

**DEPARTMENT OF CONSUMER AFFAIRS  
Board of Behavioral Sciences  
SUNSET REVIEW DECEMBER 2019**

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#### **HISTORY AND FUNCTION OF THE BOARD**

Established 75 years ago, the Board of Behavioral Sciences is one of the 37 regulatory entities within the Department of Consumers Affairs (DCA). The Board 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 (ACSWs), Associate Marriage and Family Therapists (AMFTs), and Associate Professional Clinical Counselors (APCCs).

The Board’s mission is to protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practice. The Board’s vision is to ensure that Californians are able to access the highest-quality mental health services. To this end, the Board develops and administers licensure examinations; investigates consumer complaints and criminal convictions; responds to emerging changes and trends in the mental health profession legislatively or through regulations; and creates informative publications for consumers, applicants, and licensees.

The Board’s statutes and regulations require licensure before an individual may engage in practicing as an LMFT, LCSW, LEP, and LPCC. In addition to establishing the requirements to obtain a license or registration, the Board’s statutes and regulations also provide the Board the authority to discipline licensees and registrants.

Governor Earl Warren signed legislation on July 18, 1945, that created the Board of Social Work Examiners under the Department of Professional and Vocational Standards (renamed the Department of Consumer Affairs in 1970). California became the first state to register social workers. The legislation created a seven-member board to represent both consumers and the profession. At least two of the members were required to be “lay persons.” All Board members were appointed by the governor. During the first 16 months of its existence, the Board registered 4,098 social workers. The intent of the registration was to identify competent professionals who were working for higher standards and services to the public.

A 1962 California State Assembly investigation regarding the fraudulent practice of marriage counseling contributed to the 1963 creation of the *Marriage, Family, and Child Counselor Act*. Under this Act, the Board of Social Work Examiners received the responsibility of licensing and regulating marriage, family, and child counselors. Soon after the addition of marriage, family, and child counselors, the Board of Social Work Examiners was renamed the Social Worker and Marriage Counselor Qualifications Board.

After 1969, anyone who wanted to practice clinical social work was required to hold a license. The addition of Licensed Educational Psychologists in 1970 to the Board's regulatory responsibilities inspired a new name, the Board of Behavioral Sciences Examiners. In 1997, the Board of Behavioral Sciences Examiners was officially changed to its present name, the Board of Behavioral Sciences.

In 2010, a fourth mental health profession, Licensed Professional Clinical Counselor, was added to the Board's regulatory responsibilities. Today, the Board is responsible for the regulatory oversight for over 118,000 licensees and registrants. Current law provides for 13 Board members comprised of six licensees and seven public members. Eleven members are appointed by the governor and are subject to Senate confirmation. One public member is appointed by the Speaker of the Assembly, and one public member is appointed by the Senate Rules Committee.

## **BOARD COMMITTEES**

The Board has one standing committee, the Policy and Advocacy Committee. The Policy and Advocacy Committee is comprised of four Board members. The work of the committee is focused on proposed legislation, proposed regulations, and legislative and regulatory changes that respond to emerging trends or concerns in the mental health profession that may affect the Board's licensees and registrants.

The Board also uses ad-hoc committees to address specific topic areas. Examples include the Supervision Committee, the License Portability Committee, and the Exempt Setting Committee. Ad-hoc committees are usually comprised of two to three Board members. Each meeting is publicly noticed and may be webcasted.

Ad-hoc committees hold a series of meetings with stakeholders and interested parties to discuss a single topic and develop recommendations to present to the Board. Currently, the Board does not have an active ad-hoc committee. However, two ad-hoc committees will be established in 2020. The first committee will discuss the practice of telehealth. The second committee will review existing laws regarding the subsequent registration numbers, and practice settings. Additionally, the committee will consider setting a limit for the number of

examination attempts by a candidate, and if the candidate should be required to obtain further education before continuing in the examination process after the maximum number of attempts is reached.

Frequently, committee meetings are held in Sacramento. However, some committee meeting locations are rotated between Northern California and Southern California to maximize stakeholder participation in the discussion. For example, the Supervision Committee and Exempt Committee held meetings in both Northern and Southern California.

For the *Board Member Procedure Manual* refer to section 12, Attachment A, I and for a detailed list of Board members, refer to section 12, Attachment A, II.

For a detailed list of the attendance at Board and committee meetings refer to section 12, Attachment B.

## **BOARD QUORUM ISSUES**

Regrettably, the Board canceled one quarterly Board Meeting (September 2019) in the past four years. At that time, the Board had seven positions vacant on its 13-member board. The Board must have seven members in attendance to establish a quorum.

The absence of a quorum resulted in nearly a three-month delay for probationers to appear before the Board to request modifications to the terms of their probation. These probationers were scheduled for the next Board Meeting (November 2019). Further, the Board was unable to discuss rejected proposed decisions in disciplinary cases. The Board previously voted to reject the administrative law judge's proposed decisions because the decisions did not comply with the Board's disciplinary guidelines. Specifically, terms and conditions were either missing or the terms and conditions appeared overly punitive to the probationer. Unfortunately, as a result, six proposed decisions became effective.

Finally, the Board also suspended Board votes on 20 proposed decisions and negotiated settlements. With the appointment of a new Board member on October 8, 2019, the Board resumed Board votes on October 15, 2019.

## **MAJOR CHANGES SINCE LAST SUNSET REVIEW**

### **Reorganization**

Since the 2016 sunset review, the Board has experienced significant growth in its licensing population. The Board's licensing population increased 14%, rising from 102,000 licensees and registrants to over 118,000. The increased focus on mental health services and access on both a state and national level can be attributed to the rise in population.

To address the increasing workload, the Board was successful in obtaining 8.5 additional staff positions in fiscal year 2016–17. The new positions were specifically for the Board’s Licensing and Examination Units. Further, the Board received three additional staff positions in fiscal year 2019–20. The Board currently is authorized for 62.8 positions.

The Board reorganized its Licensing and Examination Units to create two separate units with each unit reporting directly to a separate manager. Further, the Enforcement Unit was reorganized to separate the three enforcement activities. The Consumer Complaint Unit, Subsequent Arrest and Criminal Conviction Unit, and Discipline and Probation Unit. Each of these units reports directly to a separate manager.

### Relocation

In March 2019, the Board relocated to a larger space within DCA’s headquarters. The new space is sufficient for existing staff and will accommodate future growth.

### Change in Leadership

The leadership of the Board has changed slightly since the 2016 sunset review. The Board currently has six managers providing oversight of the Board’s licensing, examination, and enforcement activities. The current assistant executive officer was hired in fiscal year 2012–13. The Board’s current executive officer was appointed in 2010.

### Strategic Plan

The Board revised its Strategic Plan in 2017. Collaborating with the Board’s stakeholders, the Board developed the 2018-2021 Strategic Plan. This plan reflects the Board’s mission to “Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practices.” The plan was adopted at the November 2017 Board Meeting.

For the Board’s 2018-2021 Strategic Plan refer to section 12, Attachment G.

### Examination Restructure

On January 1, 2016, the Board restructured its examination process. Previously, the licensing exams were taken upon completion of all supervised experience hours. Under the new structure, individuals who hold an ASW, AMFT, or APPC registration must take the California Law and Ethics Examination within the first year of registration with the Board. If unsuccessful in the first year, the registrant is required to take the examination at least once per renewal period until they obtain a passing score.

After completion of the required supervised work experience hours, the registrant may apply to take the clinical examination for their license type. LPCC and LCSW candidates will take a

national clinical examination for licensure. LMFT candidates take a Written Clinical Examination developed and administered by the Board.

#### National Examination for Social Workers

In 2016 the Board began accepting, for LCSW licensure, the Association of Social Work Boards (ASWB) Clinical Exam. This national exam replaced the clinical exam that was developed and administered by the Board.

#### English as a Second Language: Additional Examination Time

Recognizing California's diversity, the Board proposed regulations to allow examination candidates for whom English is a second language additional time to take the licensure examinations. The regulations became effective on October 1, 2017. An examination candidate who meets the specific criteria demonstrating limited English proficiency will be granted time-and-a-half to take the licensure examinations.

#### Removing Barriers to Licensure in California for Out-of-State Applicants

Effective January 1, 2020, marriage and family therapists, clinical social workers, and professional clinical counselors who have been licensed for at least two years in another state may apply for licensure in California under a new streamlined process. Senate Bill 679 (Bates, Chapter 380, Statutes of 2019) improves portability across state lines by removing the unnecessary barriers to licensure for an out-of-state applicant without compromising consumer protection. California is one of the first states to enact legislation that promotes license portability.

#### Licensure Renewals

In October 2018, the Board discontinued the use of paper coupons to renew licenses and registrations to promote the efficiency of the online renewal feature on BreEZe. The revised renewal notice provides instructions to use the online renewal feature, which eliminates any deficiency that will delay the renewal. The Board's online renewal activity increased from 48% in November 2017 to 96% in May 2018. Renewal candidates without access to the internet may contact the Board to request a paper renewal form.

### **LEGISLATION SPONSORED BY AND AFFECTING THE BOARD SINCE THE LAST SUNSET REVIEW**

Many legislative changes relevant to the Board of Behavioral Sciences' duties have been enacted since the last sunset review in 2016. These changes are listed below in chronological order.

AB 1808—Minors: Mental Health Services (Wood, Chapter 292, Statutes of 2016)

This bill included marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances. It also requires the trainee to notify his or her supervisor within 24 hours of treating such a minor. If the trainee believes the minor is a danger to self or others, the trainee must notify the supervisor immediately after the counseling session.

AB 1863—Medi-Cal: Federally Qualified Health Centers: Rural Health Centers (Wood, Chapter 610, Statutes of 2016)

This bill allowed Medi-Cal reimbursement for covered mental health services provided by a marriage and family therapist employed by a federally qualified health center or a rural health clinic.

AB 1917—Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants (Oberholte, Chapter 70, Statutes of 2016)

This bill modified the education required to become an LPCC or an LMFT as follows:

1. It amended the coursework and practicum required of LPCC applicants to ensure that the degree was designed to qualify the applicant to practice professional clinical counseling.
2. It amended the law to define education gained out-of-state based on the location of the school, instead of based on the residence of the applicant.

The Board sponsored this bill.

AB 2191—Board of Behavioral Sciences (Salas, Chapter 458, Statutes of 2016)

This bill extended the Board's sunset date until January 1, 2021.

SB 1478—Healing Arts (Senate Business, Professions, and Economic Development Committee, Chapter 489, Statutes of 2016)

The Board sponsored the following provisions of SB 1478:

- Provisions making minor, technical, and nonsubstantive amendments to add clarity and consistency to current licensing law.

- Provisions changing the marriage and family therapist and professional clinical counselor “intern” title to “associate.”

AB 191—Mental Health: Involuntary Treatment (Wood, Chapter 184, Statutes of 2017)

This bill added licensed marriage and family therapists and licensed professional clinical counselors to the list of professionals who are authorized to be the secondary signatory to extend involuntary commitments under certain circumstances.

AB 508—Health Care Practitioners: Student Loans (Santiago, Chapter 195, Statutes of 2017)

This bill removed healing art boards’ ability to issue a citation and fine and its ability to deny an application for a license or renewal of a license due to the licensee or applicant being in default on a U.S. Department of Health and Human Services education loan.

AB 1188—Health Professions Development: Loan Repayment (Nazarian, Chapter 557, Statutes of 2017)

This bill increased the Mental Health Practitioner Education Fund fee that Licensed Marriage and Family Therapists and Licensed Clinical Social Workers pay upon license renewal from \$10 to \$20. It also required LPCCs to pay a \$20 fee into the fund upon renewal, and in return allowed LPCCs and PCC associates to apply for the loan repayment grant if they work in a mental health professional shortage area.

SB 800—Professions and Vocations (Senate Business, Professions, and Economic Development Committee, Chapter 573, Statutes of 2017)

The Board sponsored provisions of this proposal to make minor, technical, and nonsubstantive amendments to add clarity and consistency to its licensing laws.

AB 93—Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision (Medina, Chapter 743, Statutes of 2018)

This bill was sponsored by the Board and made amendments to the Board’s supervised experience requirements for licensure. The bill focused on strengthening the qualifications of supervisors, supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also made the Board’s supervision requirements more consistent across its licensed professions.

AB 456—Healing Arts: Associate Clinical Social Workers (Thurmond, Chapter 158, Statutes of 2018)

This bill extended the Board’s “90-day rule” to applicants for registration as an Associate Clinical Social Worker (ASW). Previously, the 90-day rule only allowed applicants for registration as an Associate Marriage and Family Therapist or an Associate Professional Clinical Counselor to count post degree hours of supervised experience before receiving a registration number, if they applied for their associate registration within 90 days of the granting of their qualifying degree.

All applicants who complete graduate study on or after January 1, 2020, must also now provide the Board with proof that the workplace required Live-Scan fingerprinting prior to the applicant gaining supervised experience hours to count supervised experience gained under the 90-day rule.

This bill also reduced the required number of supervised experience hours for licensure as a clinical social worker from 3,200 hours to 3,000 hours.

**AB 1436—Board of Behavioral Sciences: Licensees: Suicide Prevention Training (Levine, Chapter 527, Statutes of 2018)**

Beginning January 1, 2021, this bill requires applicants for any license with the Board of Behavioral Sciences to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention. Current licensees will also be required to demonstrate completion of this coursework or supervised experience in their first renewal period after this date.

**AB 2088—Patient Records: Addenda (Santiago, Chapter 275, Statutes of 2018)**

This bill included minors in the allowance that any patient that inspects his or her patient records may provide a written addendum to the record for any item or statement that he or she believes is incomplete or incorrect. Previously, this provision was only allowed for adult patients.

**AB 2117—Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors (Arambula, Chapter 486, Statutes of 2018)**

This bill made amendments to specify how an expired registration may be renewed, and to supervised experience hours required for long term out-of-state license holders. It also made some corrections to LCSW law regarding the California law and ethics exam and law and ethics coursework.

**AB 2138—Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction (Chiu and Low, Chapter 995, Statutes of 2018)**

This bill sought to remove some of the licensing and employment barriers that those with prior criminal convictions or disciplinary actions often encounter, if they can demonstrate rehabilitation. Beginning July 1, 2020, the bill makes changes to the law regarding when licensing boards can deny, suspend, or revoke a license due to prior convictions or discipline.

AB 2296—Licensed Professional Clinical Counselors: Licensed Clinical Social Workers (Waldron, Chapter 389, Statutes of 2018)

This bill added LPCCs and LCSWs to areas of California law where other comparable licensed mental health professionals are included. It also made some changes to the LPCC education requirements regarding core content areas of study.

AB 2608—Licensed Mental Health Service Provider Education Program: Former Foster Youth (Stone, Chapter 585, Statutes of 2018)

This bill created a new account under the Mental Health Practitioner Education Fund loan repayment grant program specifically for loan repayment grants for LMFT, LPCC, and LCSW licensees and registrants who were formerly in California's foster youth care system. The funds for the account must be appropriated by the Legislature.

AB 2968—Psychotherapist-Client Relationship: Victims of Sexual Behavior and Sexual Contact: Informational Brochure (Levine, Chapter 778, Statutes of 2018)

This bill made changes to sections of the Business and Professions Code (BPC) relating to the requirement that the Department of Consumer Affairs create a brochure to educate the public about the prohibition of sexual contact in therapy. The goal of the proposed amendments was to modernize the brochure.

SB 1491—Healing Arts (Senate Business, Professions, and Economic Development Committee, Chapter 703, Statutes of 2018)

The Board sponsored provisions of this bill that made minor, technical, and nonsubstantive amendments that added clarity and consistency to its current licensing laws.

AB 630—Board of Behavioral Sciences: Marriage and Family Therapists: Clinical Social Workers: Educational Psychologists: Professional Clinical Counselors: Required Notice (Arambula and Low, Chapter 229, Statutes of 2019)

This Board-sponsored bill aimed to increase consumer protection by requiring individuals providing psychotherapy in both exempt and nonexempt settings to provide clients with a disclosure notice about where a complaint about the therapist may be filed, prior to initiating any therapy services. The notice must state that a complaint may be filed with the employing

agency (for individuals working in exempt settings who are not licensed or registered with the Board), or with the Board (for Board licensees and registrants).

AB 1651—Licensed Educational Psychologists: Supervision of Associates and Trainees (Medina, Chapter 321, Statutes of 2019)

This bill allowed applicants for licensure as a marriage and family therapist, professional clinical counselor, or clinical social worker to gain up to 1,200 hours of supervised experience providing educationally related mental health services under the supervision of a licensed educational psychologist.

SB 425—Health Care Practitioners: Licensee’s File: Probationary Physician’s and Surgeon’s Certificate: Unprofessional Conduct (Hill, Chapter 849, Statutes of 2019)

This bill requires health care facilities or other entities that make arrangements for a healing arts licensee to practice or provide care for patients to report allegations of sexual abuse or sexual misconduct made against a licensee by a patient in writing, to the applicable state licensing agency within 15 days.

SB 601—State Agencies: Licenses: Fee Waiver (Morrell, Chapter 854, Statutes of 2019)

This bill allowed a state agency that issues any business license to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, to submit an application for reduction or waiver of fees for licensure, renewal or activation, or replacement of a physical license for display.

SB 679—Healing Arts: Therapists and Counselors: Licensing (Bates, Chapter 380, Statutes 2019)

The goal of this Board-sponsored bill was to increase license portability across state lines. The bill streamlined the process for marriage and family therapists, clinical social workers, and professional clinical counselors who have been licensed for at least two years in another state to become licensed in California. The bill also requires these incoming mental health professionals to have coursework in California law and ethics, California child abuse assessment and reporting, and California cultures, which ensures that they will have the tools needed to practice safely and effectively in this state’s diverse environment.

