. The exam is multiple choice and is provided electronically throughout sites within the state. If an applicant meets specific criteria demonstrating limited English proficiency they may receive additional time to complete the exam. Every seven years OPES conducts an occupational analysis that validates the requirement for a California-specific examination. An occupational analysis provides a comprehensive study of a profession and requires licensees to complete a survey that outlines the tasks that a licensing practitioner performs. Survey results are used in the development of licensing examinations. The last occupational analysis of the LMFT Clinical Exam was in 2020.

California is the only state that utilizes a Board administered clinical exam; all other states require passing the AMFTRB Marital and Family Therapy National Exam (AMFTRB National Exam). Currently, the Board has adopted national clinical examinations for LCSWs and LPCCs but has not adopted the AMFTRB National Exam for LMFTs. All state-specific and national licensure examinations must demonstrate validity and meet accepted professional guidelines and technical amendments as mandated by BPC §139.

In consideration of adopting the AMFTRB National Exam and aligning with this mandate, the Board requested that OPES review and evaluate the feasibility of using the AMFTRB National Exam for LMFTs in California. A comprehensive evaluation of the AMFTRB National Exam was conducted by OPES and it was determined that the exam components including: occupational analysis, examination development and scoring, passing scores and passing rates, test administration and test security procedures generally met the professional guidelines and technical standards of the BPC §139. The inherent differences between the AMFTRB National Exam and the California Board-administered LMFT clinical examination revolved around measurement of scope and administration with the AMFTRB National Exam testing broad competency practices while the state examination focused on testing competencies specific to practice in California.

At the November 3, 2022 Board meeting the findings of the evaluation were discussed amongst the members. The Board concluded there were concerns in the lack of relevant information received and determined more data was needed to understand the impact that the AMFTRB National Exam would have on racial disparities in the administration of mental health services. During public comment attendees noted concerns regarding the lack of disparity data collected on both the AMFTRB and the Board administered clinical exam. Additional public comments were made to not adopt the AMFTRB National Exam and instead address the government code that prohibits the collection of demographic information for licensure. OPES reported they are willing to continue working with AMFTRB to address concerns noted. The Board voted to decline the use of AMFTRB National Exam for clinical licensure and to continue working with OPES to address the concerns presented.

The topic of adoption of the AMFTRB National Exam for LMFT licensure continues to receive heightened scrutiny by stakeholders due to the growing popularity of telehealth services and license portability among licensed professionals. Subsequently, the Board, through a succession of meetings, voted at its May 2024 Board meeting and ultimately approved statutory amendments to begin the process of accepting the AMFTRB National Exam provided specific conditions are met. The Board notes that AMFTRB is in favor of including California content to their exam. They are currently collecting voluntary demographic data from their exam candidates and are using this data to perform differential item function analysis (a statistical method used in psychometrics to identify if a particular test item is biased against a specific group of test takers) on their exams to identify bias.

The Board reports that it is working with the national exam developer to ensure that there are adequate exam offerings for applicants. Currently, the AMFTRB National Exam is offered one week every month. Conversely, the Board administered LMFT clinical exam is offered Monday – Saturday, year round except major holidays. The Board reports that applicants sitting for LMFT licensure will nearly double the number of exam candidates that the AMFTRB currently serve. Further, the Board notes AMFTRB administrators plan to assess efficient ways to accommodate this possible surge in licensure applicants. The California Association of Marriage and Family Therapist (CAMFT), representing roughly 36,000 members' supports adopting the AMFTRB National Exam. According to the Board, adopting national standards addresses issues faced by marriage and family therapists by increasing portability and licensure for California marriage and family therapist (MFTs), reducing costs seeking licensure in multiple jurisdictions and enhancing telehealth capabilities.

To ensure that California applicants have a voice in the development of future exams, the Board is encouraging licensees to participate in the Job Task Analysis that the AMFTRB is currently conducting. As the largest population of LMFTs in the nation, this participation will ensure that California's current practices are reflected in the examination. Once implementation issues are satisfactorily resolved the Board would need to adopt regulatory amendments accepting the AMFTRB National Exam as the clinical examination for LMFT licensure. The Board will also require an amendment to the clinical exam fee in statute to accommodate the fee determined by the national examination entity.

The move away from state specific evaluations for competency for licensed clinical social workers previously occurred in 2016 when the Board voted to transition licensure for LCSWs to the Association of Social Work Board (ASWB) national clinical examination, joining social work regulatory boards and colleges throughout the country. The Board notes that utilization of the AMFTRB National Exam unifies California with all other jurisdictions increasing licensure portability

and reciprocity for licensed professional MFTs. Further, reliance on one national standard for all licensees removes inconsistencies and expands the volume of clients that are nationally served.

Staff Recommendation: ***It would be helpful for the committee to understand the improvements in the licensure process that could stem from utilizing a national exam. Further, the Board should inform the Committees on the implications for test cost and availability that this change would produce.***

ISSUE #4: (PATHWAYS TO LICENSURE) Is the Board aware of any issues with the current out-of-state pathway to licensure, or the authority for temporary practice? What are the client and consumer impacts of interstate compacts and what would it mean for California to join interstate licensure compacts for BBS-licensed categories?

Background: In 2019, the Board sponsored SB 679 (Bates, Chapter 380, Statutes of 2019) establishing a new portability pathway for licensure for qualifying out-of-state LMFT, LCSW, or LPCC licensees. This bill streamlined the application process and eliminated many of the existing education and experience requirements in statute for qualifying out-of-state applicants.

Specifically, SB 679 revised the pathway to licensure to include individuals who have held licenses from out-of-state jurisdictions for more than two years and unlicensed or other individuals. In addition to streamlining the application process, the bill required the completion of certain California-specific coursework including a 12-hour California law and ethics course, a 15-hour course in California cultures and a seven-hour course in California specific training in child abuse assessment and reporting. The bill became effective January 1, 2020. Prior to 2020, the Board reported an increase in out-of-state applicants from 292 applicants in 2018 to 357 applicants in 2019. In the 2025 sunset review report, the Board notes utilization of the new portability pathway for out-of-state licensure for LMFT, LCSW and LPCC's has grown exponentially from 791 applicants in FY 2019-20 to over 1,000 applicants in FY 2023-24 with LCSWs experiencing the largest overall increase of 2,800 applicants. It would be helpful for the Committees to understand any practical impacts stemming from this new pathway, including whether the Board believes this has increased the availability of providers and whether existing licensees have noticed changes in the marketplace or employment settings.

SB679 PATHWAY	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24	TOTAL
OUT OF STATE LMFT RECEIVED	39	52	44	72	62	**269**
OUT OF STATE LCSW RECEIVED	465	502	586	663	584	**2800**
OUT OF STATE LPCC RECEIVED	287	346	391	449	424	**1897**
OUT OF STATE YEARLY	**791**	**900**	**1021**	**1184**	**1070**	**4966**

In 2023, the Board sponsored AB 232 (Aguiar-Curry, Chapter 640, Statutes of 2023) that provides a 30-day temporary practice allowance to qualifying practitioners licensed in another state who are treating existing clients in California who are visiting or relocating to California. A temporary practice allowance may only be requested one time per calendar year and is valid for 30 consecutive days. To qualify, a practitioner must hold a license in a jurisdiction that permits clinical practice at the highest level in that jurisdiction. The license must be current, active, and unrestricted and the existing client must be located in California during the time they are seeking care. The program has been in effect since January 1, 2024 and the Board reports it has received 553 applications for temporary practice

allowance with an average of 43 applications a month. The bill included a sunset date of January 1, 2026 to coincide with the Board's 2025 sunset review. To allow for more time to collect data about the efficacy of the program, the Board is proposing extending the temporary practice allowance sunset date to January 1, 2030.