SB 786—Healing Arts (Senate Business, Professions, and Economic Development Committee, Chapter 456, Statutes 2019)

The Board sponsored provisions of this bill that made minor, technical, and nonsubstantive amendments that added clarity and consistency to its current licensing laws, including the following:

- Updating certain coursework descriptions with more current terminology.
- Clarifying that a qualifying master's or doctoral degree for licensure as a marriage and family therapist or a professional clinical counselor must be a single, integrated degree program.

Deleting obsolete language about the aging and long-term care coursework requirement for renewing marriage and family therapist licensees who began graduate study prior to January 1, 2004.

## **REGULATION CHANGES APPROVED BY THE BOARD SINCE THE LAST SUNSET REVIEW**

The following changes to title 16 of Division 18 of the California Code of Regulations (CCR) have been enacted since the Board's last sunset review in 2016 and are listed in chronological order.

### Licensed Professional Clinical Counselor Treatment of Couples and Families

Effective January 1, 2016, sections 1820 and 1822 were amended, and sections 1820.6 and 1820.7 were added to clarify requirements for LPCCs to treat couples and families and outlines a process by which LPCCs and APCCs receive Board confirmation that they have met the requirements to treat couples and families.

### Examination Restructure

Effective January 1, 2016, sections 1805, 1806, 1816, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1829, and 1877 were amended, and sections 1805.01, 1822.5, 1822.6, 1830, 1878 were added to create consistency with statutory changes made by SB 704 (McLeod, Chapter 387, Statutes of 2011), which restructured the examination process for LMFT, LCSW, and LPCC applicants.

### Standards of Practice for Telehealth

Effective July 1, 2016, section 1815.5 was added to address the use of telehealth in the provision of psychotherapy, and clarify when a California license is needed, specify actions a licensee must take to protect the client in a telehealth setting, and state that failure to follow telehealth requirements is considered unprofessional conduct.

### English as a Second Language: Additional Examination Time

Effective October 1, 2017, section 1805.2 was added to allow the board to grant time-and-a-half (1.5x) on a board-administered examination to an applicant for whom English as a second language (ESL), if the applicant meets specific criteria demonstrating limited English proficiency.

### Application Processing and Registrant Advertising

Effective March 14, 2018, sections 1805.1 was amended to bring the Board's advertising regulations in line with SB 1478 (Chapter 489, Statutes of 2016) which changes the term "intern" to "associate" effective January 1, 2018. Section 1811 was amended to update the Board's minimum and maximum application processing time frames.

## **PENDING REGULATIONS**

The following changes to title 16 of Division 18 of the CCR have been proposed, and are in various stages of the regulatory process as follows:

### Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee

*Amend title 16, CCR sections 1806 and 1816.1, add section 1805.08 and repeal section 1816.3*

This proposal would amend the Board's examination rescoring provisions to clarify that rescoring pertains only to exams taken via paper and pencil, since all other taken electronically are automatically rescored. This proposal would also make clarifying changes to the Board's application abandonment criteria, and clarify the fee required for subsequent APCC registrations.

Status: This proposal was noticed on January 11, 2019, and is currently awaiting Board approval of modified language.

### Contact Information; Application Requirements; Incapacitated Supervisors

*Amend title 16, CCR sections 1804, 1805, and 1820.7; add section 1815.8*

This proposal would:

- Require all registrants and licensees to provide and maintain a current, confidential telephone number and email address with the Board.
- Codify the Board's current practice of requiring applicants for registration or licensure to provide the Board with a public mailing address, and ask applicants for a confidential telephone number and email address.
- Codify the Board's current practice of requiring applicants to provide documentation that demonstrates compliance with legal mandates, such as official transcripts; to submit a current photograph; and for examination candidates to sign a security agreement.
- Require certain applications and forms to be signed under penalty of perjury.

Status: The proposal was approved by the Board at its meeting in March 2017. It has been placed on hold pending the outcome of SB 679 relating to license portability, which would significantly change certain application requirements referenced in the text of this proposal.

## Substantial Relationship and Rehabilitation Criteria

### (AB 2138 Regulations)

*Amend title 16, CCR sections 1812, 1813, 1814, 1888 and 1888.1; amend the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015),” which are incorporated into the Board’s regulations by reference via section 1888.*

This proposal would result in changes necessary to meet the requirements of Assembly Bill (AB) 2138 (Chapter 995, Statutes of 2018). This proposal includes modifying the Board’s substantial relationship criteria, which helps to evaluate whether a crime or act was substantially related to the profession, as well as criteria to evaluate the rehabilitation of an individual when considering denying, suspending or revoking a license.

Status: The regulations were noticed to the public on August 16, 2019 and the hearing was held on September 30, 2019. One letter commenting on the proposal was received. The Board will discuss these comments at its November 2019 meeting.

## Enforcement Process

*Amend title 16, CCR sections 1823, 1845, 1858, 1881, 1886.40, and 1888; amend the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015),” which are incorporated into the Board’s regulations by reference via section 1888.*

This proposal would result in updates to the Board’s disciplinary process. It would also make updates to the Board’s “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015). The proposed changes fall into three general categories:

1. Amendments seeking to strengthen certain penalties that are available to the Board.
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the BPC.
3. Amendments to clarify language that has been identified as unclear or needing further detail.

Status: The proposal was approved by the Board at its meeting in February 2017 and was submitted to DCA to begin the initial review process in July 2017. This regulation package was placed on hold due to the passage of AB 2138 (Chapter 995, Statutes of 2018) and remains on hold pending passage of the AB 2138 regulations.

## Supervision

*Amend title 16, CCR sections 1820, 1820.5, 1821, 1833, 1833.1, 1833.2, and 1870; add sections 1815.8, 1820.3, 1821.1, 1821.2, 1821.3, 1833.05, 1833.1.5, 1834, 1869, 1869.3, 1870.3, 1870.5, and 1871; repeal sections 1822, 1870.1, and 1874*

This proposal would:

- Revise the qualifications to become supervisor.
- Require supervisors to perform a self-assessment of qualifications and submit the self-assessment to the Board.
- Set forth requirements for substitute supervisors.
- Update and strengthen supervisor training requirements.
- Strengthen supervisor responsibilities, including provisions pertaining to monitoring and evaluating supervisees.
- Strengthen requirements pertaining to documentation of supervision.
- Make supervision requirements consistent across the three licensed professions.
- Address supervision gained outside of California.
- Address documentation when a supervisor is incapacitated or deceased.
- Set forth terms relating to registrant placement by temporary staffing agencies.

Status: The proposal was approved by the Board at its meeting in November 2016 and was held aside while awaiting passage of AB 93 (Chapter 743, Statutes of 2018), the Board's supervision legislation. This proposal was submitted to DCA to begin the initial review process on April 18, 2019, and is currently pending Board approval of proposed modified language.

## **MAJOR STUDIES CONDUCTED BY THE BOARD**

### 2017 Suicide Risk Assessment and Intervention Coursework Survey

The Board conducted a survey to gain current information about in suicide risk assessment and intervention coursework in degree programs designed to lead to licensure with the Board. The survey was conducted due to questions raised when considering AB 1436 (Chapter 527, Statutes of 2018) which, beginning January 1, 2021, will require Board licensees and applicants for licensure to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention. The survey sought to answer the following questions:

- a) How many total clock hours of coverage does each school's required degree program curriculum currently provide on the topic of "suicide risk assessment and intervention"?
- b) Is this coursework contained in one course, or integrated across several courses?
- c) Which required courses cover this topic, and what are the clock hours of coverage in each?

A total of 44 school programs responded to the survey. The findings can be summarized as follows:

a) Clock Hours of Suicide Risk Assessment and Intervention Coursework in Required Curriculum

- No responding school programs reported less than two hours of coursework coverage.
- Eight school programs (18% of respondents) reported having three to five hours of coverage.
- Twenty-two school programs (50%) reported having six to 10 hours of coverage.
- Eight school programs (18%) reported having 11 to 20 hours of coverage.
- Six school programs (14%) reported having more than 20 hours of coverage.

b) Location of the Suicide Risk Assessment and Intervention Coursework

Approximately 20% of school programs indicated that their suicide risk assessment and intervention coursework is contained in one course, while 79% indicated it is integrated throughout their program in several courses.

c) Required Courses Covering the Topic

The responses identifying courses containing the suicide risk assessment and intervention coursework varied widely, making it difficult to identify any significant trends. However, commonly mentioned courses were as follows:

- Law and Ethics
- Practicum
- Psychopathology
- Assessment
- Crisis/Trauma
- Substance Abuse

The full results of the survey can be found in section 12, Att. C, I. Suicide Risk Assessment and Intervention Coursework School Survey Results.

2017 Trainees Paying for Supervision/Practicum Survey

In 2017, the Board conducted two concurrent surveys to determine the prevalence of trainee practicum sites charging students fees to volunteer or for supervision.

A school survey was sent to college and university programs in California offering a degree intended to lead to licensure as an LMFT, LPCC, or both. It asked the school program questions about the practicum sites where its students are placed.

An agency survey was sent to nonprofit agencies that utilize MFT or PCC trainees in practicum. It asked about fees charged to trainees (if any) and the reasons behind them.

Most responding agencies (approximately 84%) stated that they do not charge fees to their trainees. Approximately 77% of schools indicated that none of their students pay for practicum. The full results of these two surveys can be found in the section 12, Att. C, II. 2017 Students Paying for Practicum-Agency Survey Results and section 12, Att. C, III. 2017 Students Paying for Practicum-School Survey Results.

#### 2017 Practicum/Fieldwork Placements for Students Survey

As part of the work of its Exempt Setting Committee, the Board conducted a survey of schools in California with a degree intended to lead to licensure with the Board, to gain information about the practicum and fieldwork placements of graduate students. The goal was to see where these students were commonly placed, and if any clarification about acceptable practicum sites was needed. Based on the results of the findings, the Board ultimately did decide to pursue clarifications to work setting definitions.

The results of this survey can be found in the section 12, Att. C, IV. 2017 Practicum Field Placement Survey.

#### 2017 Work Setting Survey

As part of the work of its Exempt Setting Committee, the Board surveyed its licensees and registrants about the type of setting they are working in. The goal of the survey was to determine where licensees and registrants commonly work, and for exempt settings (settings not under jurisdiction of the Board), if there are any consumer protection concerns requiring discussion.

The results of this survey can be found in the section 12, Att. C, V. 2017 Work Setting Survey.

### **NATIONAL ASSOCIATION ACTIVITY**

The Board is a current member of the Association of Marriage and Family Therapy Regulatory Board (AMFTRB), the American Association of State Counseling Boards (AASCB), 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 (CLEAR). 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.

Since the Board's 2016 Sunset Review, Board representatives were approved to attend the following professional association meetings:

- AMFTRB Annual Meeting—2017 (Georgia), 2018 (Pennsylvania), and 2019 (Minnesota).
- AMFTRB Portability Meeting—2017 (Colorado).
- ASWB Annual Delegate Meeting—2015 (Florida), 2016 (California), 2017 (Georgia), and 2019 (Florida).
- ASWB Spring Education Meeting—2018 (Canada) and 2019 (Washington D.C.).
- AASCB—2018 (Minnesota) and 2019 (Washington D.C.) held jointly with NBCC.
- NBCC—2016 (Virginia), 2017 (North Carolina), 2018 (Minnesota), and 2019 (Washington D.C.).

The Board’s executive officer participated on the following national professional association committees.

- AMFTRB—Portability Committee 2017 (Colorado).
- ASWB—License Mobility Committee 2017/2018 (via teleconference).
- ASWB—Contract Committee 2019 (via teleconference).
- ASWB—Composite Board Committee 2019 (via teleconference).

Additionally, the Board’s executive officer collaborated with AASCB and NBCC to revise the proposed License Portability Model to include California Licensed Professional Clinical Counselors.

### **NATIONAL EXAMINATION ACTIVITY**

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 Association of Social Work Boards (ASWB) national examination for LCSW licensure.

The Board continues to evaluate all applications for the licensure examination to confirm that the candidate satisfies the statutory requirements for licensure. Once a candidate is deemed eligible for the licensure examination, the candidate’s eligibility is transmitted to the testing vendor, allowing the candidate to schedule their examination.

Examination development, scoring, and analysis involve the participation of subject matter experts (licensees). Each national examination adheres to the same five-year to seven-year standard for conducting an occupational analysis (practice analysis). Like the Board’s examination development process, the national examinations use the occupational analysis results to develop questions for the national examination. California licensees participate in the occupational analysis for both national examinations.

The Board partners with the NBCC and ASWB to recruit California subject matter experts (SME) to participate in the development of the national examination. The California SMEs serve as item writers (examination questions); participate in workshops to review the items; and establish a pass score for each version of the examination.

Further, the Board’s ongoing attendance at the national professional association meetings provides the opportunity receive confidential information related to the national examination development and performance. Thus, ensuring the national examinations remain relevant for use in California.

**SECTION 2—PERFORMANCE MEASURES AND CUSTOMER SATISFACTION SURVEYS**

**PERFORMANCE MEASURE REPORTS**

For the Board’s performance measure reports as published on the DCA’s website please see:

- Section 12, Att. E, I. Enforcement-Quarterly and Annual Performance Reports Fiscal Year 2016–17.
- Section 12, Att. E, II. Enforcement-Quarterly and Annual Performance Reports Fiscal Years 2017–18 to 2018–19.
- Section 12, Att. E, III. Licensing Quarterly and Annual Performance Reports Fiscal Years 2016–17 to 2018–19. (NOTE: DCA began posting licensing performance measures in 2016–17).

**CONSUMER COMPLAINT AND CUSTOMER SATISFACTION**

Customer satisfaction for the Board is collected through two surveys: a DCA survey for consumer complaint satisfaction and a Board survey for customer satisfaction regarding Board communication. The full survey results can be found in section 12, Att. E, IV. BBS Consumer Complaint Satisfaction Results and section 12, Att. E, V. BBS Consumer Satisfaction Results.

Between 2015–16 and 2018–19 the Board received 21 responses through the DCA’s customer satisfaction survey related to consumer complaints. This response rate was extremely low compared to the volume of consumer complaints that Board receives on an annual basis.

The following is a summary of the results pertaining to the Board’s performance:

<b>DCA CONSUMER COMPLAINT SURVEY</b>	<b>VERY POOR</b>	<b>POOR</b>	<b>GOOD</b>	<b>VERY GOOD</b>
How well did we explain the complaint process?	52.38%	14.29%	28.57%	4.76%

How clearly was the outcome of your complaint explained to you?	57.4%	14.39%	23.81%	4.76%
How well did we meet the time frame provided to you?	28.57%	14.29%	42.86%	14.29%
How courteous and helpful was staff?	42.86%	19.05%	23.81%	14.29%
Overall, how well did we handle your complaint?	71.43%	14.29%	4.76%	9.52%
If we were unable to assist you, were alternatives provided to you?		YES	NO	N/A
		9.25%	66.67%	23.81%

### BOARD CUSTOMER SATISFACTION

In 2016 the Board launched its own customer satisfaction survey. The intent of the survey was to gauge customer satisfaction on how the Board communicates with applicants, licensees, and consumers. The survey was designed to capture demographic data: who is contacting the Board, the reason for contacting the Board, the method of communication. Additionally, the survey captured data on how satisfied the customer was with their experience. A link to the customer satisfaction survey is located on the Board’s website and an icon is located on the signature block of staffs’ email signatures. From 2016-17 and 2018-19 the Board received approximately 1,130 responses to its survey. The number of responses to the Board’s customer satisfaction survey were significantly higher than the number of responses to the DCA Consumer Complaint Survey.

Customers are asked the following questions and are asked to respond if they agree or disagree with the statement. Below is a summary of the results for the past three years based on a scale of one to five:

<b>BBS CUSTOMER SATISFACTION SURVEY</b>	<b>FY 16–17 (RESPONS ES)</b>	<b>FY 17–18 (RESPONS ES)</b>	<b>FY 18–19 (RESPONS ES)</b>
I was able to find the information I was looking for on the BBS website.	2.56 (618)	2.03 (251)	1.77 (167)
BBS staff responded to me in a timely manner?	2.25 (614)	2.01 (244)	2.12 (162)

BBS staff was courteous and professional?	3.32 (607)	2.89 (241)	2.91 (157)
Was able to thoroughly answer my questions and concerns?	2.76 (603)	2.33 (240)	2.28 (153)
I was satisfied with my overall experience of contacting BBS?	2.41 (599)	1.94 (233)	1.82 (149)

While the overall satisfaction levels are marginal, it is important to note that the highest rates of satisfaction were with the Board staff’s professionalism, ability to answer questions, and timely response rate. The Board prides itself on the customer services provided by its staff, but it does recognize that customers may encounter some barriers in accessing this assistance. To lessen these barriers the Board is consistently re-evaluating and implanting changes to its website, phone system, and communication methods. Recently the Board has redesigned its website, reorganized its phone tree, increased the usage of email communication, and increased the use of social media. In the upcoming years the Board will be looking at ways to communicate with applicants and licensing through the BreZE online portal.

**SECTION 2—PERFORMANCE MEASURES AND CUSTOMER SATISFACTION SURVEYS**

**FISCAL ISSUES**

Appropriation

The Board’s fund is not continuously appropriated.

Current Budget

The Board ended fiscal year 2018–19 with a reserve balance of \$449,300, which equates to 4.2 months in reserve. The Board estimates fiscal year 2019–20 reserve balance to be approximately \$96,300 equaling 0.9 months in reserve.

Budget Deficit

Currently, the Board’s budget is structurally imbalanced. To ensure the Board has sufficient resources to fund its operations, the Board has relied on General Fund loan repayments.

The Board’s fees have remained stagnant for at least 20 years. The final repayment of all General Fund loans was received by the Board in 2018. Further, effective July 1, 2019, the Board will incur an additional \$500,000 in attorney general expenses due to recent rate increases.

The Board initiated a fee audit in 2018 and contracted with CPS HR Consulting (CPS) to conduct the audit. The audit reviewed 25 main fees that represent approximately 90% of the Board’s fee

revenue; applications for registrations, licenses, examination and renewals. The audit noted that, during the last four years, while revenues for the 25 fees have increased by almost 39% the Board’s expenditures have increased by approximately 42%. This was due to a steady increase in application volume and registrant/licensee population.

As a result, the Board will propose an increase in fees in 2020 to ensure sufficient funding and reserves for its operations. The proposed fees took into consideration the impact a fee increase may have on the registrants and licensees. A higher number of staff hours are typically spent on registrants; however, registrants earn less money than licensees. Therefore, proposed fees were adjusted from fees based solely on workload in an attempt to achieve a more equitable result.

The following charts reflect the Board’s projected fund conditions without and with the proposed fee increases.

<b>TABLE 2. FUND CONDITION WITHOUT PROJECTED FEE INCREASE</b>						
						<b>FY 2021– 22</b>
Beginning Balance	\$7,752	\$5,647	\$5,624	\$4,493	\$963	-\$2,782
Revenues and Transfers	\$9,848	\$12,145	\$12,544	\$9,256	\$9,277	\$9,268
<b>Total Revenue</b>	\$9,848	\$9,145	\$9,244	\$9,256	\$9,277	\$9,268
Budget Authority*	\$12,327	\$11,607	\$12,617	\$11,823	\$12,059	\$12,300
Expenditures	\$11,452	\$11,461	\$12,617	\$11,823	\$12,059	\$12,300
Direct to Fund Charges**	\$501	\$707	\$1,058	\$963	\$963	\$963
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund (Projected)	\$0	\$665	\$389	\$0	\$0	\$0
Loans Repaid from General Fund	\$0	\$3,000	\$3,300	\$0	\$	\$0
<b>Fund Balance</b>	\$5,647	\$5,624	\$4,493	\$963	-\$2,782	-\$6,777
<b>Months in Reserve</b>	5.6	4.9	4.2	0.9	-2.5	-6.0

\*Budget authority based on bottom line in governor’s budget for respective year.

\*\*Includes Statewide Pro Rata and Financial Information System for California (Fi\$Cal) maintenance charges, etc.

<b>TABLE 2A. FUND CONDITION WITH PROJECTED FEE INCREASE</b>
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(DOLLARS IN THOUSANDS)	FY 2016–17	FY 2017–18	FY 2018–19	FY 2019–20	FY 2020–21	FY 2021–22
Beginning Balance	\$7,752	\$5,647	\$5,624	\$4,493	\$963	\$3,234
Revenues and Transfers	\$9,848	\$12,145	\$12,544	\$9,256	\$15,293	\$15,284
<b>Total Revenue</b>	\$9,848	\$9,145	\$9,244	\$9,256	\$15,293	\$15,284
Budget Authority*	\$12,327	\$11,607	\$12,617	\$11,823	\$12,059	\$12,300
Expenditures	\$11,452	\$11,461	\$12,617	\$11,823	\$12,059	\$12,300
Direct to Fund Charges**	\$501	\$707	\$1,058	\$963	\$963	\$963
Loans to General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Accrued Interest, Loans to General Fund (Projected)	\$0	\$665	\$389	\$0	\$0	\$0
Loans Repaid from General Fund	\$0	\$3,000	\$3,300	\$0	\$	\$0
<b>Fund Balance</b>	\$5,647	\$5,624	\$4,493	\$963	\$3,234	\$5,255
<b>Months in Re-serve</b>	5.6	4.9	4.2	0.9	2.9	4.7

\*Budget authority based on bottom line in governor’s budget for respective year.

\*\*Includes Statewide Pro Rata and Financial Information System for California (Fi\$Cal) maintenance charges, etc.

### General Fund Loans

Since fiscal year 2002–03 the Board made a total of three loans to the General Fund; \$6 million in 2002–03, \$3 million in 2008-09, and \$3.3 million in 2011–12, for a total of \$12.3 million dollars.

The Board received one repayment in the amount of \$1.4 million in 2013–14, \$1.0 million in 2014–15, \$1.2 million in 2015–16, \$2.4 million in 2016–17, \$3.0 million in 2017–18, and \$3.3 million in 2018–19, for a total of \$12.3 million. The estimated interest amounts total approximately \$1,054,000 for the \$3.0 million-dollar loan in 2008–09 and the \$3.3 million-dollar loan in 2011–12. These are projections based on the pooled money investment rate and an online compound interest calculator.

TABLE 3. EXPENDITURES BY PROGRAM COMPONENT (LIST DOLLARS IN THOUSANDS)								
(DOLLARS IN THOUSANDS)	FY 2015–16		FY 2016–17		FY 2017–18		FY 2018–19*	
	PS**	OE&E	PS**	OE&E	PS**	OE&E	PS**	OE&E

Enforcement	\$1,530	\$1,905	\$1,831	\$3,281	\$1,948	\$3,173	\$2,379	\$3,576
Examination	\$434	\$1,463	\$680	\$1,354	\$640	\$1,184	\$675	\$1,187
Licensing	\$1,036	\$1,463	\$1,240	\$1,354	\$1,447	\$1,184	\$1,357	\$1,187
Administration*	\$899	\$1,463	\$984	\$1,354	\$1,007	\$1,184	\$1,052	\$1,187
DCA Pro Rata	\$0	\$2,277	\$0	\$2,296	\$0	\$2,577	\$0	\$2,627
Diversion (if applicable)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>TOTALS</b>	\$3,900	\$8,573	\$4,735	\$9,635	\$5,043	\$9,302	\$5,462	\$9,762

Administration includes costs for executive staff, Board, administrative support, and fiscal services.

\*Based on prelim FM12 projections from the Budget Office.

\*\*PS=Personnel Service

#### BreZE Contributions

To date, the Board has expended \$3,248,808 for fiscal years 2009–10 through 2016–17 and projects to fully expend its allocation for 2017–18 through 2019–20 of \$2,441,000.

#### Renewal and Fee Changes

License renewal fees are all paid on a biennial basis. Registration renewal fees for associates are renewed annually. All other fees for exams and initial license are received and processed on an on-going basis. The chart below provides a history of Board fee changes over the last 10 years.

<b>TABLE 4. FEE SCHEDULE</b>		
<b>Fee</b>	<b>CURRENT FEE AMOUNT</b>	<b>STATUTORY LIMIT</b>
LMFT/LCSW/LEP/LPCC Exam Rescore	\$20.00	\$20.00
Duplicate Doc	\$20.00	\$20.00
Certification	\$25.00	\$25.00
Cite and Fine Recovery	VARIOUS	VARIOUS

Misc. to the Public	\$10.00	\$10.00
LMFT Application	\$100.00	\$100.00
MFT Intern Registration	\$75.00	\$75.00
LMFT Initial License	\$130.00	\$180.00
LMFT Law and Ethics	\$100.00	\$100.00
LMFT Written Clinical	\$100.00	\$100.00
LMFT Clinical Vignette	\$100.00	\$100.00
LCSW Written Clinical	\$100.00	\$100.00
LCSW Law and Ethics	\$100.00	\$100.00
LCSW Application	\$100.00	\$150.00
Associate LCSW Registration	\$75.00	\$75.00
LCSW Initial License	\$100.00	\$155.00
LPCC Intern Application	\$100.00	\$150.00
LPCC Initial License	\$200.00	\$250.00
LPCC Exam Application	\$180.00	\$250.00
LPCC Law and Ethics Exam	\$100.00	\$150.00
LEP Application	\$100.00	\$100.00
LEP Written Exam Re-Exam	\$100.00	\$100.00
LEP Initial License	\$80.00	\$150.00
Over/Short Fees	VARIOUS	VARIOUS
Suspended Revenue	VARIOUS	VARIOUS
LMFT Biennial Renewal	\$130.00	\$180.00
MFT Intern Annual Renewal	\$75.00	\$75.00
LMFT Inactive Renewal	\$65.00	\$90.00
LMFT Retired License	\$40.00	\$40.00
LMFT Inactive to Active	\$65.00	\$65.00
LCSW Inactive to Active	\$50.00	\$50.00
LEP Inactive to Active	\$40.00	\$40.00
LPCC Inactive to Active	\$87.50	\$87.50
LMFT Retired Restore to Active	\$130.00	\$130.00

LCSW Biennial Renewal	\$100.00	\$155.00
LCSW Inactive Renewal	\$50.00	\$77.50
LCSW Retired Restore to Active	\$100.00	\$100.00
Associate LCSW Annual Renewal	\$75.00	\$75.00
LCSW Retired License	\$40.00	\$40.00
LEP Biennial Renewal	\$80.00	\$150.00
LEP Inactive Renewal	\$40.00	\$4989.44 (See Footnote)
LEP Retired Restore to Active	\$80.00	\$80.00
LEP Retired License	\$40.00	\$40.00
LPCC Intern Annual Renewal	\$100.00	\$150.00
LPCC Retired Restore to Active	\$175.00	\$175.00
LPCC Biennial Renewal	\$175.00	\$250.00
LPCC Inactive Renewal	\$87.50	\$4999.112 (See Footnote)
LPCC Retired License	\$40.00	\$40.00
Over/Short Fees	VARIOUS	VARIOUS
LMFT Inactive Renewal Delinquent Fee	\$65.00	\$90.00
LMFT Delinquent Fee	\$65.00	\$90.00
LCSW Inactive Renewal Delinquent Fee	\$50.00	\$75.00
LCSW Renewal Delinquent Fee	\$50.00	\$75.00
LEP Inactive Renewal Delinquent Fee	\$40.00	\$75.00
LEP Renewal Delinquent Fee	\$40.00	\$75.00
LPCC Renewal Delinquent Fee	\$87.50	\$87.50

**TABLE 4B. REVENUE**

<b>FEE</b>	<b>FY 2015– 16 REVENUE</b>	<b>FY 2016– 17 REVENUE</b>	<b>FY 2017– 18 REVENUE</b>	<b>FY 2018– 19 REVENUE</b>	<b>% OF TOTAL REVENUE</b>
LMFT/LCSW/LEP/LPCC Exam Rescore	\$140.00	\$20.00	\$80.00	\$40.00	0.00%

Duplicate Doc	\$45,440.0 0	\$46,900.0 0	\$52,720.0 0	\$56,320.0 0	0.60%
Certification	\$25,675.0 0	\$27,925.0 0	\$32,300.0 0	\$38,491.0 0	0.41%
Cite and Fine Recovery	\$45,675.0 0	\$77,650.0 0	\$104,090. 00	\$97,360.0 0	1.03%
Misc. to the Public	\$830.00	\$450.00	\$6,710.00		0.00%
LMFT Application	\$261,900. 00	\$269,500. 00	\$302,400. 00	\$308,150. 00	3.27%
MFT Intern Registration	\$299,400. 00	\$292,425. 00	\$288,000. 00	\$286,527. 50	3.04%
LMFT Initial License	\$225,420. 00	\$293,670. 00	\$328,120. 00	\$382,250. 00	4.06%
LMFT Law and Ethics	\$552,000. 00	\$1,054,30 0.00	\$580,700. 00	\$459,475. 00	4.87%
LMFT Written Clinical	\$188,600. 00	\$0.00	\$0.00	\$0.00	0.00%
LMFT Clinical Vignette	\$277,700. 00	\$552,600. 00	\$520,400. 00	\$477,800. 00	5.07%
LCSW Written Clinical	\$75,100.0 0	\$0.00	\$0.00	\$0.00	0.00%
LCSW Law and Ethics	\$458,300. 00	\$878,500. 00	\$509,500. 00	\$460,500. 00	4.89%
LCSW Application	\$173,100. 00	\$206,700. 00	\$253,200. 00	\$257,674. 00	2.73%
Associate LCSW Registration	\$257,100. 00	\$267,525. 00	\$269,775. 00	\$280,390. 75	2.97%
LCSW Initial License	\$113,200. 00	\$182,800. 00	\$191,600. 00	\$238,100. 00	2.53%
LPCC Intern Application	\$99,200.0 0	\$105,700. 00	\$109,900. 00	\$120,600. 00	1.28%
LPCC Initial License	\$17,600.0 0	\$22,200.0 0	\$34,400.0 0	\$49,200.0 0	0.52%

LPCC Exam Application	\$37,980.0 0	\$42,660.0 0	\$58,140.0 0	\$68,240.0 0	0.72%
LPCC Law and Ethics Exam	\$60,100.0 0	\$133,200. 00	\$118,100. 00	\$124,800. 00	1.32%
LEP Application	\$12,300.0 0	\$11,800.0 0	\$12,500.0 03	\$15,400.0 0	0.16%
LEP Written Exam Re-Exam	\$17,800.0 0	\$17,300.0 0	\$19,800.0 0	\$21,775.0 0	0.23%
LEP Initial License	\$4,240.00	\$4,640.00	\$4,160.00	\$8,320.00	0.09%
Over/Short Fees	\$0.00	\$0.00	\$0.00	\$24.00	0.00%
Suspended Revenue	\$0.00	\$0.00	\$0.00	\$10,611.3 4	0.11%
LMFT Biennial Renewal	\$1,934,27 0.00	\$2,059,33 0.00	\$2,119,52 0.00	\$2,291,97 2.50	24.32%
MFT Intern Annual Renewal	\$1,042,80 0.00	\$913,800. 00	\$821,100. 00	\$781,675. 00	8.29%
LMFT Inactive Renewal	\$155,805. 00	\$160,030. 00	\$162,370. 00	\$134,800. 00	1.43%
LMFT Retired License	\$5,240.00	\$4,640.00	\$5,120.00	\$4,920.00	0.05%
LMFT Inactive to Active	\$7,215.00	\$8,515.00	\$7,020.00	\$7,150.00	0.08%
LCSW Inactive to Active	\$2,000.00	\$3,350.00	\$2,150.00	\$3,100.00	0.03%
LEP Inactive to Active	\$200.00	\$480.00	\$280.00	\$400.00	0.00%
LPCC Inactive to Active	\$175.00	\$437.50	\$350.00	\$612.50	0.01%
LMFT Retired Restore to Active	\$390.00	\$260.00	\$520.00	\$260.00	0.00%
LCSW Biennial Renewal	\$907,200. 00	\$947,900. 00	\$1,007,20 0.00	\$1,127,28 0.00	11.96%
LCSW Inactive Renewal	\$67,500.0 0	\$69,350.0 0	\$73,150.0 0	\$56,160.0 0	0.60%
LCSW Retired Restore to Active	\$300.00	\$200.00	\$100.00	\$0.00	0.00%
Associate LCSW Annual Renewal	\$813,000. 00	\$716,850. 00	\$661,275. 00	\$695,625. 00	7.38%
LCSW Retired License	\$2,440.00	\$2,600.00	\$2,320.00	\$2,800.00	0.03%



			(In- clude Class)	(In- clude Class)				
1111-002	FY 2019-20	Position authorization in the Board's Examination and Cashiering Units	2 Total 1 (MST), 1 (OT)	2 Total 1 (MST), 1 (OT)	\$0	\$0	\$0	\$0
#1111-013	FY 2019-20	Special Fund Budget Augmentation in the Board's Administration Unit (AB 93)	1 (MST)	1 (MST)	\$75,000	\$75,000	\$7,000	\$7,000
#1111-002	FY 2016-17	Special Fund Budget Augmentation in the Board's Examination Unit (Adjustment to Exam Vendor Contract)	-	-	\$0	\$0	\$1,482,000	\$1,482,000
#1111-007	FY 2016-17	Special Fund Budget Augmentation in the Board's Licensing and Examination Units	8 Total 1 (SSA), 3 (MST), 2 (OT), 2 (OA)	8 Total 1 (SSA), 3 (MST), 2 (OT), 2 (OA)	\$525,000	\$525,000	\$8,000	\$8,000
#1111-007	FY 2016-17	Position Authorization in the Board's Licensing Unit	.5 (MST)	.5 (MST)	\$0	\$0	\$0	\$0

## STAFFING ISSUES

Currently, the Board has authorization for 62.8 staff positions. The Board received approval for a total of 11.5 additional staff positions in fiscal years 2016–17 and 2019–20, which allowed the Board to make critical and positive changes to the organizational structure to ensure that the Board's mission and business operational needs are met.

### Vacancies

The Board currently has eight vacancies and has initiated recruitment efforts to fill the following positions; 1 Staff Services Manager II; 1 Staff Services Manager I (Licensing and Examination Unit); 1 Staff Services Analyst (Probation and Discipline Unit) 2 Management Services Technician (Licensing and Examination Unit), 1 Office Technician (Licensing Unit), 1 Office

Technician (Cashiering Unit), and 1 Office Technician (Probation and Discipline Unit). Most of these positions were held vacant to achieve savings and avoid a budget shortfall for 2018–19. The Board has reclassified several positions over the years to align the tasks with appropriate civil service classifications. Each vacancy is evaluated in conjunction with the Board’s operational needs. If appropriate, the vacancy is reclassified or reassigned to another unit. The Board makes every effort to fill the vacancies to provide the highest level of customer service possible with its existing resources.

**Reclassification of Positions and Organizational Realignment**

In 2017, the Board reorganized its Licensing and Examination Units to create two separate units—the Licensing Unit and the Examination Unit. Each unit directly reporting to a separate manager. In 2018, the Board reclassified an existing position to add a third manager to its Enforcement Unit. The Enforcement Unit was reorganized to create three separate units—Consumer Complaint Unit; Subsequent Arrest and Criminal Conviction Unit; and Discipline and Probation Unit. Each unit directly reports to a separate manager.