Licensing Compacts

An interstate licensing compact represents a legally binding agreement between multiple states to facilitate cross-state practice for licensed professionals without requiring them to obtain full licensure in each participating state. To participate in such a compact, a state must adopt model statutory language provided by a compact organization. Typically, a practitioner must already hold a license in their home state before seeking authorization to practice in a compact member state. Compacts are often viewed as a means by which licensees can gain additional portability and practice in other states, reducing administrative burdens of becoming licensed in multiple states. Compacts have particularly been touted as beneficial to military spouses, however recently enacted federal legislation allows clearer portability for servicemembers and their spouses to be able to use their professional licenses and certificates issued in one state when they relocate to another state due to military orders.

Legislation has been proposed during the past number of years to join California to a number of licensing compacts, including compacts that would allow out-of-state practitioners with the same license as a BBS licensee to practice in this state under the rules of a compact, rather than requiring those individuals to become licensed in California.

The American Counseling Association began coordinating with the National Center for Interstate Compacts in 2019 to create a multistate Compact for LPCCs. The Counseling Compact was finalized in 2020 and has since been enacted. Under the Counseling Compact, a LPCC must be licensed by their Home State and is then required to request a Privilege to Practice for each Compact Member State they plan to practice in. Member States may require LPCCs to pay a fee and pass an examination demonstrating their knowledge of the Remote State's laws governing the practice of professional counseling. Under the specifications of the Compact, LPCCs who choose to practice under the authority of the Compact are required to abide by the laws and regulations of the Member State in which they are providing counseling services. Member States may revoke an LPPC's Privilege to Practice, but only the LPCC's Home State may take action against their license. 37 states are currently members of the Counseling Compact which allows professional counselors, licensed in a compact member state to assess, diagnose, and treat behavioral health conditions, to practice in another compact member state without obtaining a separate license in the other state. AB 2566 (Wilson) of 2024 would have codified the entirety of the Counseling Compact.

The Interstate Compact for School Psychologists (ICSP) allows school psychologists who qualify for licensure in a member state to practice in other member states without becoming licensed in the other state. According to the Council of State Governments National Center for Interstate Compacts, the ICSP looks different than many of the existing occupational licensure compacts. A school psychologist wishing to use the ICSP will use their existing license to show another member state that they are qualified through the compact to receive a license. The compact commission (the governing body of the compact comprised of representatives from each member state) information exchange will facilitate the transfer of documentation from the sending state to the receiving state and the receiving state will grant the school psychologist the closest equivalent license. ICSP has two member states and will become active once enacted by seven states. While school psychologists are not licensed by BBS,

LEPs who offer similar services may also be credentialed by the California Commission on Teacher Credentialing as a school psychologist.

The Social Work Licensure Compact is a product of an effort between the Council of State Governments, Department of Defense, and Association of Social Work Boards that seeks to enable regulated social workers with bachelor's, master's and clinical licenses to serve clients in every state that joins the compact, rather than going through the licensure process in every state where they want to practice. 22 states are members of the Social Work Compact. This year, AB 427 (Jackson) would require California to join the Social Work Compact.

California currently does not participate in any health professional licensing compact. Compacts have proven to be problematic and challenging for California licensees and regulatory programs alike, in terms of compact governance, enforcement options, parity in licensure qualifications, and other aspects of compact pathways. When a state joins a compact, it is subject to the rules of the compact and the bylaws established by a compact governing body. While a member state may have a vote or voice in the governance of a compact and may have some say in the development and amendment of bylaws, that is not the case for all licensing compacts. Many licensing priorities in California may not be reflected in compacts, such as the ability for individuals in California to become licensed using an individual taxpayer identification number, rather than only a social security number. Compact rules and specifications cannot be amended by a single member state and updates are not always subject to the transparent and open discussions held in the Legislature or by California regulatory programs subject to the Bagley-Keene Act. Some compacts group categories of licensees together who may be licensed by a separate licensing entity, and there are often a number of key differences between the rules and processes of a Compact and the practice acts administered by a California program like the Board.

Many professions for which a national licensing compact has been established do not enjoy the more streamlined approaches to licensure that BBS offers out-of-state providers. It would be helpful for the Committees to understand the benefits and impacts of joining compacts for BBS-licensees, particularly given the new pathways available to out-of-state providers to legally engage with California patients and clients and the ability for existing provider-client relationships to continue through temporary practice authority the BBS allows.

Staff Recommendation: ***The Board has indicated it would like to extend the sunset date for AB 232 to 2030. In consideration of this request, it would be helpful for the Committees to know how the Board enforces the 30-day timeframe and whether the Board believes out-of-state practitioners may be providing services to their clients in California beyond these timeframes. The should advise the Committees on discussions about the practicality of joining compacts and what joining compacts would mean for Board operations and California consumer protections.***

ISSUE #5: (TELEHEALTH) Is there a prevalence of online practice and has the Board experienced issues with unlicensed online activity?

Background: With the growing popularity of individuals seeking mental health treatment through telehealth and online therapy platforms it is imperative that the Board establish guidelines and best practices for licensed mental health therapists offering online services. In 2023, the LA Times reported

that a popular online telehealth platform, Headspace Health, had abruptly laid off numerous therapists without providing patients with any explanation.

According to the article, terminating the therapist/patient relationship with no warning creates a "huge breach of trust" for the patient, many who have experienced trauma or loss, and violates the ethical guidelines in psychotherapy for ending this sacrosanct relationship. In these instances, a robust regulatory framework is needed to protect the patient from further harm as well as the integrity of the therapist.

Current law and regulations requiring registrants and licensees to comply with established standards of care related to privacy, confidentiality and informed consent applies to therapists offering services online. Maintaining professional boundaries, protecting the client's best interests and utilizing evidence-based treatments are required whether the therapy services are performed in traditional settings or online. All therapists must have a valid state license and a registrant or licensee in California may only provide online therapy services to a client in another jurisdiction if they meet the requirements to lawfully provide online services in that jurisdiction and if the jurisdiction allows online services.

BPC § 2290.5 defines "Telehealth" to mean "the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers."

Additionally, BPC § 2290.5 requires before the delivery of health care via telehealth, the health care provider initiating the use of telehealth to inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. Documentation of consent is required.

The Board notes that complaints regarding online therapy comprise a small percentage of the total complaints the Board's Enforcement Unit receives. Issues that have been reported include concerns with unlicensed practice, obtaining billing codes for insurance reimbursement, and prolonging therapy unnecessarily due to company incentives. Other concerns reported to the Board surround disclosing the professional information of a therapist, clarity of client agreements, and lack of access to a client's legal name and location in a case of an emergency.

To better understand the benefits of telehealth and address any burgeoning issues with telehealth services, in 2021, the Board established a telehealth committee. That committee, with input from stakeholders, created guidelines and reviewed regulations regarding telehealth services for the Board's licensees. The committee's work also focused on educating licensees and consumers about telehealth, reviewing telehealth platforms, as well as recent legislation expanding the use of telehealth via supervision, and temporary practice allowances for out-of-state practitioners.

In order to identify any potential challenges and gain more information about the experience of working for an online-only therapy platform, the telehealth committee created and conducted a survey for all licensees and registrants. The survey was open from April 10 through May 15, 2023, distributed through social media and email, and received 1700 responses. The survey results indicated that the largest population of respondents were LMFT's (46%) and over half (77%) of the respondents

indicated that they had worked for or contracted with an online-only therapy platform. Of the respondents surveyed over 20% indicated they provided services on average to 11-20 clients per week and for over 40% of respondents online-only telehealth therapy was their primary source of employment.

The survey results were discussed at the committee's June 8, 2023 meeting. The main takeaways from the survey include the following three concerns:

- Online therapy platforms matching therapists with clients in states where they are not licensed. The majority (82%) of respondents indicated they were not matched to clients in states where they were not licensed. 18% indicated that they were matched to clients in states where they are not licensed. However, therapists had the ability to re-refer incorrectly matched out-of-state clients or decline a client if they were out-of-state.

- Issues related to how the custodian of record and informed consent agreements were managed and how the privacy policy and data sharing practices were communicated to clients. 65% of respondents indicated the online therapy platform served as the custodian of record and 17% reported serving as custodian. A majority (70%) of respondents reported the platform handled the informed consent agreement and maintained it as part of the client's records with 19% of respondents handled and maintained the informed consent agreement. 56% of respondents indicated that privacy policies and data sharing practices were delivered in writing by the company to the clients prior to beginning services. 29% did not know how this information was communicated to clients.

- Absence of an emergency plan for clients. 60% of respondents indicated that the platform had a clear emergency plan in place for clients in a crisis. Examples of an emergency plan included: crisis teams in place for emergencies and protocol for therapists to follow, emergency resources provided for each county in the state, the ability to contact the platform director to discuss a case and the need for a 5150 or 911 call, or the client completed safety plan in initial session with therapists. 40% of respondents indicated that they did not have a clear emergency plan in place for clients in a crisis.

To ensure therapists offering online services are trained in best practices, in 2022, the Board sponsored AB 1759 (Aguiar-Curry, Chapter 520, Statutes of 2022) requiring applicants and current licensees to complete three hours of training or coursework on providing mental health via telehealth which must include law and ethics related to telehealth. The coursework may be obtained in the following ways: as part of their qualifying graduate degree program or by completing a CE course, as specified. The bill clarifies that ACSWs, APCCs and clinical counselor trainees may provide services with clients via telehealth.

The committee also created educational materials, available in English and Spanish, to inform and educate consumers and licensees about the use of telehealth.

The Board notes in its sunset review report that it is currently considering minor amendments to its telehealth regulations and will continue to monitor online therapy platforms and consumer complaints. Future board discussions may include further regulations.

Staff Recommendation: ***The Board should advise the Committees about its efforts to ensure the integrity of its telehealth practices.***

ISSUE # 6 (VIDEO SUPERVISION ALLOWANCE) Should the Board continue to allow supervision via video conferencing in all settings?

Background: In 2022, the Board sponsored, AB 1758 (Aguiar-Curry, Chapter 204, Statutes of 2022), allowing supervision to take place via videoconferencing in all settings, not just in exempt settings. In response to the COVID 19 pandemic the bill was run as an urgency measure. The Board notes that based on feedback from supervisors and supervisees, examination of current research on supervising via video conferencing and minimal complaints to the Board's Enforcement Unit, the Board proposes to delete the sunset.

Staff Recommendation: ***The Board should advise the Committees if deleting the sunset is the best course of action or should the sunset be extended to provide more data on the efficacy of the measure?***

ISSUE # 7 (TEMPORARY PRACTICE ALLOWANCE) Should the Board continue temporary practice allowance for out-of-state licensees?

Background: In 2023, the Board sponsored AB 232 (Aguiar-Curry, Chapter 640, Statutes of 2023) that provides a 30-day temporary practice allowance to qualifying practitioners licensed in another state who are treating existing clients in California or who are visiting or relocating to California. A temporary practice allowance may only be requested one time per calendar year and is valid for 30 consecutive days. To qualify, a practitioner must hold a license in a jurisdiction that permits clinical practice at the highest level in that jurisdiction. The license must be current, active, and unrestricted and the existing client must be located in California during the time they are seeking care.

The program has been in effect since January 1, 2024 and the Board reports it has received 553 applications for temporary practice allowance with an average of 43 applications a month. The bill included a sunset date of January 1, 2026 to coincide with the Board's 2025 sunset review. To allow for more time to collect data about the efficacy of the program, the Board is proposing extending the temporary practice allowance sunset date to January 1, 2030.

Staff Recommendation: ***The Board should advise the Committees of any proposed language to extend the sunset. It would be helpful for the Committees to understand how the Board enforces the 30-day timeframe and whether the Board believes out-of-state practitioners may be providing services to their clients in California beyond these timeframes.***

ISSUE #8: (CONTINUING EDUCATION) How can the Board's CE requirements be effective if an incredibly small fraction of licensees are actually being required to demonstrate that they in fact completed mandatory CE?

Background: The Board requires licensees to complete CE to, as the Board notes in its sunset report to the Legislature, "ensure that licensees stay current with professional knowledge and maintain competence throughout their careers". In the current sunset review report, the Board notes 57 CE audits were conducted between July 22, 2021 and September 23, 2021 with 25 failures. A waiver was issued for CE requirements during the COVID-19 state of emergency allowing licensees whose licenses expired between March 31, 2020 and October 31, 2021, to renew without completing CEs, provided the CEs were completed by April 1, 2022. Citations during this time were rescinded and a moratorium on CE audits was implemented. Audits to determine compliance by licensees renewing their licenses resumed on March 12, 2024, with 143 audits conducted, resulting in 68 failures.

BBS licenses almost 150,000 people and has undertaken significant work to enhance CE requirements, specify certain CE topics, and require licensees to complete courses in order to continue to be licensed. Yet the Board still relies on licensees to self-certify that they have completed these required courses and does not have a mechanism to actually verify that it was in fact completed. According to the Board's data, almost 50 percent of licensees reviewed for compliance with CE requirements through an audit in 2024 failed. It is unclear how mandatory CE is effective if BBS does not verify that it was completed and does not have a system to receive proof of completion directly from CE providers.

Staff Recommendation: ***The Board should advise the Committees on the efficacy of requiring providers to self-report when there is no mechanism to verify the validity of their claim.***

ISSUE #9: (USE OF STANDARDIZED EXAMS FOR LICENSURE) Should the Board continue the use of standardized exam for clinical testing or consider alternative methods for licensure?

Background: The Board uses two national examinations for licensure in California, the National Board of Certified Counselor's (NBCC) National Counselor Mental Health Clinical Examination (NCMHCE) for LPCC licensure and the ASWB national exam for LCSW licensure. The Board administers two clinical examinations, the LMFT clinical exam and the LEP Standard Written Exam. All applicants must take and pass a clinical exam for licensure in the state.

The ASWB develops and maintains the clinical examinations that are used to test a social workers competency. In 2021, 66,982 licensing exams were administered by the ASWB. In November 2021, the ASWB Board of Directors made the decision, in collaboration with the Human Resources Research Organization, to share an in depth analysis of pass rate data based on demographic data that was self-reported by test takers. The Board reports that the goal of publishing the data was to create transparency and foster data driven conversations around diversity, equity and inclusion. In August 2022, the ASWB's 2022 Exam Pass Rate Analysis found that although the amount of test takers rose significantly from 2011 to 2021, the pass rates for demographic groups varied greatly. The data gathered indicated white candidates consistently outperformed other test takers with Black candidates reporting the lowest pass rates at 45%. These findings question the fairness of standardized testing and force the critical conversation around system inequities prevalent in our society.

Due to the ASWB report, on the national level a larger conversation has developed regarding standardized testing in all licensure examinations, prompting some entities to question the efficacy of the exams or discontinue them altogether. At the Board's January 19, 2024 Workforce Development

Committee meeting members discussed alternate pathways to licensure showcasing a recent successful legislative effort for clinical social work licensure in Illinois. Their legislative alternative to licensure endeavor allows applicants, who failed to pass the exam after one attempt, to instead choose to gain an additional 3,000 hours of supervised experience instead of retaking the exam (which is in addition to the 3,000 hours already required for licensure). This idea was not broadly supported by the Board or stakeholders. The Board reports that the Workforce Development Committee is currently considering the following proposals to reduce barriers to licensure: Allowing licensing exams to be taken while applicants are still obtaining experience hours, with the goal of allowing for a smoother and possibly faster transition to full licensure once all experience hours are obtained or allowing supervised experience hours to be valid for seven years instead of six years, allowing applicants who experience hardships to have a longer time to fulfill their supervision hours.

Staff Recommendation: ***The Board should advise the Committees on any further discussions to reduce barriers to licensure.***

ISSUE #10: (PRE-LICENSED INDIVIDUALS) Does the Board need to amend its statutes or regulations to strengthen supervision of pre-licensed individuals?