These changes allow the Board to efficiently address increasing workload and sufficient oversight of Board operations.

**Staff Turnover and Retention**

In the past four years, the Board has averaged a 7% vacancy rate. The average vacancy rate is due to the need to hold positions open to achieve budget savings, staff retirements, and staff departures for promotional opportunities. The Board provides a safe and productive work environment that is flexible, positive, and supportive of staff development. The longevity of employment with the Board by many of the current staff speaks well of the Board’s retention efforts. Currently, 22% of the Board’s staff have been with the Board 10 years or more.

<b>VACANCY RATE*</b>					
<b>FISCAL YEAR</b>	<b>2015–16</b>	<b>2016–17</b>	<b>2017–18</b>	<b>2018–19</b>	<b>AVERAG E</b>
Vacancies	3	5.5	1	6	
Authorized Positions	51.2	58.7	58.2	58.2	
Vacancy Rate	6%	9%	2%	10%	7%

\*Budget authority based on bottom line in governor's budget for respective year.

\*\*Includes Statewide Pro Rata and Financial Information System for California (Fi\$Cal) maintenance charges, etc.

### Succession Planning

The Board recognizes the importance of institutional knowledge and succession planning. Procedure manuals for each position incorporate this knowledge and provide the staff member with not only the necessary tasks, but also an understanding of the Board's objectives and goals. The Board maintains and updates procedure manuals to ensure consistency of operations and to transfer knowledge when vacancies occur.

Staff development and mentoring is vital to succession planning. In addition to the training available, as special projects arise, staff is afforded the opportunity to participate. These opportunities provide staff the experience necessary to qualify for promotional opportunities within the Board. The Board also cross-trains staff and uses DCA Solid Training courses to improve the skills of its employees to prepare them for additional duties and career development. Board management also provides one on one training regarding the components to submit a complete job application and offers mock interviews to staff.

### **ANNUAL STAFF DEVELOPMENT COSTS**

The Board continually encourages and promotes staff development. These efforts include courses through DCA SOLID Training and Planning Solutions; group activities to promote awareness at quarterly staff meetings; providing informational sessions related to upward mobility; and meeting individually with staff members to develop their skills.

Since the last sunset review, the Board has averaged nearly \$3,000 annually on staff training. Many of the training courses staff elects to attend are offered through DCA SOLID training, which is funded through the Board's pro rata. However, staff is not limited to courses through DCA SOLID training and may select other training courses through various vendors.

### **SECTION 4—LICENSING PROGRAM**

#### **PERFORMANCE TARGETS/EXPECTATIONS**

The performance targets for the licensing program are from CCR, title 16, Division 18, Article 1, section 1805.1, "Application Processing Times." On average, the Board has been able to meet its performance targets for 2015–16 to 2018–19. While the processing goals have been met, the Board is consistently

seeking ways to improve performance in order to address the seasonal high-volume periods (i.e., graduation season) and to mitigate for an overall increase in applications received.

<b>APPLICATION</b>	<b>PROCESSING TIMES (BUSINESS DAYS)</b>	<b>AVERAGE PROCESSING TIMES FY 18–19</b>
Associate Marriage and Family Therapist Registration	30 Days	19 Days
Associate Clinical Social Worker Registration	30 Days	19 Days
Associate Professional Clinical Counselor Registration	30 Days	20 Days
Licensed Marriage and Family Therapists Application for Licensure	60 Days	55 Days
Licensed Clinical Social Worker Application for Licensure	60 Days	51 Days
Licensed Professional Clinical Counselor Application for Licensure	60 Days	17 Days
Licensed Educational Psychologist Examination Eligibility Application	60 Days	13 Days
Initial License Issuance	30 Days	7 Days

<b>LMFT LICENSING DATA</b>						
<b>MARRIAGE AND FAMILY THERAPIST</b>		Received	Approved	Total (Close of FY)	Cycle Times	
					Complete Apps	Incomplete Apps
FY 2015– 16	Registration	3,976	3,570	406	24	42
	Law and Ethics Exam	5,779	5,280	499	41	77
	Clinical Exam	3,994	2,501	1,493	33	67
	License	2,266	2,174	92	12	21
FY 2016– 17	Registration	3,189	2,868	321	25	52
	Law and Ethics Exam	8,754	8,737	17	12	124
	Clinical Exam	4,262	3,139	1,123	50	104

	License	2,898	2,892	6	14	39
FY 2017–18	Registration	3,060	2,815	245	25	52
	Law and Ethics Exam	3,415	3,413	2	11	215
	Clinical Exam	3,378	2,038	1,340	54	107
	License	3,233	3,213	20	14	24
<b>LMFT LICENSING DATA</b>						
<b>MARRIAGE AND FAMILY THERAPIST</b>		Received	Approved	Total (Close of FY)	Cycle Times	
					Complete Apps	Incomplete Apps
FY 2018–19	Registration	4,118	3,876	242	19	39
	Law and Ethics Exam	3,141	3,139	2	7	127
	Clinical Exam	4,135	2,187	1,948	55	112
	License	3,060	3,041	19	8	18

<b>LCSW LICENSING DATA</b>						
<b>LICENSED CLINICAL SOCIAL WORKER</b>		Received	Approved	Total Pending (Close of FY)	Cycle Times	
					Complete Apps	Incomplete Apps
FY 2015–16	Registration	3,421	2,981	440	23	41
	Law and Ethics Exam	4,701	4,260	441	36	79
	Clinical Exam	1,558	765	793	20	81
	License	1,475	1,376	99	14	0
FY 2016–17	Registration	2,736	2,576	160	22	51
	Law and Ethics Exam	7,301	7,203	98	14	89
	Clinical Exam	2,929	2,138	791	43	100
	License	2,383	2,378	5	14	28
FY 2017–18	Registration	3,235	2,998	237	23	48
	Law and Ethics Exam	3,341	3,256	85	11	80
	Clinical Exam	2,436	1,349	1,087	59	96

	License	2,457	2,447	10	14	41
FY 2018– 19	Registration	3,985	3,766	219	19	40
	Law and Ethics Exam	3,329	3,249	80	8	77
	Clinical Exam	3,377	2,328	1,049	51	90
	License	2,452	2,442	10	7	41
<b>LPCC LICENSING DATA</b>						
<b>LICENSED PROFESSIONAL CLINICAL COUNSELOR</b>		Received	Approved	Total (Close of FY)	Cycle Times	
					Complete Apps	Incomple e Apps
FY 2015– 16	Registration	989	643	346	21	73
	Law and Ethics Exam	557	476	81	41	77
	Clinical Exam	80	34	46	53	59
	License	66	98	0	14	0
FY 2016– 17	Registration	888	585	303	29	114
	Law and Ethics Exam	1,131	1,103	28	14	204
	Clinical Exam	198	114	84	32	68
	License	143	142	1	17	31
FY 2017– 18	Registration	977	694	283	26	103
	Law and Ethics Exam	847	811	36	11	168
	Clinical Exam	266	148	118	24	66
	License	33	33	0	16	50
FY 2018– 19	Registration	1,435	1,160	275	20	84
	Law and Ethics Exam	910	876	34	9	121
	Clinical Exam	387	277	110	17	241
	License	246	246	0	19	0

<b>LEP LICENSING DATA</b>						
<b>LICENSED EDUCATIONAL PSYCHOLOGIST</b>		Received	Approved	Total (Close of FY)	Cycle Times	
					Complete Apps	Incomple e Apps

FY 2015–16	Exam	124	70	54	21	51
	License	66	62	4	11	0
FY 2016–17	Exam	112	80	32	17	44
	License	83	82	1	14	32
FY 2017–18	Exam	131	71	60	13	62
	License	62	62	0	14	0
FY 2018–19	Exam	206	147	59	13	68
	License	110	110	0	7	0

<b>TOTAL LICENSING DATA</b>				
	<b>FY 2015–16</b>	<b>FY 2016–17</b>	<b>FY 2017–18</b>	<b>FY 2018–19</b>
<b>INITIAL LICENSING DATA:</b>				
Initial License/Initial Exam Applications Received	29,052	37007	26871	30891
Initial License/Initial Exam Applications Approved	24,290	34037	23348	26844
License Issued	10,904	11,523	12,262	14,641
<b>INITIAL LICENSE/INITIAL EXAM PENDING APPLICATION DATA:</b>				
Pending Applications (Total at Close of FY)	4,794	3,207	3,798	4,047
Pending Applications (Outside of Board Control)*	N/A	N/A	N/A	N/A
Pending Applications (Within the Board Control)*	N/A	N/A	N/A	N/A
<b>INITIAL LICENSE/INITIAL EXAM CYCLE TIME DATA (WEIGHTED AVERAGE):</b>				
Average Days to Application Approval (All—Complete/Incomplete)	42	55	57	49
Average Days to Application Approval (Incomplete Applications)*	48	77	79	76
Average Days to Application Approval (Complete Applications)*	37	33	35	23
<b>LICENSE RENEWAL DATA:</b>				

License Renewed	49,930	52,646	54,559	66,273
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Note: The values in Table 7b are the aggregates of values contained in Table 7a.

\*Optional. List if tracked by the Board.

### **AVERAGE PROCESSING TIMES**

On average the Board has recognized an overall increase in applications. The data for 2016–17 reflects a one-time increase in applications due to the examination restructure that occurred on January 1, 2016. The examination restructure required all registrants, current and new, to take the California Law and Ethics Examination. As a result, the Board had a considerable increase in these application for 2015–16 and 2016–17. For all other applications other than the Law and Ethics Examination, the Board has recognized an approximate 25% increase in application volume and in the last fiscal year the increase was approximately 19%.

The Board’s pending applications have not exceeded the rate of completed applications. For the last four fiscal years the Board has averaged 4,000 pending applications per year or 13% of all the applications received. While some of these pending applications are due to a delay in processing times, most of them are pending due to the applicant’s deficiencies that are not in the Board’s control. The rate of deficient applications is a concern for the Board, not only as it causes delay in licensure, but it also puts additional strain on the Board’s resources by requiring redundant application reviews and multiple and/or duplicative communications with the applicant.

Applicant education, effective communication, and efficient processing procedures are paramount in reducing this deficiency rate. To better educate the applicants and licensees on legal requirements, the Board redesigned its website in 2016 and continues to seek improvements to ensure a direct path to information. The Board has also begun using social media as another outlet to answer the more frequently asked questions or provide tips to ensuring a complete application. Also, the licensing unit has begun using email as a primary source of communication as it provides a more efficient way to reach the applicants and to address deficiencies that are normally addressed through general mail correspondences. Lastly, the Board is working to capitalize on the online functionality of BreEZe in order to make the submittal of applications easier for the applicants.

The greatest performance barrier that the Board encounters is staff vacancies— specifically, a vacancy in the licensing evaluator staff. These staff members are responsible for reviewing and analyzing the applications for the clinical exams, which are the last examinations required for licensure. Any vacancy in the licensing evaluator position will result in increased processing times.

Once the vacancy is filled, onboarding the new staff member takes approximately two months until they are independently able to approve these applications. To address this issue the Board is considering restructuring the licensing unit, cross training on a wider scale and revising applications to reduce the evaluation complexities.

**ANNUAL LICENSE/REGISTRATION ISSUANCE**

On average the Board issues approximately 12,333 licenses each year. This includes the associate registration licenses as well as the full professional licenses. Over the past fiscal years, the Board has seen a 9% average increase in licenses issued. Overall the Board has seen a steady increase of at least 4% per year for the total licensing population. The Board has seen the greatest increase in License Clinical Social Workers (19%) and License Professional Clinical Counselors (29%) during the last fiscal years.

<b>TABLE 6. LICENSEE POPULATION</b>					
		<b>FY 2015– 16</b>	<b>FY 2016– 17</b>	<b>FY 2017– 18</b>	<b>FY 2018– 19</b>
Associate Marriage and Family Therapists	Active	19,783	13,938	12,876	12,689
	Delinquent	N/A	5,226	4,738	3,924
Associate Clinical Social Workers	Active	15,784	11,051	11,306	11,929
	Delinquent	N/A	4,472	4,313	3,933
Associate Professional Clinical Counselor	Active	1,940	1,933	2,306	2,736
	Delinquent	N/A	668	1,172	1,472
Licensed Marriage and Family Therapist	Active	40,360	34,535	37,020	39,084
	Current Inactive	N/A	4,475	4,610	4,327
	Delinquent	N/A	2,566	2,647	3,089
	Retired	N/A	129	122	129
Licensed Clinical Social Worker	Active	24,197	21,334	23,569	25,432
	Current Inactive	N/A	2,545	2,672	2,452
	Delinquent	N/A	1,402	1,482	1,819
	Retired	N/A	72	57	76
	Active	1,390	1,363	1,532	1,761
	Current Inactive	N/A	86	124	135

Licensed Professional Clinical Counselor	Delinquent	N/A	37	71	61
	Retired	N/A	0	1	2
Licensed Educational Psychologist	Active	2,195	1,328	1,312	1,349
	Current Inactive	N/A	448	445	424
	Delinquent	N/A	284	281	306
	Retired	N/A	5	9	10
	<b>TOTAL POPULATION</b>	105,649	107,691	112,476	116,922

**DENIAL OF LICENSE OR REGISTRATIONS BASED ON CRIMINAL HISTORY**

The Board denied a total of 197 applications for registrations or licensure over the past four years based on criminal history that is determined to be substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC section 480. The Board carefully considers each conviction on a case-by-case basis. Determining whether or not a conviction is substantially related to the qualifications, functions, or duties of the professions requires an evaluation of the facts, circumstances of the conviction(s), dates, and rehabilitation efforts, in balance with the standard of care and practice of the profession.

The Board receives a high number of applications in which the applicant has a prior or multiple alcohol related conviction(s). The Board considers the length of time that has passed since the conviction(s); reviews the circumstances of the conviction(s) such as blood alcohol level and if they were on their way to or from work; alcohol containers or other substances in the vehicle; all rehabilitation activities and efforts the applicant has taken to ensure the conviction(s) will not reoccur. The Board balances this information with the standard of care that is expected from a mental health professional and the practice setting in which mental health care is delivered to ensure consumers are protected.

Please see chart below for a breakdown:

<b>TOTAL LICENSING DATA</b>					
<b>TYPE OF CONVICTIONS</b>	<b>FY 2015–16</b>	<b>FY 2016–17</b>	<b>FY 2017–18</b>	<b>FY 2018–19</b>	<b>TOTAL</b>
Sex Related Convictions	0	2	1	0	3
Theft and Fraud	4	13	13	4	34
DUI/Alcohol Related	9	42	44	38	133

Battery/Assault	2	4	5	5	16
Multiple Convictions	3	2	3	0	8
Possession of Drugs	1	0	1	0	2
Murder/Manslaughter	0	0	1	0	1
<b>Total Applications Denied Based on Criminal History</b>	<b>19</b>	<b>63</b>	<b>68</b>	<b>47</b>	<b>197</b>

## VERIFICATION OF APPLICANT INFORMATION

### Prior Criminal History or Disciplinary Actions

Current law requires applicants to declare, under penalty of perjury, whether they have ever been convicted of, pled guilty to or pled nolo contendere to, any misdemeanor or felony. Applicants must also declare, under penalty of perjury, whether they have been denied a professional license or had license privileges suspended, revoked or disciplined, or if they have ever voluntarily surrendered a professional license in California or other state. If an applicant reports such an act, the Board requires the applicant to provide a written explanation, documentation relating to the conviction or disciplinary action, and rehabilitative efforts or changes made to prevent future occurrences.

The Board uses a variety of methods to determine the accuracy of an applicant's declarations. For criminal conviction history, California law authorizes the Board to conduct criminal record background checks to help determine the eligibility of a person applying for a license or registration. The Board requires all applicants to submit fingerprints through the Department of Justice (DOJ) which then provides the Board's authorized personnel with access to information contained in the DOJ's Criminal Offender Record Information Database (CORI). The Board requires both a DOJ and Federal Bureau of Investigation (FBI) criminal history background check on all applicants for licensure or registration.

The Board has denied a total of 40 applications for registration or licensure over the last four years based on the applicant's failure to disclose information on the application. In most the cases, the applications are not denied solely on the basis that the applicant failed to disclose information on their application. Rather, the applications are denied in conjunction with the fact that the applicant had a conviction(s) or prior disciplinary action that is substantially related to the qualifications, functions, or duties of the profession, pursuant to BPC section 480.

### Fingerprinting

All applicants are required to submit fingerprints prior to the issuance of a license or registration. The application is held until both the DOJ and the FBI have issued fingerprint clearances.

In the *2015 Sunset Report*, the Board reported that all current licensees have been fingerprinted. However, the Board subsequently discovered in 2018 that there are some licensees, who were fingerprinted after they were notified of the new fingerprint requirement in 2009, did not have fingerprint results after their DOJ or FBI results were rejected. The Board has created a report in the BreZE system which identifies licensees who do not have both DOJ and FBI fingerprint results at the time the licensee renews his/her license. The licensee is then notified in writing that they are not in compliance with the Board's fingerprint requirements. The licensee is given 30 days to submit fingerprints to the Board. If the licensee does not comply, the Board will issue a citation with a fine and order of abatement.

#### National Data Bank

The Healthcare Integrity and Protection Databank is the national databank relating to disciplinary boards. Information contained in the databank is provided by state regulatory agencies and other entities that are required to report disciplinary information. However, not all entities consistently comply with the reporting requirement. Therefore, the information may be either nonexistent or out of date. The Board or the applicant is required to pay a fee for each query prior to receiving a response.