Background: The 90-Day Rule is a provision in law that allows post-graduate applicants registering with the Board as an AMFT, APCC or ACSW to count supervised experience hours gained during the period between the degree award date and prior to receiving a registration number. This provision is only applicable if the application for Associate registration is submitted within 90 days of the qualifying degree of award date and the employer requires Live Scan fingerprinting before they start to acquire hours. The concern with the 90-Day rule surrounds the gap in oversight by the Board. The Board typically processes applications within 40 days; however, delays can occur if an application is deficient, giving an applicant up to one year to resolve. During this time post degree graduates are allowed to receive supervisory experience hours yet they are not registered as Associates and therefore not under the jurisdiction of the Board or under the purview of their school.

As the Board noted in their October 2024 committee meeting, this lack of oversight poses potential risks to consumer protection as the Board has no authority over these practitioners. Solutions offered during the meeting include removing the 90-day rule and the ability for individuals to practice without a registration number. However, this could cause further delays in graduates having the ability to count experience hours. Further, stakeholders have expressed opposition to eliminating the rule as it increases access to mental health services by allowing graduates to immediately receive supervisory hours. Another solution proposed would require applicants to register with the Board while still in school. This approach would provide the Board with oversight through the entirety of the registration process to becoming an associate. As the Board notes, in the 1990's registration for trainees was required but the program was discontinued several years later for unknown reasons.

The Board reports that although safeguards like Live Scan background checks and strengthened supervisory requirements have been implemented, they still harbor concerns about the lack of oversight over practitioners and potential risks to consumer protection.

This argument begets the question; does the Board's perceived concern over potential consumer risk outweigh the benefits of allowing practitioners to begin, unregistered with the Board, the arduous task of obtaining the 3000 hours of required supervisory experience for licensure as well as increasing much needed access to mental health services?

Staff Recommendation: ***The Board should advise the Committees if it is necessary to statutorily require applicants to register with the Board while in school to protect consumers from risk and allow post-graduates to begin to obtain their required supervisory experience hours for licensure.***

ISSUE #11: (PROCESSING TIMELINES) What changes can the Board implement to the application process and staffing to reduce processing timelines?

Background: The Board reports that in the last five years, registration applications for AMFT, ASW, and APCC have risen approximately 30%, increasing from 8,941 to 11,576. During that same time, the average amount of applications for LMFTs, LCSWs and LPCCs rose approximately 3% from 5,465 to 6,433. Consistently meeting the application processing goals has been daunting for the Board. Pursuant to Board regulations, California Code Regulations Title 16 § 1805.1, performance targets are to process registration applications within 30 business days and licensure applications within 60 business days from receipt by the Board. In the sunset report, the Board notes that average processing times for registration applications are reported to take 51 business days but there are times where processing exceeds 90 business days. These delays can be contributed to peaks in graduation cycles and the consistently high volume of LMFT and LCSW applications with average processing times of 99 business days for LMFTs and 89 business days for LCWS. Conversely, the Board reports that it has met the application processing goals for LPCC and LEP licenses.

To address challenges with licensure processing delays, in FY 2023-24 the Board restructured the registration, examination and cashiering unit and divided it into two separate units: the registration unit and the cashiering and examination unit. This change necessitated assigning a manager solely responsible for the review and approval of registration applications and created two associate evaluator positions. Additionally, restructuring of the licensing unit added a second licensing manager allowing each manager to oversee two license types while creating additional positions to evaluate applications.

The Board notes that these measures have significantly improved efficiency and processing times for applications and licensure. Registration applications require an individual to submit a transcript and, if needed, a certification from an educational institution. Currently, the Board has a system in place to electronically submit supporting documents. To further reduce delays and maintain processing times the Board reports it is in the final stages of implementing an online registration application.

Applicants for licensure are required to complete 3,000 hours of supervised experience before becoming eligible to take the clinical licensure examination. To begin accumulating these hours the applicant must register with the Board and document their supervision hours and experience. Often, registrants will work with several supervisors during the process of accumulating the required supervised experience which can take up to 6 years. Registrants use two forms to document their experience: the Supervision Agreement and the Experience Verification Form. The Supervision Agreement outlines roles and responsibilities of the supervisor and supervisee and outlines a plan to obtain supervisory objectives. The Experience Verification Form highlights supervision provided and

requires the supervisor to document the hours gained across different areas by the registrant. Supervisors are required to sign this form under penalty of perjury. Once all required supervisory experience hours are obtained, registrants must submit these forms with their licensure application. In the sunset review report the Board notes consideration is being taken to implement an automated system for maintaining and submitting supervision forms which would streamline this process for registrants and allow Board evaluators to analyze and calculate supervised hours more efficiently.

To further address application backlogs the Board reports conducting workshops on licensing application processes and enforcement complaints soliciting insight and recommendations from staff on how to improve existing processes. Further, the Board notes that it conducts outreach presentations to schools on how to submit applications and how to document supervised hours.

Staff Recommendation: ***The Board should advise the Committees on how they can, in a timely and effective manner, decrease the average processing times for registrants and licensees.***

ISSUE #12: (EMERGING TECHNOLOGY) Is the Board prepared to address the impacts of emerging technology, such as AI, on the delivery of services to BBS clients and patients?

Background: The rapid advancement of technology, and in particular, Artificial Intelligence (AI), has created opportunities to automate routine and common tasks that once needed humans to complete. As AI has incorporated increasingly complex algorithms that allow machine learning, the possibility of replacing less routine or mundane tasks has become an option. Consequently, proliferation of AI could lead to disruptions to industries that rely on analyzing data, such as activities conducted by real estate agents and brokers.

On September 6, 2023, the Governor issued Executive Order N-12-23, to address challenges and opportunities arising from the advancement of AI, which the order references as generative artificial intelligence (GenAI). Among the reasons for the state to take action, the EO states (in part):

> GenAI can enhance human potential and creativity but must be deployed and regulated carefully to mitigate and guard against a new generation of risks; and
>
> [T]he State of California is committed to accuracy, reliability, and ethical outcomes when adopting GenAI technology, engaging and supporting historically vulnerable and marginalized communities, and serving its residents, workers, and businesses in a transparent, engaged, and equitable way; and
>
> [T]he State of California seeks to realize the potential benefits of GenAI for the good of all California residents, through the development and deployment of GenAI tools that improve the equitable and timely delivery of services, while balancing the benefits and risks of these new technologies…

The Governor's Executive Order includes direction for various state entities, including, "Legal counsel for all State agencies, departments, and boards subject to my authority shall consider and periodically evaluate for any potential impact of GenAI on regulatory issues under the respective agency,

department, or board's authority and recommend necessary updates, where appropriate, as a result of this evolving technology."

To assist licensed professionals in navigating the usage of AI in mental health counseling the American Counseling Association (ACA), the leading organization representing licensed professionals, created an AI Work Group to develop clinical best practices in AI. In 2024, the ACA article, *AI Can Support-But Not Replace-Human Counselors, According to New Recommendations*, outlined concerns and best practices for clinicians utilizing AI tools in mental health care. Recommendations offered included: making informed decision about the tools that AI can provide and how to best utilize AI in counseling objectives, challenges regarding diversity, equity and inclusion data that is not representative of all communities, ensuring patients information is kept private and secure, risks involved with AI including the possibility of false claims or misinformation, the importance of seeking guidance with AI from licensed professionals, and the right of clients to be informed about who is responsible for decisions made with AI assistance. As noted by the ACA work group, "AI may offer promising benefits, but its claims can be overly ambitious and simplified, non-evidence based, or even incorrect and potentially harmful." Further, the work group clearly recommended that AI should not be used for crisis response or for mental health diagnosis and any AI assisted diagnosis should be critically evaluated through the lens of a licensed professional.

As AI becomes more commonplace in mental health care, additional research is needed to inform licensed professionals and patients of the continued benefits and risks. As outlined in the ACA task force recommendations, ethical and privacy concerns need to be addressed to protect and prioritize patient well-being. Health care information is sensitive and safeguarding a patient's personal information will be critical to prevent unauthorized access and maintain privacy. Informing patients on how their health information will be used and addressing potential implications of using AI generated mental health care is a vital component in creating transparency and trust. Furthermore, while AI has proven effective in providing mental health care recommendations and insight the clinical judgement of a licensed mental health professional remains essential.

To ensure that sensitive mental health data is sufficiently protected in California, the legislature enacted AB 2089 (Bauer Kahan, Chapter 690, Statutes of 2022) requiring any business that offers a mental health digital service to a consumer, to manage their own information, or for the diagnosis, treatment, or management of their medical condition, to be deemed a provider of health care as required under the Confidentiality of Medical Information Act. This distinction provides consumers with the option to consent and understand how their mental health data is shared. Going forward an overarching goal of the Board should include establishing a clear regulatory framework and ethical guidelines for licensed professionals using AI in mental health care.

Staff Recommendation: ***The Board should inform the Committees of whether it is equipped to investigate misuse of AI or other technology. The Board should discuss actions it has already taken, if any, to protect consumers, update regulations, and enable proper enforcement in cases using AI, while simultaneously keeping up with changes in the safe delivery of services. Finally, the Board should inform the Committees of whether it needs legislative authority to address any concerns stemming from the use of AI.***

BBS WORKFORCE ISSUES

ISSUE #13: (WORKFORCE DEVELOPMENT AND JOB CREATION) What enhanced role should the Board play in ensuring an available workforce of licensed professionals to meet the states needs?

Background: The state is in the midst of a significant shortage of trained, qualified, and available mental and behavioral health professionals to serve the growing needs of millions of Californians. According to a 2021, Department of Health Care Services report, *Behavioral Health Workforce Assessment*, nearly "one-third of Californians live in Mental Health Care Health Professional Shortage Areas" with rural areas experiencing high shortages. The report cites an ongoing decrease in psychiatrists, psychologists, and licensed clinical social workers as many providers approach retirement. Further exacerbating the workforce shortage is the challenge in recruitment and retaining mental health clinicians in community-based behavioral health settings due to low pay and professional burnout.

To combat this prevailing issue, in 2023, the Board established a Workforce Development Committee. The goal of the committee was to discuss pathways to licensure and examine barriers in education, supervision and examinations. To address these barriers the Board increased the availability of supervisors by allowing supervision via videoconferencing, broadened the pool of supervisors qualified to provide supervision, streamlined the licensure process by simplifying the documents needed and provided for online licensure application and renewal processes. As noted in the sunset review report, the Board has created guidance documents and other resources to clarify requirements for hours of supervised experience, the process of examinations and applications procedures.

In 2024, the Board conducted a Licensure Pathway Survey that resulted in 3,170 responses. The survey was conducted to collect information from registrants and licensees on barriers they face in becoming licensed. Topics focused on key elements to barriers such as education, supervision and exams. Other data collected included cultural competencies, workforce development and other licensing issues.

Survey respondents expressed challenges balancing full time work, school and unpaid practicum positions, convenience of practicum placement hours, and perceived lack of culturally competent and trauma informed professors. They also cited a lack of training provided from educational institutions regarding licensing pathway and education. Respondents also expressed challenges in finding qualified or available supervisors, as well as the high cost of supervision. Concerns about inadequate supervision environments were raised, especially as those may fail to sufficiently prepare licensees for exams and the licensing process. Respondents also noted the extensive number of supervision hours required, including specified hours with children or couples and that there is no compensation for work done as those hours are accumulated. The survey also found that individuals faced challenges with the length and perceived difficulty of exams which led to their own increased anxiety, as well as the difficulty in preparing for exams while working full time. According to respondents, costs associated with exams, materials, and application fees added to the difficulty in becoming licensed. Respondents also cited the barriers of long wait times to get their hours certified and processed, the potentially burdensome administrative hurdle the 90 day rule requires for live scans for post-graduation supervised hours, and the rule that invalidates accumulated hours if all hours are not completed within a six-year period.

Staff Recommendation: ***The Board should advise the Committees on what it views are challenges to increasing the behavioral health workforce.***

BBS ENFORCEMENT ISSUES

ISSUE #14 (UNIFORM STANDARDS). The Board has pending regulations to update its Uniform Standards Related to Substance Abuse and Disciplinary Guidelines. What are the particulars of those changes to the current standards?

Background: SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008) required the DCA to develop uniform and specific standards to be used by each health professional licensing board in dealing with substance-abusing licensees in 16 specified areas, including requirements and standards for: (1) clinical and diagnostic evaluation of the licensee; (2) temporary removal of the licensee from practice; (3) communication with licensee's employer about licensee status and condition; (4) testing and frequency of testing while participating in a diversion program or while on probation; (5) group meeting attendance and qualifications for facilitators; (6) determining what type of treatment is necessary; (7) worksite monitoring; (8) procedures to be followed if a licensee tests positive for a banned substance; (9) procedures to be followed when a licensee is confirmed to have ingested a banned substance; (10) consequences for major violations and minor violations of the standards and requirements; (11) return to practice on a full-time basis; (12) reinstatement of a health practitioner's license; (13) use and reliance on a private-sector vendor that provides diversion services; (14) the extent to which participation in a diversion program shall be kept confidential; (15) audits of a private-sector vendor's performance and adherence to the uniform standards and requirements; and (16) measurable criteria and standards to determine how effective diversion programs are in protecting patients and in assisting licensees in recovering from substance abuse in the long term.

As part of the SB 1441 implementation, the DCA convened the Substance Abuse Coordination Committee (SACC), which consisted of representatives from all of the health professional licensing boards. A series of meetings, subject to the Bagley-Keene Open Meeting Act, were held from 2009 to 2011 to discuss and develop the standards. The "Uniform Substance Abuse Standards" ("Uniform Standards") were finally adopted in early 2010, with the exception of the frequency of drug testing. The Department reconvened the SACC in March 2011, where a final vote was taken on an amended schedule for drug testing frequency.

At that time, all of the health care boards were asked to adopt and implement the standards. In response to questions regarding whether adoption of the standards was optional or mandatory, three different legal opinions were issued that opined that the boards were mandated to adopt all of the standards. The only standard that needed statutory authority dealt with the cease practice requirement. SB 1172 (Negrete McLeod, Chapter 517, Statutes of 2010) was enacted, and among other provisions required healing arts boards to order a licensee to cease practice if the licensee tests positive for any prohibited substance under the terms of the licensee's probation or diversion program.

The Board's Uniform Standards Related to Substance Abuse and Disciplinary Guidelines were approved by OAL and became effective on October 1, 2015. They were updated to implement AB 2138, (Chiu & Low Chapter 995, Statutes of 2018) in December of 2020.

BBS proposed various changes to its "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines", currently outlined in Title 16 of Division 18 of the California Code of Regulations. It would be helpful for the Committees to understand the rationale for these changes, the status of these

changes, and whether these updates will maintain conformity to the Uniform Standards.

Staff Recommendation: ***The Board should provide an update on the Uniform Standards.***

BBS TECHNICAL CHANGES

ISSUE #15 : (TECHNICAL CHANGES MAY IMPROVE EFFECTIVENESS OF THE MULTIPLE PRACTICE ACTS BBS ADMINSITERS AND BBS OPERATIONS) Are there technical changes that may provide operation efficiencies of the license laws administered by the BBS?

Background: There may be a number of non-substantive and technical changes to the various practice acts BBS administers that are needed to correct deficiencies or other inconsistencies in the law. Since the last sunset review for the Board, the Board has sponsored or been impacted by 32 pieces of legislation which address all parts of the Board's duties, oversight authority, licensing requirements, and cross reference code sections that are no longer relevant.

For example, BPC § 4982.05 which details the enforcement statute of limitations for LMFTs is duplicative of BPC § 4990.32 the Board's general statute which already applies to all four practice acts and contains nearly duplicative language. Since BPC § 4982.05 is unnecessary, it should be repealed. Additionally, BPC§ 4999.46.2 (a)(2) delineates the amount of supervision required for professional clinical counselor (PCC) trainees which is misleading because PCC trainees are not allowed to count pre-degree hours. Deleting BPC §4999.46.2 (a)(2) provides clarification of the Practice Act. Updating the LMFT, LEP, LCSW, and LPCC practice acts to include language that requires a license to be current, active, inactive, or *expired* within the past 3 years to retire it. This added allowance would remove the barrier of requiring someone who had let their license expire from having to pay to reactivate it in order to retire it.