In 2012 the Board discussed using the national databank as an additional tool to verify an applicant's background. The Board examined the limitations and the fees associated with the databank. After considering these factors, the Board was unclear if using this tool would provide any additional benefit.

Currently, the Board verifies an out-of-state applicant's licensure status through other state regulatory boards. This verification process also provides any disciplinary history, if it exists. For verification of in-state licensure status, the Board can check for prior disciplinary actions through the DCA BreZE System.

At each renewal, all licensees and registrants are required to report to the Board any conviction or disciplinary action taken against their license or registration during the last renewal cycle. Once notified of the conviction or disciplinary action, the Board requests all relevant documentation to determine if any action by the Board is necessary.

#### Primary Source Documentation

The Board requires a sealed transcript from the applicant's educational institution in order to verify and document that educational requirements have been met. Additionally, the Board

requires licensure certifications from the other state licensing board when an applicant has held an out-of-state license.

## **OUT-OF-STATE AND OUT-OF-COUNTRY APPLICANTS LICENSING REQUIREMENTS**

Currently, the Board does not have reciprocity with any other state licensing board. However, the passage of Senate Bill 679 (Bates, Chapter 380, Statutes of 2019) will significantly revise the process for an out-of-state licensed applicant to improve license portability between states. The provisions in the bill eliminate many of the existing requirements in law, such as evaluating the applicant's supervised work experience. This bill becomes effective January 1, 2020.

Until this bill becomes effective, any person from another state seeking licensure as an LMFT, LCSW, LEP, or LPCC in California is required to demonstrate compliance with all California licensing requirements, pass the required licensing examinations and apply for licensure. The statutory requirements for out-of-state or out-of-country applicants are as follows:

### Licensed Marriage and Family Therapists

The Board may issue a license to a person who, at the time of applying for licensure, holds a valid registration or license issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or county, if all the following requirements are satisfied:

- The applicant's education is substantially equivalent.
- An applicant for licensure or registration with a degree obtained from an education institution outside the United States shall provide the Board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation services (NACES) and shall provide other documentation the Board deems necessary.
- The applicant's supervised experience is substantially equivalent to that required for a license under the Board. The Board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license in another state or country.
- Completion of specific additional coursework.
- Attainment of 18 years of age.
- The applicant passes the examinations required to obtain a license.

### Licensed Clinical Social Workers

The Board may issue a license to any person who, at the time of application, holds a valid active clinical social work registration or license issued by a board of clinical social work examiners of corresponding authority of any state; if the person passes the licensing examinations required by licensing statutes and pays the required fees, and if all of the following requirements are satisfied:

- The applicant's master's degree is from an accredited school of social work.
- Attainment of 21 years of age.
- The applicant's experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent.
- Completion of specific additional coursework.
- An applicant for licensure or registration trained in an educational institution outside the United States shall demonstrate to the satisfaction of the Board that he or she possesses a Master of Social Work degree that is equivalent to a master's degree issued from school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work Education.
- The applicant passes the examinations required to obtain a license.

#### License Educational Psychologists

The Board may issue a license as an educational psychologist if the applicant satisfies the following requirements:

- Possession of, at minimum, a master's degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent. This degree shall be obtained from an educational institution accredited by Western Association of Schools and College; Northwest Association of Secondary and Higher Schools; Middle States Association of Colleges and Secondary Schools; New England Association of Colleges and Secondary Schools; North Central Association of Colleges and Secondary Schools; and Southern Association of Colleges and Schools.
- An applicant for licensure trained in an educational institution outside the United States shall possess a degree that has been evaluated by the Credentials Evaluation Service of the International Education Research Foundation Inc. for equivalency to the required degrees.
- Attainment of 18 years of age.
- Successful completion of 60 semester hours of postgraduate work in pupil personnel services.
- Two years of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public school.

- One year of supervised professional experience in an accredited school psychology program; or one year of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools obtained under the direction of a Licensed Educational Psychologist or a Licensed Psychologist.
- The applicant passes the examination required to obtain a license.

### Licensed Professional Clinical Counselors

The Board may issue a license to a person who, at the time of submitting an application for licensure holds a valid registration or license as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction, if all of the following requirements are satisfied:

- The applicant's master's degree is counseling or psychotherapy in content and is substantially equivalent.
- The applicant's experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent.
- Completion of specific additional coursework.
- An applicant for licensure or registration trained in an educational institution outside the United States shall demonstrate to the satisfaction of the Board that he or she possesses a qualifying degree that is equivalent to a degree earned from an institution of higher education that is accredited or approved. These applicants shall provide the Board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services and shall provide any other documentation the Board deems necessary.
- The applicant passes the examinations required to obtain a license.

## **MILITARY EDUCATION, TRAINING, AND EXPERIENCE**

### Veteran Applicant Tracking

In May 2015, the Board changed all registration and examination eligibility applications to inquire whether the applicant is serving or had ever served in the U.S. armed forces or the California National Guard. In 2017, DCA revised the BreZE system so that boards could collect and maintain statistics on applicants who are veterans or spouses of veterans.

### Accepting Military Education, Training, or Experience

The Board is not aware of any instance in which an individual submitted military education and/or experience towards licensure. This information is not tracked by the Board and there is not a common provider of military education or experience that the Board sees cited on

incoming applications. The Board may occasionally see supervised experience obtained at an out-of-state military base. This experience may be accepted by the Board if it can determine that the supervision was substantially equivalent, and upon verification that the supervisor is an equivalently licensed acceptable professional who has been licensed at least two years in his or her current jurisdiction and is in good standing.

The U.S. Army Medical Service Corps lists two types of behavioral health job descriptions on its website. These are:

- **Social Workers**—Army Social Workers practice within a broad spectrum of practice areas and settings. Appointment as a social worker requires a master’s degree in social work with emphasis in clinical practice from a program accredited by the Council on Social Work Education. The social worker must also have a state license in social work that allows clinical independent practice.
- **Clinical Psychologists**—Army clinical psychology officers provide a full range of psychological services to soldiers, family member and military retirees. Assignment options include major medical centers, community hospitals and clinics. Appointment as a clinical psychologist requires a doctorate in clinical or counseling psychology, a clinical psychology internship at an APA accredited program, and an unrestricted license to practice clinical or counseling psychology in the United States.

Aside from utilizing social workers or clinical psychologists who are already state-licensed, the Board has not been made aware of any programs that offer training to those seeking licensure as a psychotherapist. If such a program were presented to the Board, it would need to be evaluated to see if the education and experience gained met current licensing requirements.

#### Conformance with BPC Section 35

The Board has very specific requirements for education and experience in its licensing laws. Currently, if an applicant for registration of licensure had military education and experience, the Board would conduct a review to determine whether the experience/education was substantially equivalent to current licensing requirements. This would be done on a case-by-case basis, depending on the specific characteristics of the individual’s education and experience.

#### Fee Waivers Pursuant to BPC Section 114.3

Pursuant to BPC section 114.3, the Board has waived the renewal requirements and fees for two registrants and two licensees; with a minimal impact of \$370 for fiscal year 2014–15.

#### Applications Expedited Pursuant to BPC Section 115.5

Pursuant to BPC section 115.5, the Board was not required to begin expediting applications until July 2016; however, it was determined that this would not be difficult to implement therefore the Board began expediting applications for military veterans and their spouses in January 2015. Since January 2015 the Board has expedited 1,320 applications for military veterans and 71 applications for military veterans’ spouses.

**DOJ NO LONGER INTERESTED NOTIFICATIONS**

The Board sends No Longer Interested (NLI) notifications to DOJ on a consistent basis electronically. Currently there is a backlog that can be attributed to system changes that were implemented to enhance the automation of this process. In 2018 the Board discovered that certain records were erroneously being NLI’d by the system. The system is still flagging records that meet the established system requirements for being NLI’d, but the Board has temporarily put a hold on these notifications being sent to DOJ until staff is able to verify their validity. Staff is currently sending notifications to DOJ for records that they can confirm meet the NLI criteria. Also, the Board will be working with the Department’s Office of Information Services’ BreEze team to make the necessary changes to allow the Board to use the system automated NLI feature.

**EXAMINATIONS**

TABLE 8A: CALIFORNIA EXAMINATIONS (LMFT/LCSW)								
LICENSE TYPE		LMFT				LCSW		
Exam Title		Std.	CV	Clinical	Law and Ethics	Std.	CV	Law and Ethics
FY 2015–2016	# of First-Time Candidates	1,786	1,691	966	3,376	1,135	878	2,503
	Pass %	69%	78%	83%	80%	68%	85%	82%
FY 16–17	# of First-Time Candidates	N/A	N/A	4,110	10,493	N/A	N/A	8,593
	Pass %	N/A	N/A	67%	69%	N/A	N/A	71%
FY 2017–18	# of First-Time Candidates	N/A	N/A	3,362	3,853	N/A	N/A	3,520
	Pass %	N/A	N/A	69%	77%	N/A	N/A	80%

FY 2018–19	# of First-Time Candidates	N/A	N/A	3,029	3,266	N/A	N/A	3,513
	Pass %	N/A	N/A	73%	81%	N/A	N/A	80%
Date of Last OA		N/A	N/A	2019	2015	N/A	N/A	2015
Name of OA Developer		OPES	OPES	OPES	OPES	OPES	OPES	OPES
Target OA Date		N/A	N/A	2024	2020	N/A	N/A	2020

**TABLE 8B: CALIFORNIA EXAMINATIONS (LPCC/LEP)**

EXAM TITLE		LAW AND ETHICS	STD.
FY 2015–16	# of First-Time Candidates	208	88
	Pass %	84%	53%
FY 2016–17	# of First-Time Candidates	1,105	109
	Pass %	67%	69%
FY 2017–18	# of First-Time Candidates	799	100
	Pass %	66%	58%
FY 2018–19	# of First-Time Candidates	834	113
	Pass %	72%	68%
Date of Last OA		2018	2015
Name of OA Developer		OPES	OPES
Target OA Date		2023	2020

**TABLE 8C: NATIONAL EXAMINATION DATA**

EXAM TITLE		LAW AND ETHICS	STD.
EXAM TITLE		CLINICAL	NCMHCE
FY 2015–16	# of First-Time Candidates	649	83
	Pass %	89%	96%
FY 2016–17	# of First-Time Candidates	2,589	146
	Pass %	82%	77%
FY 2017–18	# of First-Time Candidates	2,638	207

	Pass %	76%	77%
FY 2018–19	# of First-Time Candidates	2,425	233
	Pass %	75%	71%
Date of Last OA		2016	2019
Name of OA Developer		ASWB	NBCC
Target OA Date		2021	2021

### Examinations Required for Licensure

LMFT, LCSW, and LPCC candidates are required to take and pass two examinations for licensure. LMFT candidates are required to take and pass the California Law and Ethics Examination and a clinical examination. The Law and Ethics Examination consists of 75 questions and a clinical examination consists of 170 questions. Both the LMFT Law and Ethics Examination and the LMFT Clinical Examination are developed by the Board.

LCSW candidates are required to take and pass both the California Law and Ethics examination and the Association of Social Work Boards (ASWB) national examination. The California Law and Ethics Examination consists of 75 questions and is developed by the Board. The ASWB National Examination consists of 170 items.

LPCC candidates must take and pass a California Law and Ethics examination and the National Clinical Mental Health Counseling Examination (NCMHCE). The NCMHCE is administered and developed by the National Board of Certified Counselors (NBCC). The California Law and Ethics Examination consists of 75 questions and the NCMHCE consists of 10 clinical mental health counseling cases.

LEP candidates are only required to take and pass the LEP Written Examination, which consists of 125 questions. This written examination is developed by the Board. LEPs are not required to take a separate California Law and Ethics examination because these items are incorporated in the LEP Written Examination.

The Board works year-round with the Office of Professional Examination Services and Board subject matter experts to develop its examinations. The examinations are multiple-choice and are administered electronically at sites throughout the state. All Board examinations are offered in English only. However, an applicant for whom English is a second language, may receive additional time to take the examinations, if they meet specific criteria demonstrating limited English proficiency.

### Pass Rates

The pass rates for first time vs. retakes are reflected in Table 8a-c. As previously noted, all Board examinations are in English.

### Computer Based Testing

All Board examinations are administered using computer-based testing. Once the Board approves a candidate's application, the Board sends the candidate's information to the contracted testing vendor. The candidates are sent information that instructs them to contact the testing vendor to schedule the examination. Currently the Board's testing vendors offer multiple testing sites throughout California and many out-of-state sites at which candidates can schedule to take these examinations. The Board's current testing vendor for Board-developed examinations offers testing six days a week (Monday through Saturday), year-round, except major holidays. NBCC offers the NCMHCE examination Monday through Friday on authorized dates. Specifically, the NCMHCE examination is offered the first two weeks of every month. ASWB (LCSW national examination vendor) is offered to candidates at testing centers worldwide. Most test centers are open Monday through Friday during customary business hours, and many centers are open on Saturday.

### Statutes Hindering the Processing of Applications and/or Examinations

The Board has not identified any current statutes that are hindering the processing of applications or examinations.

## **SCHOOL APPROVALS**

### Legal Requirements Regarding School Approval

The Board does not approve schools. The Board will confirm a school's degree program contains coursework that satisfies the educational requirements for licensure. This curriculum review was previously conducted by an educational subject matter expert. In 2019, the Board and the Bureau for Private Postsecondary Education (BPPE) entered a Memorandum of Understanding to authorize BPPE to conduct the curriculum review.

Applicants for licensure as a Licensed Marriage and Family Therapist ("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 of Marriage and Family Therapy Education; or,
- A regional accrediting agency recognized by the U.S. Department of Education.

Applicants for licensure as a Licensed Clinical Social Worker (“LCSW”) must obtain a master’s degree from a school of social work, accredited by the Commission on Accreditation of the Council on Social Work Education.

LEP licensure candidates must obtain a master’s degree from a regionally accredited university. Regionally accredited schools include:

- Western Association of Schools and Colleges
- Northwest Association of Secondary and Higher Schools
- Middle States Association of Colleges and Secondary Schools
- New England Association of Colleges and Secondary Schools
- North Central Association of Colleges and Secondary Schools
- Southern Association of Colleges and Schools

Applicants for licensure as a Licensed Professional Clinical Counselor (“LPCC”) must obtain a doctor’s or master’s degree from a school, college, or university approved by or accredited by the following entities:

- BPPE;
- Western Association of Schools and Colleges, or,
- A regional accrediting agency recognized by the U.S. Department of Education.

#### Approved Schools

As previously stated, the Board does not approve schools. Rather, the Board verifies the educational institution has coursework within the degree program that satisfies California licensure requirements.

#### International School Approval

As previously stated, the Board does not approve schools. Rather, the Board verifies the educational institution has coursework within the degree program that satisfies California licensure requirements.

### **CONTINUING EDUCATION/COMPETENCY**

#### Continuing Education/Competency Requirements

Current law requires all licensees of the Board, as a condition of biennial licensure renewal, to complete 36 hours of continuing education (CE) in, or relevant to, the licensee’s respective field of practice (BPC section 4980.54, 4989.34, 4996.22, and 4999.76). An individual must only complete 18 hours of CE in his/her initial license renewal period (title 16, CCR section 1887.11).

An exemption from the CE requirement exists if the licensee meets one of the following criteria:

- His/her license is inactive (BPC section 4984.8, 4989.44, 4997 or 4999.1 12).
- For at least one year during the licensee’s previous license renewal period the licensee was absent from California due to his or her military service.
- For at least one year during the licensee’s previous license renewal period the licensee resided in another country.
- 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.

There are no changes the continuing education requirements since the last report.

The Board has the authority to conduct audits to determine compliance with the CE requirements. The Board does not use the Department’s cloud for this process.

Each month a random number of licensees are selected for an audit. The licensee is notified in writing of their selection for the audit and provided a due date to submit copies of the continuing education 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 that are in compliance 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.

### Continuing Education Audits

The chart below represents the number of CE audits conducted in the past four fiscal years. The overall average percentage of licensees who fail the audit is 27%.

<b>CONTINUING EDUCATION AUDITS</b>				
<b>FY</b>	<b>PASS</b>	<b>FAIL</b>	<b>TOTAL</b>	<b>% FAIL RATE</b>
2015– 16	191	66	257	26%

2016– 17	497	176	673	26%
2017– 18	675	277	952	29%
2018– 19	338	118	456	26%

Continuing Education Course Approval Policy

The Board does not approve specific CE courses. Board-recognized approval agencies approve specific CE courses.

Continuing Education Providers

Effective July 1, 2015, the Board ceased approving CE providers and courses. The decision was made following an extensive review of the Board’s existing CE program and national professional association CE programs. As a result, the Board determined that the national professional associations’ CE program was far more robust and provided the best opportunity for licensees to gain CEs relevant to their practice. Board licensees may obtain CE from one of the following:

- a. An accredited or approved postsecondary institution that meets the requirements set forth in sections 4980.54(f)(1), 4989.34(b)(1), 4996.22(d)(1), or 4999.76(d) of the BPC.
- b. A Board-recognized approval agency or a continuing education provider that has been approved or registered by a Board-recognized approval agency. Listed below are the Board-recognized approval agencies:
  - National Association of Social Workers (NASW)
  - Association of Social Work Boards (ASWB)
  - National Board for Certified Counselors (NBCC)
  - National Association of School Psychologists (NASP)
  - American Psychological Association (APA)
  - California Association of Marriage and Family Therapists (CAMFT)
  - California Psychological Association (CPA)
- c. An organization, institution, association or other entity that is recognized by the Board as a continuing education provider. Listed below are the Board-recognized continuing education providers:

- American Association for Marriage and Family Therapy (AAMFT)
- American Association for Marriage and Family Therapy-California Division (AAMFT-CA)
- California Association for Licensed Professional Clinical Counselors (CALPCC)
- California Association for Marriage and Family Therapists (CAMFT)
- National Association of Social Workers-California Chapter (NASW-CA)
- California Society for Clinical Social Work (CSCSW)
- California Association of School Psychologists (CASP)
- California Psychological Association (CPA)
- California Counseling Association (CCA)
- American Counseling Association (ACA)

#### Continuing Education Provider Audits

The Board's statutes and regulations provide the authority for the Board to audit the course records of CE providers for compliance with CE course requirements. To date, the Board has not received any complaints regarding a CE provider.