The Board's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation: ***The Committees may wish to amend the law to include technical clarifications.***

CONTINUED REGULATION OF THE PROFESSIONS BY THE BOARD OF BEHAVIORAL SCIENCES

ISSUE #16: (CONTINUED REGULATION BY BBS) Should the licensing and regulation of behavioral and mental health professionals by the BBS be continued and be regulated by its current membership?

Background: The Board is charged with protecting the consumer from unprofessional and unsafe mental and behavioral health practices. It appears as if the Board has been an effective, and for the most part, an efficient, regulatory body for the professions that fall under its purview. However, the

Board needs to continue to improve its enforcement outcomes, manage a more effective CE program, maintain high standards for the professions by ensuring active supervisors are not misrepresenting supervised employees, maintain an operational board, focus on ensuring safe access to vital telehealth services and provide guidance to licensees on the usage of Artificial Intelligence in technology. Given that the Board has been working to ensure its fiscal health, streamline licensing requirements, enhance license portability and create online application accessibility the Board should be able to continue to fulfill its mandate, meet performance targets, and continue to protect consumers.

Staff Recommendation: ***The BBS should be continued, and reviewed again on a future date to be determined.***

Board of Behavioral Sciences

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Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

May XX, 2025

Senator Ashby, Chair
Senate Business, Professions and Economic Development Committee
Assembly Member Berman, Chair
Assembly Committee on Business and Professions
1021 O Street, Room 3320
Sacramento, CA 95814

Dear Senator Ashby and Assembly Member Berman:

This is in response to the Senate Business, Professions and Economic Development Committee (Committee) request to provide a written response to the Issues and Recommendations raised in the Committee's Background Paper prepared for the Oversight Hearing held on March 24, 2025. I will address the issues in the order presented in the Background Paper.

BBS ADMINISTRATIVE ISSUES

Issue #1: Would BBS, patients, clients, professionals, and members of the public benefit from the addition of more licensees to the Board?

Committee Recommendation
It would be helpful for the committees to understand the benefit of updating the Board's composition for only one type of licensee. How does adding one more type of licensee add value to the Board's work? Currently the Board is a public-member majority, does it make sense to add another licensee thereby changing the composition to a professional-member majority?

Board Response
While LPCC licensees account for approximately 3% of the Board's licensee population, over the last four years LPCCs have had the largest increase in population (76%) when compared to LMFTs (10%) and LCSWs (18%). This increase is only projected to continue as the population of the corresponding registrant level of licensure that leads to a LPCC license, the Associate Professional Clinical Counselor (APCC), has increased approximately 42% over the same four years.

Adding one more type of licensee to the Board can provide valuable insight and enhance the Board's ability to make informed, balanced decisions. Each licensee type is faced with distinct regulatory challenges, practice settings, and professional responsibilities. Including a broader range of professional voices can improve the Board's understanding of the field it regulates and ensure that decisions are grounded in the realities of diverse professional experiences.

However, changing the Board's composition from a public-member majority to a professional-member majority warrants careful consideration. A public-member majority helps ensure that the Board maintains a focus on consumer protection, public transparency, and accountability. Any

shift in this balance should be evaluated in terms of its potential impact on public trust and the Board's mission. In future discussions conserving the addition of an LPCC member, the Board and its stakeholders will have to weigh the value of the additional professional expertise against the importance of preserving a governance structure that prioritizes public interest

Issue #2: What can the Board do to increase its pool of subject matter experts for case review and exam development?

Committee Recommendation
The Board should advise the Committees on what steps are available to them to better recruit, train and compensate these vital SMEs. How can the Committees provide the Board with more tools to ensure they have an available pool of SMEs?

Board Response
Subject Matter Experts (SMEs) are essential to the Board's ability to effectively carry out its responsibilities, particularly in the development of examination development and enforcement. The Board continues to explore ways to strengthen recruitment, streamline training, and improve the retention of these essential contributors. Efforts include enhancing outreach through professional organizations, developing more accessible and engaging outreach materials, and identifying any opportunities to incentives SME participation. However, to be more effective, the Board would benefit from the Committees' support in echoing the importance of this work—particularly in helping to raise the visibility of SME opportunities and promoting broader awareness across all license types and professional communities. Additionally, the Board would benefit from the Committee's support in any efforts the Board pursues in seeking more competitive compensations for the SME's perform these essential services.

BBS LICENSING ISSUES

Issue #3: Should the Board substitute the Board administered LMFT Clinical Exam with the National Exam offered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB)?

Committee Recommendation
It would be helpful for the committee to understand the improvements in the licensure process that could stem from utilizing a national exam. Further, the Board should inform the Committees on the implications for test cost and availability that this change would produce.

Board Response
Adopting the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) National Examination could bring significant enhancements to the licensure process. Adopting a nationally recognized examination would align California's standards with those of other states, potentially increasing licensure portability for applicants seeking to practice across state lines. This change would also help ensure that out-of-state licensees applying for California licensure have been assessed using consistent and comparable standards, thereby reinforcing clinical competency and public protection.

Alignment with the AMFTRB Clinical Exam may also reduce redundancy in exam development and oversight, allowing the Board to reallocate valuable resources toward other key areas of licensure and regulation. The AMFTRB exam is developed using rigorous psychometric methodologies, including differential item analysis, something that is not currently done for the California Clinical exam, that incorporates candidate demographics to detect and reduce

potential bias. The exam is also regularly updated to reflect current clinical practices, further enhancing its validity and reliability.

By focusing exclusively on exam development and maintenance, AMFTRB is well-positioned to respond quickly to emerging issues that may affect exam quality or candidate performance. In addition, AMFTRB offers official practice exam, a benefit currently not available through the Board's in-house examination, which may help applicants better prepare and improve their chances of success.

While there are many benefits to adopting the AMFTRB Clinical Exam, there are also important considerations regarding test cost and availability. For example, the current fee for the California LMFT Clinical Exam is $200, while the AMFTRB Clinical Exam costs $370. Furthermore, the Board currently offers its clinical exam on a continuous basis, with immediate scoring. In contrast, the AMFTRB exam is offered during a one-week testing window each month, with official scores released approximately 20 days after the test date. Through ongoing dialogue with AMFTRB administrators, it is clear they are actively exploring ways to accommodate a potential increase in California test-takers and are working to minimize any impacts, particularly those related to test availability and accessibility.

As with any major transition, minimizing potential negative impacts on individuals within the licensure pathway will depend on transparent, consistent communication with all stakeholders. A successful transition will also require close collaboration with industry representatives. The Board will work in partnership with the California Association of Marriage and Family Therapists (CAMFT), who support the transition to the AMFTRB exam and represent a significant portion of the Board's registrants and licensees. This partnership will help address any concerns that may arise and ensure stakeholders are well-informed throughout the process. The Board remains committed to thoroughly evaluating the full scope of these changes and will continue to keep the Committee and partners updated to ensure the transition supports both public protection and applicant success.

ISSUE #4: Is the Board aware of any issues with the current out-of-state pathway to licensure, or the authority for temporary practice? What are the client and consumer impacts of interstate compacts and what would it mean for California to join interstate licensure compacts for BBS-licensed categories?

Committee Recommendation

The Board has indicated it would like to extend the sunset date for AB 232 to 2030. In consideration of this request, it would be helpful for the Committees to know how the Board enforces the 30-day timeframe and whether the Board believes out-of-state practitioners may be providing services to their clients in California beyond these timeframes. They should advise the Committees on discussions about the practicality of joining compacts and what joining compacts would mean for Board operations and California consumer protections.