#### Board Efforts to Review Continuing Education Policy

As reported in the prior sunset review, in 2012 the Board established the Continuing Education Program Review Committee to conduct a comprehensive review of the Board's Continuing Education Program. The committee held a series of meetings with stakeholders to discuss improving the quality of continuing education, ensuring the coursework was relevant to the practice of Board licensees, and ensuring compliance with the legislative intent of continuing education.

As a result, the Board ceased approving CE providers in July 2015. In lieu of obtaining CE from Board-approved CE providers, the Board established a list of recognized approval agencies and professional associations where licensees may obtain CE. The Board is aware of efforts to consider performance-based assessments of a licensee's continuing competency. Performance based assessments may be appropriate measurement in other health profession work settings. Board licensees work in environments in which their work is not typically observed by other licensed professionals. Therefore, this practice may not be conducive to this type of an assessment.

## **SECTION 5—ENFORCEMENT PROGRAM**

### **ENFORCEMENT PERFORMANCE TARGETS/EXPECTATIONS**

In 2010, DCA developed standard performance measures for each board and bureau to assess the effectiveness of its enforcement program. DCA established an overall goal to complete consumer complaints within 12 to 18 months (Performance Measure 4). Each board and bureau is responsible for determining its performance target for the remaining performance measures to achieve the

12- to 18-month goal. The Board’s performance targets are reflected in the following table.

DCA set the performance target for PM 4 at 540 days (18 months). Achieving PM 4 is dependent upon the staffing and workload of outside agencies, such as the Attorney General’s Office (AGO) and the Office of Administrative Hearings (OAH). Any workload and/or staffing issues at the AGO and the OAH are not within the Board’s control.

However, as reported during the March 2019 and May 2019 Board Meetings, the Board is meeting PM 4. In March 2019, the average number of days to complete consumer complaints resulting in formal discipline was 506 days and 370 days in May 2019. The reduction in the overall average days to complete these cases may be attributed to the additional staff positions at the AG office and the two staff positions in the Enforcement Unit dedicated to actively monitor all cases referred to the AGO. To ensure the Board continues to meet the performance targets, the Enforcement managers conduct regular meetings with staff to discuss caseloads and case aging to identify any barrier to complete the case in a timely manner.

<b>PERFORMANCE MEASURE (PM)</b>	<b>DEFINITION</b>	<b>PERFORMANCE TARGET</b>	<b>ACTUAL FY 2018–19</b>
PM 1 Volume	Number of Complaints Received.	*	*
PM 2 Cycle Time	Average Number of Days to Complete Complaint Intake.	10 days	7 days
PM 3 Cycle Time	Average Number of Days to Complete Closed Cases Not Resulting in Formal Discipline.	180 days	53 days
PM 4 Cycle Time	Average Number of Days to Complete Cases	540 days	514 days

	Resulting in Formal Discipline.		
PM 5 Efficiency (Cost)	Average Cost of Intake and Investigation for Complaints Not Resulting in Formal Discipline.	**	**
PM 6 Customer Satisfaction	Consumer Satisfaction With the Service Received During the Enforcement Process.	75% Satisfaction	***
PM 7 Cycle Time (probation monitoring)	Average Number of Days From the Date a Probation Monitor is Assigned to a Probationer to the Date the Probation Monitor Makes First Contact.	10 days	6 days
PM 8 Initial Contact Cycle Time (Probation Monitoring)	Average Number of Days from the Time a Violation is Reported to the Program to the Time the Assigned Probation Monitor Responds.	7 days	1 day
2017-18	675	277	952

\*Complaint volume is counted and is not considered a performance measure.

\*\*The BreEZe system does not capture this data at this time.

\*\*\*Due to lack of consumer response, data is not available for this measure.

## ENFORCEMENT DATA

On average the Board receives over 2500 consumer complaints and criminal conviction notifications each year. The increased enforcement workload coincides with the Board's increasing licensee population. This is evidenced by the increased number of accusations and statement of issues filed; number of attorney general cases initiated, and the number of

stipulations issued. To better manage the increasing workload, the Board reorganized its Enforcement Unit to separate the three enforcement activities. The Board created the Consumer Complaint and Investigations Unit, Criminal Conviction Unit, and the Discipline and Probation Unit. Each of these units reports directly to a separate manager.

The Board utilizes the expertise of subject matter experts to review Board cases in determining if a violation of law occurred. These subject matter experts review the evidence obtained during the Board investigation and consider the standard of care for the profession in determining if a violation occurred. Further, the subject matter experts provide testimony at an administrative hearing, when appropriate. The subject matter expert’s role is vital to the Board’s mandate to protect the public.

Therefore, the Board continues to recruit subject matter experts and provides expert reviewer training to licensees. The training includes an overview of the complaint process; overview of the administrative disciplinary process; report writing, and testifying at an administrative hearing. These efforts ensure the Board has a sufficient number of subject matter experts to review Board cases.

The Board continues to evaluate workload data and procedures to identify the resources necessary to improve the enforcement program. The additional resources will be requested through the appropriate process. The following tables reflect the Board’s enforcement statistics.

<b>TABLE 9A. ENFORCEMENT STATISTICS</b>				
	<b>FY 2015–16</b>	<b>FY 2016–17</b>	<b>FY 2017–18</b>	<b>FY 2018–19</b>
<b>COMPLAINT</b>				
Intake				
Received	1121	1418	1375	1701
Closed	251	513	411	639
Referred to INV	876	879	1000	1058
Average Time to Close	7	6	8	10
Pending (Close of FY)	5	31	42	57
Source of Complaint				
Public	870	918	873	1113
Licensee/Professional Groups	8	2	2	3

Governmental Agencies	3	45	8	20
Other	1215	1587	1661	1883
Conviction/Arrest				
CONV Received	975	1134	1169	1318
CONV Closed	0	0	0	0
Average Time to Close	4	2	2	3
CONV Pending (Close of FY)	3	4	2	3
<b>LICENSE DENIAL</b>				
License Applications Denied	21	78	85	64
SOIs Filed	31	32	56	56
SOIs Withdrawn	7	3	1	2
SOIs Dismissed	0	0	0	0
SOIs Declined	0	0	0	0
Average Days SOI	572	621	483	650
<b>ACCUSATION</b>				
Accusations Filed	96	99	152	100
Accusations Withdrawn	6	4	5	4
Accusations Dismissed	0	0	0	0
Accusations Declined	0	0	0	0
Average Days Accusations	712	795	668	664
Pending (Close of FY)	162	182	205	119
<b>DISCIPLINE</b>				
Disciplinary Actions				
Proposed/Default Decisions	37	26	42	62
Stipulations	58	88	84	126
Average Days to Complete	646	785	664	717
AG Cases Initiated	150	182	219	146
AG Cases Pending (Close of FY)	162	182	205	119
Disciplinary Outcomes				
Revocation	27	21	39	50

Voluntary Surrender	17	50	42	54
Suspension	0	0	0	0
Probation with Suspension <sup>1</sup>	1	0	1	0
Probation <sup>2</sup>	57	66	92	85
Probationary License Issued	N/A	N/A	N/A	N/A
Other	8	11	16	22
<b>PROBATION</b>				
New Probationers	64	66	92	85
Probations Successfully Completed	5	11	8	17
Probationers (Close of FY)	126	115	159	182
Petitions to Revoke Probation	9	17	14	24
Probations Revoked	4	5	5	4
Probations Modified	3	6	4	15
Probations Extended	5	1	1	9
Probationers Subject to Drug Testing	N/A	N/A	88*	124
Drug Tests Ordered	N/A	N/A	1568*	3750
Positive Drug Tests	N/A	N/A	217*	418
Petition for Reinstatement Granted	0	6	1	1
<b>DIVERSION</b>				
New Participants	N/A	N/A	N/A	N/A
Successful Completions	N/A	N/A	N/A	N/A
Participants (Close of FY)	N/A	N/A	N/A	N/A
Terminations	N/A	N/A	N/A	N/A
Terminations for Public Threat	N/A	N/A	N/A	N/A
Drug Tests Ordered	N/A	N/A	N/A	N/A
Positive Drug Tests	N/A	N/A	N/A	N/A

\*The Board contracted with First Source Solutions to conduct biological testing on January 1, 2018. Data was unable to be provided by the previous vendor (Phamatech) from July 1, 2015, through December 31, 2017.

**TABLE 9B. ENFORCEMENT STATISTICS (CONTINUED)**

	FY 2015–16	FY 2016–17	FY 2017–18	FY 2018–19
<b>INVESTIGATION</b>				
All Investigations				
First Assigned	2016	2195	2442	2618
Closed	2088	2341	2485	2636
Average Days to close	169	168	118	118
Pending (Close of FY)	478	368	329	289
Desk Investigations				
Closed	1964	2248	2418	2554
Average Days to Close	97	85	69	44
Pending (Close of FY)	430	353	306	248
Non-Sworn Investigation				
Closed	81	67	67	82
Average Days to Close	137	140	100	110
Pending (Close of FY)	25	15	23	41
Sworn Investigation				
Closed	43	26	11	9
Average Days to Close	272	277	141	149
Pending (Close of FY)	23	8	5	4
<b>COMPLIANCE ACTION</b>				
ISO and TRO Issued	0	0	0	0
PC 23 Orders Requested	2	1	1	4
Other Suspension Orders	0	0	0	0
Public Letter of Reprimand	1	1	1	3
Cease and Desist/Warning	0	0	0	0
Referred for Diversion	N/A	N/A	N/A	N/A
Compel Examination	1	0	1	0
<b>CITATION AND FINE</b>				
Citations Issued	93	167	286	172
Average Days to Complete	77	113	112	67

Amount of Fines Assessed	\$174,450	\$108,400	\$186,150	\$112,000
Reduced, Withdrawn, Dismissed	\$84,800	\$11,900	\$36,050	\$15,600
Amount Collected	\$24,750	\$83,700	\$97,490	\$54,900
<b>CRIMINAL ACTION</b>				
Referred for Criminal Prosecution	0	0	1	0

<b>TABLE 2A. FUND CONDITION WITH PROJECTED FEE INCREASE</b>						
	<b>FY 2015– 16</b>	<b>FY 2016– 17</b>	<b>FY 2017– 18</b>	<b>FY 2018– 19</b>	<b>CASES CLOSED</b>	<b>AVERAG E %</b>
<b>ATTORNEY GENERAL CASES (AVERAGE %)</b>						
Closed Within:						
0–1 Year	14	14	41	90	159	24%
1–2 Years	60	52	74	89	275	41%
2–3 Years	36	42	55	35	168	25%
3–4 Years	22	14	18	6	60	9%
Over 4 Years	5	0	0	0	5	1%
Total Attorney General Cases Closed	137	122	188	220	667	
<b>INVESTIGATIONS (AVERAGE %)</b>						
Closed Within:						
90 Days	1271	1371	1887	2161	6690	73%
91–180 Days	503	492	396	194	1585	17%
181–1 Year	237	220	149	80	686	7%
1–2 Years	49	50	51	22	172	2%
2–3 Years	28	6	2	1	37	0%
Over 3 Years	0	0	0	0	0	0%
Total Investigation Cases Closed	2088	2139	2485	2458	9170	

Enforcement Data Trends

The Board's enforcement workload continues to increase. Since the 2015 sunset review, the total number of statement of issues and accusations filed has increased by 23%. The total number of final disciplinary actions (proposed/default decisions and stipulations) has increased by 98%. The final disciplinary actions resulted in a 33% increase in new probationers monitored by the Board.

The reorganization of the Enforcement Program has allowed the Board to keep pace with the increased workload.

### Case Prioritization

The Board developed its Complaint Prioritization Guidelines in 2009 using the DCA model guidelines for health care agencies. Although similar to the DCA model, the Board modified the complaint categories in the DCA guidelines to reflect the subject areas unique to the Board.

Using these guidelines, complaints are reviewed by Board staff and categorized. 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. These complaints receive the immediate attention of the Enforcement manager to initiate the appropriate action.

Complaints categorized as "high" involve allegations of serious misconduct, but the licensee's or registrant's actions do not necessarily pose an immediate risk to the public's health, safety, or welfare. "Routine" complaints involve possible violations of the Board's statutes and regulations, but the licensee's or registrant's actions do not pose a risk to the public's health, safety, or welfare.

### Mandatory Reporting Requirements

Listed below are the mandatory reporting requirements:

- BPC section 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 section 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 section 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 his or her negligence, error or omission in practice, or by rendering of unauthorized professional services.
- BPC section 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 section 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 all convictions since their last renewal.

Although 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.

During the last four fiscal years, the Board only received a total of 12 reports for settlement or arbitration award. The average amount of the award paid on behalf of the licensee is \$57,000.00.

### Case Settlements

After concluding its investigation and determining that a violation of the statutes and regulations has occurred, the Board determines the appropriate penalty based on the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (USRSADG). The guidelines provide a minimum and maximum penalty based on a violation category. The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation. The USRSADG apply in all cases in which a license or registration is placed on probation due in part to a substance abuse violation.

For cases referred to the AGO which the Board would consider settling, the Board will provide proposed settlement terms based on USRSADG with the referral. The intent of this procedure is to engage in settlement discussions with the respondent after the respondent receives notice of the proposed disciplinary action.

The Board does not settle a case prior to an accusation or statement of issues being filed. Since the Board implemented providing settlement terms at the time a case is referred to the AGO, the number of voluntary surrenders has increased. In fiscal year 2014–15 the Board reported 17 voluntary surrenders. In 2018–19 the Board had 54 voluntary surrenders for a 217% increase. Additionally, the number of stipulations has increased from 50 in 2015–16 to 126 in 2018–19 for a 152% increase.

Pre-Accusation Settlements vs. Hearings

The Board does not enter into settlement agreements with licensees prior to the filing of an accusation.

Post-Accusation Settlements vs. Hearings

The table below reflects the number of cases, post-accusation, that the Board has settled compared to the number that resulted in a hearing. For the past four years the Board has settled an average of 78% of cases.

	FY 2015–16	FY 2016–17	FY 2017–18	FY 2018–19
<b>ACCUSATION</b>				
Cases Settled	78	104	120	132
Cases to Hearing	32	14	37	39
Overall % of Settled Cases	71%	88%	76%	77%

Statutes of Limitations

The Board is subject to a statute of limitations period as set forth in BPC section 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 the incident date, whichever occurs first. Cases regarding procurement of a license by fraud or misrepresentation are not subject to the limitations.

An accusation alleging sexual misconduct must be filed within three years after the Board discovers the act or omission alleged as the ground for disciplinary action, or within 10 years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first. In cases involving a minor patient, the 7- and 10-year limitation is tolled until the child reaches 18 years of age.

The Board implemented monitoring procedures to ensure that limitation deadlines are identified and that cases are monitored closely through the review and investigation process. If a case is forwarded for formal investigation, the investigator is informed of the limitation deadline and staff frequently follows up with the assigned investigator to track the progress. If violations are confirmed and the case is transmitted to the AGO, the deputy attorney general assigned to the case is informed of the limitations deadline to ensure prompt filing of charges. In the last four years the Board has not lost jurisdiction on a case due to the statute of limitations period.

### Unlicensed Activity

The Board provides several publications and information to consumers on its website relating to the selection of a mental health practitioner and verification of an individual's license status. Any complaint received by the Board related to unlicensed activity is investigated. Investigations confirming unlicensed activity result in the Board issuing a citation and fine up to \$5,000 to the unlicensed individual or referring the case to the local district attorney's office for appropriate action.

## **CITATION AND FINE**

### Cite and Fine Authority

A citation and fine order is an alternative means by which the Board can take an enforcement action against a licensed or unlicensed individual who is found to be in violation of the Board's statutes and regulations. The citation and fine program increases the effectiveness of the Board's disciplinary process by providing a more effective method to address relatively minor violations that normally would not warrant more serious license discipline to protect the public. Citations and fine orders are not considered formal disciplinary actions, but they are matters of public record. BPC section 125.9 authorizes the Board to issue citations and fines for certain types of violations. A licensee or registrant who fails to pay the fine cannot renew his/her

license until the fine is paid in full. The Board has not increased its maximum fine since the last sunset review.

### Cite and Fine Authority Usage

A citation and fine is appropriate if an investigation substantiates a violation of the Board's statutes and regulations, but the violation does not warrant formal disciplinary action. A citation and fine order contains a description of the violation, an order of abatement which directs the subject to discontinue the illegal activity, a fine (based on gravity of the violation, intent of the subject and the history of previous violations), and procedures for appeal. Payment of a fine does not constitute an admission of the violation charged, but only as satisfactory resolution of the citation and fine order.

Frequently, citations are issued for violations related to unlicensed practice, practicing with an expired license, record keeping, failing to complete the required continuing education courses within a renewal period, advertising violations or failure to provide treatment records in accordance with the law.

In assessing a fine, the Board, considers the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.

### Informal Conferences and/or Administrative Procedure Act Appeals

An individual to whom a citation is issued may choose to appeal his/her case at an informal office conference. The informal office conference is a forum for the individual to provide information or mitigation not previously considered by the Board.

Documentary evidence such as sworn witness statements and other records will be accepted. The individual can be present at the informal office conference with or without counsel or he or she may choose to be represented by counsel alone. All information submitted will be considered. The Board may affirm, modify, or withdraw the citation. Most citations are uncontested and result in full payment.

Since the last review the Board has averaged two informal office conferences per month. There have been 98 informal conferences in the last four fiscal years. During this same time period the Board received four requests for an administrative hearing to appeal the citation and fine.

### Five Most Common Violations That Elicit Citations

The five most common violations for which citations are issued are as follows:

- Failure to complete specific continuing education coursework requirements.
- Failure to maintain patient confidentiality.

- Providing services for which licensure is required.
- Misrepresentation as to the type or status of a license or registration held.
- Misrepresentation as to the completion of continuing education requirements.

Average Fine Pre- and Post-Appeal

	<b>FY 2015– 16</b>	<b>FY 2016– 17</b>	<b>FY 2017– 18</b>	<b>FY 2018– 19</b>
Average Pre- Appeal	\$1,741. 67	\$1,306. 00	\$1,298. 00	\$1,485. 00
Average Post Appeal	\$1,237. 50	\$1,296. 00	\$1,329. 00	\$1,385. 00

Franchise Tax Board Intercepts to Collect Outstanding Fines

A licensee who fails to pay an uncontested fine cannot renew his/her license until the fine is paid in full. In addition, the Board utilizes the Franchise Tax Board Intercept Program which allows tax returns to be intercepted as payment for any outstanding fines. Typically, uncollected fines are related to unlicensed individuals that the Board has limited information on to pursue collection.

**COST RECOVERY AND RESTITUTION**

Efforts to Obtain Cost Recovery

Pursuant to BPC section 125.3, the Board is authorized to request that its licensees who are disciplined through the administrative process reimburse the Board for its costs of investigating and prosecuting the cases. The Board seeks cost recovery regardless of whether the case is settled by stipulation or proceeds to an administrative hearing.

Probationers are afforded a payment schedule to satisfy the cost recovery. However, compliance with cost recovery is also a condition of probation. Noncompliance with this condition may result in the case returning to the AGO to seek revocation or to extend the probation term until the cost recovery is made in full.

Cost Recovery Ordered and Uncollected

During the settlement process, the Board will frequently offer to reduce costs as an incentive to settle a case prior to a hearing. This strategy is beneficial to all parties in that hearing costs and time to resolve the matter are reduced, the individual may continue to practice while on probation, and the individual's violations and probation terms are publicly disclosed sooner.

Probationers are required to pay the cost recovery ordered as a condition of probation and must be paid in full prior to the end of probation. The Board establishes a payment schedule for probationers to pay their cost recovery, spreading the payments throughout the probation term.

Cost recovery is not always collected in disciplinary cases that resulted in the surrender of a license. Often, one of the terms in the final order accepting the license surrender requires that the cost recovery must be paid in full, if the individual were to reapply to the Board. In these situations, the individual may never reapply, and the Board will not collect the cost recovery.

#### Cost Recovery Not Ordered

The Board seeks cost recovery in every formal disciplinary case although administrative law judges often reduce the amount of cost recovery payable to the Board. The Board's request is made to the administrative law judge who presides over the hearing. The administrative law judge may award full or partial cost recovery to the Board or may reject the Board's request for cost recovery.

#### Franchise Tax Board Intercepts to Collect Cost Recovery

The Board does use the Franchise Tax Board to collect cost recovery. As noted previously, most of the cost recovery ordered is directly related to probationers. All probationers must pay cost recovery in full prior to the completion of their probation term.

#### Efforts to Obtain Restitution

Pursuant to Government Code section 11519, the Board may impose a probation term requiring restitution. In cases regarding violations involving economic exploitation or fraud, restitution is a necessary term of probation. The Board may require that restitution be ordered in cases regarding Medi-Cal or other insurance fraud. In addition, restitution would be ordered in cases where a patient paid for services that were never rendered or the treatment or service was determined to be negligent. No restitution has been ordered since the Board's last sunset review.

<b>TABLE 11. COST RECOVERY (LIST DOLLARS IN THOUSANDS)</b>
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	<b>FY 2015– 16</b>	<b>FY 2016– 17</b>	<b>FY 2017– 18</b>	<b>FY 2018– 19</b>
Total Enforcement Expenditures	3,435,870	\$5,111,728	\$5,121,179	\$5,954,025**
Potential Cases for Recovery*	99	121	128	150
Cases Recovery Ordered	92	99	95	120
Amount of Cost Recovery Ordered	281,348.28	293,460.53	480,297.94	732,158.88
Amount Collected	54,806.61	55,160.61	37,316.37	56,830.38

\* “Potential Cases for Recovery” are those cases in which disciplinary action has been taken based on violation of the license practice Act.

\*\* Based on prelim FM12 projections from the Budget Office.

<b>TABLE 12. RESTITUTION (LIST DOLLARS IN THOUSANDS)</b>				
	<b>FY 2015– 16</b>	<b>FY 2016– 17</b>	<b>FY 2017– 18</b>	<b>FY 2018– 19</b>
Amount Ordered	0	0	0	0
Amount Collected	0	0	0	0

## **SECTION 6—PUBLIC INFORMATION POLICIES**

### **BOARD WEBSITE**

The Board’s website is the main platform used to post upcoming Board activities and noteworthy changes to policies and procedures. There is a page on the Board’s website that is dedicated to Board and committee meetings. Agendas for meetings are placed on the website a minimum of 10 calendar days before the meeting. Meeting materials are posted to the website not less than two calendar days before the meeting. Along with posting the meeting materials on the website, the Board utilizes a Listserv email to notify subscribers, and posts this information on Facebook and Twitter.

On the Board’s meetings page, all upcoming meeting dates and materials as well as the webcast and materials of past meeting are available. Meeting materials from the past five years currently exist on the Board’s website. The draft meeting minutes are usually posted with the subsequent meeting materials and, once approved by the Board, they are posted to the

website. Within the last few years the Board has contracted with a transcription service to make the meeting minutes process more efficient and expedient.

### **BOARD WEBCASTING**

All Board meetings and various committee meetings are webcasted. The Board plans to continue this practice. The Board maintains webcast of its meetings for approximately four years.

### **BOARD MEETING CALENDAR**

The Board does post an annual meeting calendar. This annual Board calendar is usually finalized in November and posted soon thereafter.

### **CONSUMER COMPLAINT DISCLOSURE**

The Board's compliant disclosure policy is consistent with the DCA Recommended Minimum Standards for Consumer Complaint Disclosure and well as the DCA's Web Site Posting of Accusation and Disciplinary Actions. Discipline documents are attached to the licensee electronic record and appear on their verification page on DCA license lookup. A list of the accusations and disciplinary actions are posted quarterly to the Board's "Latest Enforcement Actions" website page and are included in the quarterly Board newsletter.

### **PUBLIC INFORMATION DISCLOSED BY THE BOARD**

Through the DCA license lookup, the Board provides the following licensee information to the public:

- License type and number.
- License status (current, inactive, delinquent, cancelled, retired, revoked).
- Issuance date.
- Expiration date.
- Address of record.
- Accusation filed, accusation withdrawn.
- Probation, probation terminated.
- Citation issued.
- Administrative citations public records.
- Administrative discipline actions public records.

## **CONSUMER OUTREACH AND EDUCATION METHODS**

Outreach and education are provided to the consumer through the website, social media, the Board's newsletter, and in person. In 2016 the Board redesigned the website to increase accessibility to information and is currently working with DCA's Office of Public Affairs (OPA) to develop additional web content that will include instructional videos. Over the last two years the Board has increasingly utilized Facebook and Twitter to alert the public about upcoming Board meetings and to distribute important information about licensing requirements and applicant tips. The Board is working closely with OPA to develop a formalized messaging plan. Also, Board staff regularly attend industry conferences and symposiums by phone or in person (See section 12, Att. F, Board Outreach Events). We are consistently encouraging applicants and licensee to follow the board on Facebook and Twitter and to sign up with the Board's subscriber list so that they can stay informed about Board Meetings and notices.

The Board has updated its consumer brochure, "Therapy Never Includes Sexual Behavior" (formally, "Professional Therapy Never Includes Sex"), which required collaboration with the California Psychology Board, Medical Board of California, and the Osteopathic Medical Board of California.

## **SECTION 7—ONLINE PRACTICE ISSUES**

Over the last few years the practice of online therapy has become increasingly prevalent. Californians are now able to access therapy services through the internet as well as through phone applications. Reflecting this trend, Board staff continues to receive an increasing number of inquiries regarding the lawful practice of telehealth. At this time, the Board has not identified any major issues with unlicensed activity.

Currently the Board licensing law offers little guidance regarding telehealth practice. The law requires a valid state license in marriage and family therapy, clinical social work, educational psychology, or clinical counseling, respectively, before a person can engage in the practice of any of these professions in this state. Also, a licensee or registrant in California may provide online therapy service to clients in another jurisdiction only if they meet the requirements to lawfully provide online services in that jurisdiction if the jurisdiction allows online services.

In 2019 the Board will establish a telehealth committee to engage stakeholders in discussion to gain a better understating of the benefits and possible downfalls of telehealth. The goal of the committee will be to establish new regulations, if necessary, and to establish guidelines for the practice of telehealth for the Board's licensees.

## **SECTION 8—WORKFORCE DEVELOPMENT**

## **AND JOB CREATION**

### **BOARD ACTIONS REGARDING WORKFORCE DEVELOPMENT**

In 2017 the Board established its License Portability Committee. The purpose of the committee was to review existing licensure requirements for California and other state agencies as they pertain to improving license portability. Holding meetings throughout the state, the Board and its stakeholders developed language to improve license portability.

In 2018, the Board sponsored Senate Bill 679 (Bates, Chapter 380, Statutes of 2019). This bill removes barriers for out-of-state licensed applicants and provides an efficient pathway to licensure. The bill becomes effective January 1, 2020.

### **ASSESSMENT OF THE IMPACT OF LICENSING DELAYS**

The Board continually evaluates its processes to identify opportunities for efficiencies. The additional staff in the Licensing Unit provides the Board with sufficient resources to keep pace with the volume of applications it receives. Any delays in processing are a result of staff vacancies in the Licensing Unit.

### **EFFORT TO WORK WITH SCHOOLS TO INFORM APPLICANTS OF LICENSING REQUIREMENTS AND PROCESS**

The Board continues its efforts to keep schools informed about licensure requirements and the licensure process. To this end, Board staff participates in quarterly meetings with the Marriage and Family Therapy Consortium Group meetings throughout the state. This group is comprised of educators who routinely meet to discuss the education and training of students for licensure as a Licensed Marriage and Family Therapist (LMFT). Board staff provides a quarterly update regarding matters that may affect LMFT students, registrants, and licensees. The update is frequently provided through a conference call or on occasion, in person.

Annually, Board staff attends the University of Southern California School of Social Work and California Society for Clinical Social Work Licensure Event. The event is designed specifically to inform students and recent graduates regarding the licensure process.

Further, the Board notifies all schools of any change to the licensure requirements that may impact potential licensees. This written notification is sent to the school's program director.

### **BARRIERS TO LICENSURE OR EMPLOYMENT**

The Board believes that the passage of Senate Bill 679 (Bates, Chapter 380, Statutes of 2019) eliminates all existing barriers to licensure in California.

## **WORKFORCE DEVELOPMENT DATA**

The Board does not collect data regarding workforce shortages or training programs.

## **SECTION 9—CURRENT ISSUES**

### **IMPLEMENTATION OF THE UNIFORM STANDARDS FOR SUBSTANCE ABUSING LICENSEES**

The Board's regulation package to implement the Uniform Standards for Substance Abusing Licensees became effective October 1, 2015.

### **IMPLEMENTATION OF THE CONSUMER PROTECTION ENFORCEMENT INITIATIVE REGULATIONS**

The Board's regulation package to implement the Consumer Protection Enforcement Initiative (CPEI) became effective July 1, 2013.

### **PARTICIPATION IN DEVELOPMENT OF BREEZE**

The Board was part of Release 1 for the BreEZe data system. Release 1 was implemented on October 8, 2013. Since 2013, the Board has added several online features such as license renewals, payment of citation and fines, and online submission for the California Law and Ethics examination.

The Board submitted and received several approvals for modifications to the BreEZe system to comply with legislation impacting the BreEZe program as well as modifications to existing processes.

The Board continues to evaluate the BreEZe system to improve the user experience and existing transaction processes.

## **SECTION 10—BOARD ACTION AND RESPONSE TO PRIOR SUNSET ISSUES**

### **ISSUE #1:**

**Does BBS have the funds to hire additional staff as requested in its fiscal year 2016–17 Budget Change Proposal?**

#### Committee Comments

BBS should provide the committees with an update on its fund condition and provide an explanation for the increase in its long-term fund balance. In addition, BBS should update the committees as to whether it anticipates changes to the time frame for the repayment of loans to the General Fund.

### Board Response

The Board has the funds to hire the additional staff as requested in its 2016–17 Budget Change Proposal. Three of the positions requested are new for the Board. The remaining positions have incumbents and are either limited term, temporary, or are staff borrowed from the Department of Consumer Affairs. These 5.5 positions are currently funded by the Board by redirecting resources.

As of February 23, 2016, the Board’s fund condition reflects a reserve balance for 2015–16 of 5.7 months (\$5,386,000), 9.9 months (\$9,549,000) in 2016–17, and 7.4 months in 2017–18. These projections reflect three General Fund loan repayments of \$3,600,000 in 2015–16 and \$6,300,000 in 2016–17 and contribute significantly to the Board’s projected reserves. At this time the Board is not aware of any changes to the General Fund loan repayment schedule.

### Board Update

As of 2018–19 all General Fund loans were repaid to the Board.

### **ISSUE #2:**

**How will implementation of the examination restructure impact licensing and application processing? Does BBS anticipate delays?**

### Committee Comments

BBS should explain to the committees what impacts it anticipates this year and in future years as result of the examination restructure. In addition, BBS should explain to the committees what, if any, plans or procedures it has in place if its current BCP request for 2016–17 is partially approved or not approved at all. How does BBS plan to address potential backlogs?

### Board Response

The Board does not anticipate any unusual delays related to licensing and application processing as a result of the examination restructure. To ensure that the Board maintains reasonable processing times for all applications, the Board requested and received two staff positions in 2015–16 for the examination restructure.

These two positions are dedicated to the examination unit and will process the Law and Ethics Examination applications. Further, the Board has requested additional positions for 2016–17. These positions are currently included in the governor’s budget. The three positions will be dedicated to cashiering, mail and phone support, and approving requests for testing accommodations pursuant to the Americans with Disabilities Act, and will also address the workload created by the examination restructure.

Approval of the Board's request for additional positions in 2016–17 ensures that the examination restructure will not adversely impact licensing and application processing.

If the Board's request is not approved in full or is only partially approved, the Board is concerned that reasonable processing times may be adversely affected. However, the Board would explore all available options, such as overtime and continued use of temporary staff in an effort to keep pace with its workload.

### Board Update

The implementation of the examination restructure was relatively uneventful. Board staff actively monitored and identified candidates whose eligibility may not have successfully transferred. These issues were quickly resolved and candidates resumed their examination process. Currently, the examination restructure is functioning as expected.

### **ISSUE #3:**

**Supervised hours required for licensure: How does BBS verify that individuals have completed the required supervised hours? How does BBS verify that licensed supervisors are not supervising or employing more than three BBS-registered interns or associates at one time? Has BBS received complaints from registered interns and associates regarding this issue?**

### Committee Comments

BBS should explain to the committees its role in ensuring that supervisors are following the current law regarding the number of associates or interns they are authorized to supervise. In addition, BBS should explain to the committees the role of the Supervision Committee and how the committee can help to address some of the concerns and issues raised during the survey process.

### Board Response

Each applicant for licensure must submit an experience verification form to the Board for review and approval. The form is completed by the applicant and the applicant's supervisor, and documents the number of supervised hours gained (clinical and nonclinical), the dates the hours were gained, and the dates of supervision. Board staff reviews the information to ensure compliance with the licensure requirements. If additional information is required, the applicant's weekly log, documenting the supervised hours which is signed by the supervisor, is requested.

The Board does not identify supervisors or their place of employment. Nor does the Board capture any data related to an intern's place of employment. Interns may have several different

employment settings and several different supervisors while gaining their supervised hours. Considering the current process of gaining supervised hours and lack of data, the Board is unable to verify the supervisor/intern ratio. To date, the Board has not received a complaint regarding this issue.

The Supervision Committee began working with its stakeholders in 2014 to improve the quality of supervision Board registrants receive, as well as remove unnecessary barriers to gaining supervised work experience hours. To this end, the Board sponsored Senate Bill 620 (Chapter 262, Statutes of 2015) which revised the requirements for gaining supervised work experience hours. This bill became effective on January 1, 2016.

The Supervision Committee continues to work with its stakeholders to address additional concerns regarding supervision that were identified in the informal supervision survey.

For example, the committee is working to develop specific criteria to be a supervisor, criteria to continue as a supervisor, evaluating the performance of the intern/registrant, and developing a plan to improve the intern/registrant's performance. The Supervision Committee anticipates proposing its recommendations at the November 2016 Board Meeting.

#### Board Update

The Board's process to verify supervised work experience hours and supervision ratio is unchanged. Additionally, the Board has not received a complaint related to this issue.

#### **ISSUE #4:**

#### **What is BBS doing to meet Performance Measures set as a result of the Consumer Protection Enforcement Initiative (CPEI)?**

#### Committee Comments

BBS should inform the committees about the viable solutions to meeting its performance targets. When does BBS anticipate meeting those targets?