Board Response

The temporary 30-day practice allowance is designed to support continuity of care by permitting an out-of-state licensee to provide short-term services to a client who is relocating to or temporarily residing in California, without compromising the Board's oversight or consumer protection responsibilities. To utilize this provision, the out-of-state practitioner must complete an online form through the BreEZe system, providing their name, license number, the state in which

they are licensed, and the date they intend to begin offering services. Once submitted, the practitioner receives a confirmation of approval, including the timeframe in which they are authorized to practice. Additionally, the BreEZe system is programmed to prevent the submission of a new request unless at least one year has passed since the practitioner's previous use of the allowance, aligning with the requirement that the 30-day provision may only be used once per year. To date, the Board has not received any complaints regarding individuals participating in the temporary 30-day practice allowance.

The Board has also engaged in discussions regarding the feasibility of joining interstate licensure compacts and acknowledges both the potential benefits and the associated risks. Compacts could streamline the licensure process and improve access to care, particularly via telehealth, by enabling qualified out-of-state practitioners to more easily provide services in California. However, the state maintains unique legal and ethical requirements that reflect its commitment to equity and consumer safety, including strong protections for LGBTQ+ individuals. These standards may not be addressed in the training and practice expectations of licensees from other states. To uphold these protections, the Board currently requires out-of-state applicants to complete California-specific coursework and the California law and ethics exam. Participation in a compact that exempts multistate licensees from these requirements could weaken the Board's ability to ensure practitioners are fully prepared to meet the needs of California's diverse population.

There are also financial and administrative implications to consider. If an out-of-state licensee practicing in California under the compact commits a violation, the Board may bear the cost of disciplinary action without the ability to collect licensing fees or other revenue from that individual. A high volume of enforcement activity from such licensees could strain the Board's budget and potentially necessitate fee increases for California-based licensees. Additionally, implementing compact participation would likely require significant investments in system updates, new reporting mechanisms, regulatory changes, and added staffing in both licensing and enforcement. There is also concern about unforeseen financial obligations, such as annual assessments or fees imposed by the Compact Commission costs.

Compact participation also presents structural challenges. Under the compact model, each member state has one vote in the Compact Commission, regardless of its size or number of licensees. This limits California's influence and may restrict the Board's ability to independently enforce standards that align with state laws and values.

There have been no issues with the Board's current out-of-state pathway to licensure. Considering this and the concerns noted above, the Board supports efforts to improve licensure mobility and expand access to care. However, it emphasizes that any participation in a licensure compact must include strong safeguards to uphold California's high standards for professional competency and consumer protection.

Issue #5: Is there a prevalence of online practice and has the Board experienced issues with unlicensed online activity?

Committee Recommendation

The Board should advise the Committees about its efforts to ensure the integrity of its telehealth practices.

Board Response
The Board remains committed to actively monitoring developments in the use of telehealth in providing behavioral health services by collaborating with state and national professional organizations to identify emerging trends and best practices. It will continue to engage with stakeholders to gather meaningful feedback, which will help inform potential statutory amendments aimed at strengthening consumer protection. At the same time, the Board will further its efforts to develop and publish clear, comprehensive guidance to assist both consumers and licensees in understanding the legal and ethical requirements for telehealth practice.

Issue #6: Should the Board continue to allow supervision via video conferencing in all settings?

Committee Recommendation
The Board should advise the Committees if deleting the sunset is the best course of action or should the sunset be extended to provide more data on the efficacy of the measure?

Board Response
Discussions regarding whether to extend or eliminate the sunset date for allowing supervision via videoconferencing in all settings began at the Board's April 2024 Policy & Advocacy Committee meeting. The committee directed staff to research current enforcement complaints related to videoconferencing supervision, investigate concerns raised by the Board of Psychology regarding a similar statutory amendment, and conduct a survey through Facebook to assess the concerns of both supervisors and supervisees.

At the August 9, 2024 Policy and Advocacy Committee meeting, staff presented the findings from this research. Given the lack of evidence of negative outcomes related to supervision via videoconferencing and the evidence showing that it increases access to supervision, staff recommended removing the sunset date for this provision. The Board approved an amendment to eliminate the sunset date at its September 2024 meeting. The Board believes that removing the sunset provision is the most effective course of action.

Issue #7: Should the Board continue temporary practice allowance for out-of-state licensees?

Committee Recommendation
The Board should advise the Committees of any proposed language to extend the sunset. It would be helpful for the Committees to understand how the Board enforces the 30-day timeframe and whether the Board believes out-of-state practitioners may be providing services to their clients in California beyond these timeframes.

Board Response
The temporary 30-day practice allowance is designed to support continuity of care by permitting an out-of-state licensee to provide short-term services to a client who is relocating to or temporarily residing in California, without compromising the Board's oversight or consumer protection responsibilities. To utilize this provision, the out-of-state practitioner must complete an online form through the BreEZe system, providing their name, license number, the state in which they are licensed, and the date they intend to begin offering services. Once submitted, the practitioner receives a confirmation of approval, including the timeframe in which they are authorized to practice. Additionally, the BreEZe system is programmed to prevent the submission of a new request unless at least one year has passed since the practitioner's previous use of the allowance, aligning with the requirement that the 30-day provision may only

be used once per year. While it is not a clear indicator of compliance, the Board has not received any complaints regarding individuals participating in the temporary 30-day practice allowance.

At the August 9, 2024, Policy and Advocacy Committee meeting, staff reported that, based on available data, the temporary practice allowance appears to be successful, though it is still early in its implementation. Staff proposed extending the termination date of this legislation by four years, until January 1, 2030, to allow the Board additional time to gather data and reassess the law. Staff noted that, given the evolving nature of telehealth practices and interstate licensing compacts, a future review would be beneficial, although any unintended consequences could be addressed sooner if needed. The Board approved an amendment to extend the sunset date to January 1, 2030, during its September 2024 meeting.

The Board will continue to monitor this program and explore ways to enhance oversight of practitioners who may be providing services to clients in California beyond the 30 consecutive allowable days.

Issue #8: How can the Board's CE requirements be effective if an incredibly small fraction of licensees are actually being required to demonstrate that they in fact completed mandatory CE?

Committee Recommendation

The Board should advise the Committees on the efficacy of requiring providers to self-report when there is no mechanism to verify the validity of their claim.

Board Response

The Board acknowledges that there is currently no mechanism to independently verify self-reported continuing education (CE) claims; however, it believes that self-reporting remains the most effective method at this time. While other tools such as online CE tracking platforms or requiring documentation at the time of renewal may offer additional layers of verification, they also present administrative and logistical challenges.

Importantly, the majority of CE audit failures are not due to willful non-compliance but rather misunderstandings of the Board's requirements. Common issues include omitting specific mandatory coursework, completing CE after the renewal date instead of before, or taking courses from providers not recognized by the Board.

To address these issues, the Board is committed to enhancing communication with licensees regarding CE requirements and will continue to assess alternative strategies for collecting and verifying CE information. The goal is to improve compliance through education and clarity, while also exploring future enhancements to the current reporting system.

Issue #9: Should the Board continue the use of standardized exam for clinical testing or consider alternative methods for licensure?

Committee Recommendation

The Board should advise the Committees on any further discussions to reduce barriers to licensure.

Board Response
The Board is actively engaged in discussions to reduce barriers to licensure while maintaining the necessary standards to ensure individuals are prepared for independent clinical practice. Proper education and supervision are essential not only for clinical competency but also for preparing applicants to pass licensure examinations. To support this balance, the Board is seeking amendments to restructure elements of the licensure pathway. These proposed changes include allowing associates to choose when to take the California Law and Ethics Exam, rather than requiring annual attempts, which would reduce administrative delays without compromising public protection—especially given the recent requirement for annual CE in California law and ethics. The Board is also proposing a 7-year age limit on passing scores for the Law and Ethics Exam, aligning it with the existing limit for the clinical exam and ensuring the exam's relevance over time.

Further, the Board is considering extending the validity of registration numbers and supervised experience hours from six to seven years, recognizing that many applicants face life events that can interrupt the licensure process. This change would also streamline timelines once clinical exam eligibility rules are updated. To address hardship scenarios, the Board is proposing a limited exception to the current prohibition on working in private practice with a subsequent registration number. This would allow a one-time, two-year extension under specified conditions, enabling associates to complete their hours without undue disruption.

Beyond statutory amendments, the Workforce and Development Committee has begun reviewing education requirements for LMFTs and LPCCs to identify potential barriers, including coursework and practicum standards. A survey will be conducted in 2025 to gather input from educators and registrants. Additionally, the Outreach and Education Committee is exploring ways to improve engagement with schools and pre-licensees to ensure they are well-informed and better equipped to navigate the licensure process. Together, these efforts reflect the Board’s commitment to both public protection and the reduction of unnecessary barriers to licensure.

Issue #10: Does the Board need to amend its statutes or regulations to strengthen supervision of pre-licensed individuals?

Committee Recommendation
The Board should advise the Committees if it is necessary to statutorily require applicants to register with the Board while in school to protect consumers from risk and allow post-graduates to begin to obtain their required supervisory experience hours for licensure.

Board Recommendation
The Board recognizes the potential benefits of requiring applicants to register while still in school, particularly in terms of consumer protection and facilitating the timely accumulation of supervised experience hours. However, implementing such a requirement may pose significant administrative challenges. Not all students pursuing degrees in behavioral health immediately intend to seek licensure, and many make that decision after beginning their practicum—some of which may or may not meet the requirements for licensure. Mandating early registration could create confusion or unnecessary burdens for those still exploring their career paths.

Additionally, the Board has not received complaints involving individuals who begin accruing hours during the 90-day period following graduation, during which they are required to work under supervision. This supervisory oversight helps ensure public protection during this transitional phase. While the concept of early registration has merit, particularly in promoting clear expectations and standards from the outset, the Board believes further discussion is needed to fully understand the implications. The Board will continue to explore this issue and evaluate whether a statutory requirement is necessary or whether existing structures are sufficient to safeguard consumers and support applicants.

Issue #11: What changes can the Board implement to the application process and staffing to reduce processing timelines?

Committee Recommendation
The Board should advise the Committees on how they can, in a timely and effective manner, decrease the average processing times for registrants and licensees.

Board Response
The Board continues to prioritize the timely and efficient processing of applications for registrants and licensees and has implemented several strategies to reduce average processing times. Achieving and maintaining these improvements requires a combination of evaluating staffing levels to ensure sufficient resources and leveraging online systems and automation for submitting applications and required documentation. Enhanced outreach is also a critical component, as it helps reduce the rate of application deficiencies, which require additional staff time to resolve. By providing clearer guidance and more accessible support, the Board aims to decrease the number of incomplete or incorrect applications—one of the primary causes of processing delays. Through strategic staffing changes, process improvements, and expanded outreach, the Board has made measurable progress and will continue to monitor performance metrics and collaborate with stakeholders to identify and implement further improvements.

Issue #12: Is the Board prepared to address the impacts of emerging technology, such as AI, on the delivery of services to BBS clients and patients?

Committee Recommendation
The Board should inform the Committees of whether it is equipped to investigate misuse of AI or other technology. The Board should discuss actions it has already taken, if any, to protect consumers, update regulations, and enable proper enforcement in cases using AI, while simultaneously keeping up with changes in the safe delivery of services. Finally, the Board should inform the Committees of whether it needs legislative authority to address any concerns stemming from the use of AI.

Board Response
The Board recognizes the growing impact of artificial intelligence (AI) and other emerging technologies on the delivery of behavioral health services and is committed to ensuring public protection as these tools become more integrated into clinical practice. While the Board is currently equipped to investigate violations of its statutes and regulations regardless of the medium used, including potential misuse of AI, it acknowledges that existing laws may not explicitly address all the nuances and challenges posed by these evolving technologies.

To date, the Board has not received complaints directly related to the misuse of AI in clinical practice. However, this is an emerging area of concern, and the Board is closely monitoring national conversations, including those led by major mental health professional organizations. The Board has also begun preliminary discussions on the implications of AI and plans to continue this dialogue in

future meetings to better understand the potential risks and opportunities associated with its use in behavioral health.

Currently, the Board has not taken formal regulatory action specific to AI but is evaluating whether existing regulations are sufficient to protect consumers and support appropriate enforcement. Should it become clear that gaps in regulatory authority exist, the Board will consider whether legislative changes are necessary to effectively address concerns related to AI, including issues of accountability, informed consent, and standards of care. The Board remains committed to staying informed of technological advancements and ensuring that its regulatory framework evolves in step with changes in the safe and ethical delivery of services.

BBS WORKFORCE ISSUES

Issue #13: What enhanced role should the Board play in ensuring an available workforce of licensed professionals to meet the state's needs?

Committee Recommendation
The Board should advise the Committees on what it views are challenges to increasing the behavioral health workforce.

Board Response
The Board recognizes the critical role it plays in supporting a robust and accessible behavioral health workforce to meet the needs of California's diverse communities. While the Board does not have a direct role in workforce development funding or placement, it is uniquely positioned to support the efforts of other agencies—such as the Department of Health Care Access and Information (HCAI)—by ensuring that the licensure process is transparent, efficient, and free of unnecessary barriers. The Board continues to evaluate its regulations and policies to identify opportunities for streamlining licensure pathways while maintaining high standards for public protection.

Additionally, the Board can play an enhanced role by increasing public awareness about the professions it regulates. Through outreach and education, the Board can inform students, career changers, and the public about the professional opportunities available in the behavioral health field. Clear communication about career pathways, licensure requirements, and the value of these professions can help attract new individuals into the workforce.

The Board also recognizes the importance of supervision in the development of future licensees. To support the growth of the workforce, the Board encourages current licensees to take on the role of supervisors and is exploring ways to incentivize and educate licensees about the value and responsibilities of supervision. By continuing to collaborate with stakeholders, enhance outreach, and review its own processes, the Board is committed to playing an active role in ensuring a strong, well-prepared behavioral health workforce for California.

BBS ENFORCEMENT ISSUES

Issue #14: The Board has pending regulations to update its Uniform Standards Related to Substance Abuse and Disciplinary Guidelines. What are the particulars of those changes to the current standards?

Committee Recommendation
The Board should provide an update on the Uniform Standards

Board Response
This proposal would result in updates to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines," which are incorporated by reference into the Board's regulations. The proposed changes fall into three general categories: amendments that revise certain penalties available to the Board; amendments that update regulations or the Uniform Standards and Guidelines in response to recent statutory changes to the Business and Professions Code; and amendments that clarify language identified as unclear or in need of further detail. The proposal was approved by the Board at its September 2024 meeting. The public comment period ended on February 25, 2025, and the comments will be reviewed by the Board at its May 2025 meeting.

BBS TECHINICAL CHANGES

Issue #15: Are there technical changes that may provide operation efficiencies of the license laws administered by the BBS?

Committee Recommendation
The Committees may wish to amend the law to include technical clarifications.

Board Response
The Board appreciates the Committee's recommendation and has approved several proposed cleanup amendments at its November 2024 meeting. Staff have submitted a request and have been working with the Committee to include various proposed amendments in either this year's Committee bill or the Board's sunset bill.

CONTINUED REGLUATION OF THE PROFESSIONS BY THE BOARD OF BEHAVIORAL SCIENCES

Issue #16: Should the licensing and regulation of behavioral and mental health professionals by the BBS be continued and be regulated by its current membership?

Committee Recommendation
The BBS should be continued and reviewed again on a future date to be determined.

Board Response
The Board thanks the committee and concurs with the recommendation. The Board looks forward to continued opportunity to protect consumers while working to increase access to mental health services for Californians. We are available to offer further clarification or answer any additional questions that you may have.

Sincerely,

Steve Sodergren
Executive Officer

cc: Kim Kirchmeyer, Director, Department of Consumer Affairs

Jennifer Simoes, Deputy Director, Division of Legislative and Regulatory Review, Department of Consumer Affairs
Christopher Jones, Chair, Board of Behavioral Sciences