#### Board Response

Overall the Board is consistently meeting the CPEI performance measures within its control. Specifically, the Board is meeting Performance Measure 2 (complaint intake) and Performance Measure 3 (average time to complete investigations not referred to the AGO). For Performance Measure 2, complaint intake, the Board's goal is five days. Since the third quarter of 2014–15, the Board has either met or exceeded that goal. For Performance Measure 3, (investigation time) the Board's goal is 180 days. Since 2014–15, to the end of the first quarter of 2015–16, the Board has exceeded this goal ranging from a high of 142 days to a low of 71 days. The

Board's first quarter report for 2015–16 reflects the Board's Performance Measure 3 average is 93 days.

Achieving Performance Measure 4 is dependent upon outside entities such as the AGO and the OAH. The workload and staffing at these entities are not within the Board's control. In an effort to meet Performance Measure 4, the Board has dedicated two staff members to actively monitor all cases referred to the AGO for formal discipline. Further, the Board now includes settlement terms, when appropriate, at the time a case is referred to the AGO. The Board believes these internal changes will be useful in reducing the overall time period to complete the formal discipline process.

#### Board Update

The Board continues to meet or exceed the Performance Measures. In 2018–19, the Board reported the year-end average processing time for Performance Measure 4 was 491 days. The goal for Performance Measure 4 is 540 days.

#### **ISSUE #5:**

**Why has the number of BBS-issued citations decreased significantly in the last two fiscal years?**

#### Committee Comments

BBS should advise the committees about why there has been such a decrease in the number of citations issued by BBS during the last two fiscal years, especially given that BBS has experienced an increase in its enforcement workload.

#### Board Response

The decrease in Board issued citations can be attributed to two factors. First, due to insufficient resources, the Board suspended auditing licensees for compliance with the continuing education requirements. The Board now has a full-time staff person to conduct these audits. The Board resumed these audits in January 2016.

Second, the Board's retro-fingerprint project is complete. During this project, all licensees and registrants who had not previously submitted fingerprints to the Board were required to do so. A licensee or registrant who did not comply with the fingerprint requirement was issued a citation and fine.

#### Board Update

No additional comment on this issue.

## **ISSUE #6:**

### **Why does BBS's overall enforcement workload continue to increase?**

#### Committee Comments

Given that BBS has identified an increase in its enforcement-related workload, the Committees may wish to consider whether or not re-establishing an advisory committee dedicated to enforcement-related matters would be beneficial. An enforcement-related advisory committee may help identify those areas where BBS can improve its enforcement program to better serve licensees and consumers. In addition, BBS should update the committees on whether or not it has utilized the authority granted in BPC section 4990.10 to help maintain professional standards.

#### Board Response

The rise in the Board's licensee and registrant population can be attributed to the increased workload in the Board's enforcement unit. The additional staff positions and a manager received in fiscal year 2014–15 allow the Board to keep pace with its enforcement workload. As discussed earlier, the Board is consistently meeting the CPEI Performance Measures within its control.

The Board acknowledges the committee's suggestion that consideration should be given to establishing an advisory committee dedicated to enforcement related matters. In response to this suggestion, the following details some of the changes since 2014–15 to the Board's enforcement program to improve its efficiency.

- Reorganized to create two units within the Enforcement Program to provide increased staff oversight, training, and program evaluation.
- Assigned two staff positions to monitor all cases referred for formal discipline in an effort to achieve Performance Measure 4.
- Revised referral of cases for formal discipline to include Board settlement terms, when appropriate, to reduce the length of time to complete formal investigations.
- Increased the pool of subject matter experts to review enforcement cases and conducted training.
- Revised the procedure for closing nonjurisdictional cases.

Ongoing, the Board's two enforcement managers continue to evaluate the daily operations and procedures to identify opportunities to increase efficiency. All of the Enforcement Unit's work and progress is reported at each quarterly Board Meeting.

The changes to the Enforcement Unit are fairly recent. With this in mind, establishing an advisory committee at this time may be premature. A sufficient amount of time has not passed to determine if the changes are achieving the desired results. Yet, if in the future, the Enforcement Unit's performance is not satisfactory to the Board, the Board will consider establishing an advisory committee.

The committee also inquired whether or not the Board has used the authority granted in BPC section 4990.10 to help maintain professional standards. This code section states that the Board may conduct research in, and make studies of problems involved in, the maintaining of professional standards among those engaged in the professions it licenses and may publish its recommendations thereon.

The nature of the Board's work is to establish and ensure licensees meet professional standards to deliver mental health services safely to consumers. The Board accomplishes this task through legislative and regulatory proposals and developing outreach materials for consumers as well as licensees and registrants.

Prior to any proposed change, the Board works with its stakeholders through a series of meetings to discuss proposed changes to collectively identify a solution that will ensure consumer protection and professional standards. Additionally, Board staff will conduct research related to the topic being discussed. This research may include determining another state's requirements or practices; reviewing articles or data related to the topic; and conducting informal surveys.

Once the legislation or regulation is proposed and enacted, Board staff will conduct outreach to licensees and develop brochures or informational sheets. The brochures and informational sheets are made available on the Board's website. Examples of the Board's work include the following:

- Legislation enacted revised the supervised work experience requirements to eliminate the various categories in which an applicant must obtain supervised work experience hours. Informational sheets were published on the Board's website. Additionally, the revisions were published in the Board's winter 2015 and winter 2016 newsletters.
- Legislation enacted revised the Board's licensure examination process (examination restructure). Informational sheets were published on the Board's website. Articles discussing this change were published in the Board's winter 2015 and winter 2016 newsletters. Additionally, video tutorials were developed and posted on the Board's website.
- Revised the Board's Continuing Education Program. Informational sheets were posted on the Board's website. Articles advising licensees of the change were published in the Board's winter 2015 and summer 2015 newsletters.

- Proposed regulations related to the standards of practice for telehealth. Board staff researched the regulations or guidelines by other states as well as best practices. The proposed regulations outline acceptable practices for telehealth. If approved, the Board will conduct outreach to its licensees and publish the new standards on its website and in future newsletters.

**Board Update:**

The additional enforcement staff and reorganization of the Board's Enforcement Unit enable the Board to achieve the CPEI Performance Measures. No additional comment related to authority granted to the Board pursuant to BPC section 4990.10.

**ISSUE #7:**

**How is the BreEZe database system working for the BBS?**

**Committee Recommendation**

BBS should update the committees about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs of implementing the system, and are there any new costs associated with the project? Is the cost of BreEZe consistent with what BBS was told the project would cost? Please explain how BBS staff works with the DCA BreEZe team and the vendor to develop and enhance reports for licensing and enforcement purposes. How does BBS identify issues in the data system and submit change requests? What is the time frame for needed updates and do costs impact the ability to move ahead with an update? Does BBS foresee any maintenance necessary? Additionally, BBS should inform the committees about any current or foreseeable challenges associated with updating BreEZe to comply with the examination restructure and the new application processing components.

**Board Response:**

The Board was part of the October 2013 "R1" release of BreEZe. Initially, obtaining reports from BreEZe was a challenge. Yet, since the initial release of BreEZe, some reports became available and the Board resumed reporting statistical data at its Board Meeting in 2014.

The Board's total cost for BreEZe through 2014–15 was \$1,223,891. The Board's costs are different since the Board was informed of initial cost of BreEZe. Specifically, the Board has undergone some major program changes, such as the addition of a new licensure program (effective January 2010) and the examination restructure (effective January 2016). None of these program changes were in effect at the time the BreEZe contract was developed.

Therefore, these changes have contributed to the Board's increased BreEZe costs. Additionally, the revisions to the vendor contract will also increase the Board's BreEZe costs.

Board staff attends various meetings with other board and bureau staff and the DCA BreEZe team to discuss the development and enhancement of BreEZe reports. Through this process the definition of specific terms and milestones are discussed to determine viable solutions. Once the possible solution is developed by the vendor, Board staff will participate in testing to provide feedback regarding the functionality and application of the solution.

Frequently, issues with the BreEZe data system are identified through the daily work of the Board. Once the issue is identified and documented, the Board will follow the change request process to determine if a revision to the data system is required. During the change request process, the Board may learn that another board has requested the same or similar fix. In those situations, the Board may request to be included in that revision. If the change request identified by the Board is new, the Board's change request is reviewed and considered by the DCA Change Control Board.

The time frame for updates is determined by the vendor. Simple changes may take weeks to complete, while complex changes may require months. The Board is aware that staff resources may impact an update, but is not aware of any situation in which costs impacted an update.

As with any data system, the Board anticipates that ongoing maintenance will be required for the BreEZe data system.

#### Board Update

The Board is currently using BreEZe and does not have any major concerns.

#### **ISSUE #8:**

**Audits of continuing education: Does BBS have a process to audit continuing education?**

#### Committee Recommendation

LMFTs, LCSWs, LPCCs, and LEPs are required to complete 36 hours of CE in order to renew a license. BBS recognizes that the number of CE audits has steadily decreased since 2011–12, but noted in its 2015 Sunset Review Report that it anticipates increasing CE audits beginning in 2015. BBS should provide an update to the committees on its current efforts to increase the number of annual CE audits.

#### Board Response

As of January 2016, the Board resumed auditing licensees' continuing education hours. The goal is to audit 1% of the renewal population each month for each license type, LMFT, LCSW, LEP, and LPCC. Each audit is expected to take approximately two months from the date the first letter is sent. Licensees who fail the audit will be referred to the Enforcement Unit for issuance of a citation and fine.

The first audit closed on March 8, 2016. Currently, the CE Analyst is preparing the files to refer licensees who failed the audit to the Enforcement Unit for review and issuance of a citation and fine. During the first audit period a total of 28 licensees were audited. Of this number, 10 licensees (36%) failed the audit.

The second audit was completed on April 1, 2016. Notification letters were sent out on March 1, 2016, to 39 licensees. Of this number, nine (23%) licensees failed the audit.

The January audit was the first audit completed since 2013–14.

### Board Update

Since 2016, the Board is consistently conducting continuing education audits.

### **ISSUE #9:**

#### **Audits of continuing education providers: Does BBS need to audit continuing education providers?**

### Committee Recommendation

Given that BBS is no longer approving CE providers, and has conducted minimal audits of CE requirements for its licensees, BBS should explain to the committees its process and or plan for reviewing and updating its list of approved agencies to ensure that those entities are maintaining high standards for CE. In addition, BBS should update the committees on how it has helped to inform licensees about the transition.

### Board Response

The revision of the Board's Continuing Education Program includes a pathway for interested entities to request approval to become a Board-recognized approval agency. The entity must demonstrate compliance with the criteria specified in CCR section 1887.4.1 (b) (1-5). The entity's request is presented during a Board Meeting for consideration.

The Board has received and approved two requests to become a Board-recognized approval agency. Both the California Association of Marriage and Family Therapists and the California Psychological Association have been added to the list of Board-recognized approval agencies.

CCR section 1887.4.2 specifies the responsibilities of a Board-recognized approval agency. For example, upon request, the Board-recognized approval agency must provide the Board a copy of the periodic review of a provider's continuing education course. This requirement provides the Board the opportunity to review the coursework offered through a Board-recognized approval agency and to verify compliance with the continuing education coursework requirements.

To inform Board licensees about the changes to the Board's Continuing Education Program, informational sheets were developed and posted to the Board's website. Articles advising licensees of the changes to the Board's Continuing Education Program were published in the Board's winter 2015 and summer 2015 newsletter. Finally, Board staff participated in professional association outreach events to discuss the changes to the Board's Continuing Education Program.

#### Board Update

No additional comment.

#### **ISSUE #10:**

##### **Customer service satisfaction surveys.**

#### Committee Recommendation

BBS should update the committees about its current progress in developing a new customer satisfaction survey, and if it still anticipates discussing this issue at its March 2016 Board Meeting. BBS should inform the committees as to the other pressing issues that have prevented BBS from focusing on customer service.

#### Board Response

At its March 2016 meeting, Board Members reviewed the first draft of the customer satisfaction survey. The Board Members directed staff to make the changes that were discussed and implement the survey. Additionally, the Board members suggested Board staff contact the Department of Consumer Affairs' Public Affairs Office for assistance with the survey. At this time, Board staff continues to work on the survey and looks to implement the new survey within the next several months. The Board recognizes that the experience a stakeholder has with the Board greatly influences their perception of the Board. The Board continues its efforts to improve customer service to its stakeholders. To this end, in 2015, all Board staff attended customer service training. Additionally, the Board has implemented the use of social media to improve communication regarding Board activities, instead of solely relying on stakeholders accessing the information on the Board's website.

### Board Update

As noted earlier in this report, the 2016 customer survey was published. From 2015–16 to 2017–18, the Board has received a total of 44 responses.

### **ISSUE #11:**

**Are there minor/nonsubstantive changes to BBS’s practice Act that may improve BBS operations?**

### Committee Recommendation

BBS should submit their proposal for any technical changes to its practice Act to the Senate Business, Professions, and Economic Development Committee for possible inclusion in one of its annual committee omnibus bills.

### Board Response

The Board appreciates the committee’s recommendation. At this time, the Board has submitted all minor/nonsubstantive changes needed to the Board’s practice Act to the Senate Business, Professions, and Economic Development Committee for inclusion in this year’s omnibus bill.

### Board Update

No additional comment.

### **ISSUE #12:**

**Should the licensing and regulation of BBS be continued and be regulated by its current membership?**

### Committee Recommendation

The committee recommends that the LCSW, LMFT, LEP, and LPCC professions, and registration of ASW Interns, MFT Interns, and PCC Interns continue to be regulated by BBS in order to protect the interests of consumers and be reviewed once again in four years.

### Board Response

The Board concurs with the committee’s recommendation.

### Board Update

No additional comment.

## **SECTION 11—NEW ISSUES**

## **PRIOR SUNSET REVIEW ISSUES NOT ADDRESSED**

The Board has addressed all issues identified in the prior sunset review.

## **NEW ISSUES THAT ARE IDENTIFIED BY THE BOARD IN THIS REPORT**

### Board Members

In this report, the Board identified a strong concern with the current number of members appointed to the Board. Although, the governor appointed an LCSW member on October 8, 2019, and provides the Board a quorum to conduct business, the Board has six remaining vacancies.

Most of the individuals appointed to the Board are employed. Occasionally, a member may have a work commitment that conflicts with a Board meeting. In this situation, the member will be excused from the meeting. However, with only seven members, the absence of one member requires the Board to cancel the meeting due to a lack of quorum.

## **NEW ISSUES NOT PREVIOUSLY DISCUSSED IN THIS REPORT**

### Board Fees

Currently, the Board's budget is structurally imbalanced. The Board's fees have remained stagnant for at least 20 years. The final repayment of all General Fund loans and projections that the Board would have not have sufficient reserves or a negative fund condition balance beginning in fiscal year 2020–21 prompted the Board to initiate a fee audit.

In August 2018, the Board contracted with CPS HR Consulting (CPS) to provide performance auditing and consulting services to review the Board's fee structure and staff workload to determine if fee levels are appropriate for the recovery of the actual cost of conducting its programs. In March 2019 CPS HR submitted the final report. The results of this fee audit can be found in Section 12, Att. H BBS Performance and Fee Review.

The report reviewed 25 main fees that represent approximately 90% of the Board's fee revenue; applications for registrations, licenses, examination, and renewals. It was noted that, during the last four years, while revenues for the 25 fees have increased by almost 39% the Board's expenditures have increased by approximately 42%. This was due to a steady increase in application volume and registrant/licensee population.

To determine appropriate fees CPS used three years (2016–17 to 2018–19) of average expenditures and staff hours. Dividing the average expenditures by staff hours for the three years resulted in a \$120 per hour/\$2 per minute fully absorbed cost rate.

CPS recommended fee increases ranging from \$0 to \$315. These proposed fees were used to make projections for our fund condition for the next five years. Ultimately, the fees proposed would increase the Board’s revenue by \$6,016,000 per full fiscal year and would result in a five-month reserve by 2023–24.

The Board reviewed the recommended fee increases from CPS and noted that if implemented, the increase in fees may be cost prohibitive for some license types. The Board took into consideration the impact a fee increase may have on the registrants and licensees. A higher number of staff hours are typically spent on registrants; however, registrants earn less money than licensees. Therefore, the proposed fees were adjusted from fees based solely on workload in an attempt to achieve a more equitable result.

#### **NEW ISSUES RAISED BY THE COMMITTEES**

At this time, the Board is unaware of any new issues raised by the committee.

#### **SECTION 12—ATTACHMENTS**

- A.** I. Board Member Procedure Manual
  - II. Board-Committee Member Roster
- B.** Board Member Attendance
- C.** I. 2017 Suicide Risk Assessment and Intervention Coursework School Survey Results
  - II. 2017 Students Paying for Practicum—Agency Survey Results
  - III. 2017 Students Paying for Practicum—School Survey Results
  - IV. 2017 Practicum Field Placements Survey
  - V. 2017 Work Setting Survey
- D.** Year-End Organization Charts for Last Four Fiscal Years
- E.** I. Enforcement-Quarterly and Annual Performance Reports Fiscal 2016-17
  - II. Enforcement-Quarterly and Annual Performance Reports Fiscal 2017-18 to 2018-19
  - III. Licensing-Quarterly and Annual Performance Reports Fiscal Years 2016-17 to 2018-19
  - IV. BBS Consumer Complaint Satisfaction Survey Results
  - V. BBS Consumer Satisfaction Survey Results

- F. Board Outreach Events
- G. BBS 2018-2021 Strategic Plan
- H. BBS Performance and Fee Review

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