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POLICY AND ADVOCACY COMMITTEE MEETING NOTICE
June 23, 2017
8:30 a.m.

Department of Consumer Affairs
HQ2 Hearing Room
1747 North Market Blvd. #186
Sacramento, CA 95834

- I. Call to Order and Establishment of Quorum
- II. Introductions*
- III. Discussion and Possible Action Regarding 6-Year Limit on Experience Hours and Intern/Associate Registrations
- IV. Discussion and Possible Action Regarding Proposal to Remove the 12-Hour Law and Ethics Course Requirement for Registrants with a Failing Score on the California Law and Ethics Examination (BPC Sections 4980.399, 4992.09, 4996.28 and 4999.55)
- V. Discussion and Possible Action Regarding Marriage and Family Therapist Referral Service Registrations (BPC section 650.4)
- VI. Discussion and Possible Action Regarding Supervised Experience Requirements for Out-of-State Applicants
- VII. Discussion and Possible Action Regarding Education Requirements to Obtain a Subsequent Registration Number
- VIII. Status of Board-Sponsored Legislation and Legislation on which the Board has Taken a Position
 - a. Assembly Bill 89 (Levine) - Suicide Prevention Training
 - b. Assembly Bill 93 (Medina) - Healing Arts: LMFTs, LCSWs, LPCCs, Required Experience and Supervision
 - c. Assembly Bill 191 (Wood) - Mental Health: Involuntary Treatment
 - d. Assembly Bill 456 (Thurman) - Healing Arts: Associate Clinical Social Workers
 - e. Assembly Bill 508 (Santiago) - Health Care Practitioners: Student Loans
 - f. Assembly Bill 700 (Jones-Sawyer) - Public Health: Alcoholism or Drug Abuse Recovery: Substance Use Disorder Counseling
 - g. Assembly Bill 703 (Flora) - Professions and Vocations: Licenses: Fee Waiver



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

- h. Assembly Bill 767 (Quirk-Silva) - Master Business License
- i. Assembly Bill 1116 (Grayson) - Peer Support and Crisis Referral Services Act
- j. Assembly Bill 1188 (Nazarian) - Health Professions Development: Loan Repayment
- k. Assembly Bill 1372 (Levine) - Crisis Stabilization Units: Psychiatric Patients
- l. Assembly Bill 1591(Berman) - Medi-Cal: Federally Qualified Health Centers and Rural Health Centers: LPCCs
- m. Senate Bill 27 (Morrell) - Professions and Vocations: Licenses Military Services
- n. Senate Bill 244 (Lara) - Privacy: Agencies: Personal Information
- o. Senate Bill 374 (Newman) - Health Insurance: Discriminatory Practices: Mental Health
- p. Senate Bill 715 (Newman) Regulatory Boards: Removal of Board Members
- q. Senate Bill 762 (Hernandez) - Healing Arts Licensee: License Activation Fee: Waiver
- r. Senate Bill 800 (Senate Business, Professions, and Economic Development) - Omnibus Bill: Minor Technical and Non-substantive Changes to BBS Statutes

IX. Status of Board Rulemaking Proposals

- a. English as a Second Language: Additional Examination Time: Add Title 16. California Code of Regulations Section 1805.2
- b. Application Processing Times and Registrant Advertising: Amend Title 16. California Code of Regulations, Sections 1805.1 and 1811
- c. Contact Information; Application Requirements; Incapacitated Supervisors: Amend Title 16. California Code of Regulations, Sections 1804, 1805 and 1820.7; Add Section 1815.8

X. Suggestions for Future Agenda Items

XI. Public Comment for Items not on the Agenda

XII. Adjournment

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

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

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

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

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To: Committee Members **Date:** May 22, 2017
From: Rosanne Helms and Christy Berger **Telephone:** (916) 574-7897
Legislative/Regulatory Analysts
Subject: Discussion and Review of 6-Year Limit on Experience Hours and Intern/Associate Registrations

Introduction

LCSW, LMFT and LPCC statutes set forth the following 6-year limits that impact supervised experience:

1. Age of Experience Hours

Hours of supervised experience must be completed during the 6-year period prior to submitting the application for licensure (aka examination eligibility). Otherwise, the hours do not count. (There is one exception to this – for LMFT applicants, the 500 hours of clinical experience gained in supervised practicum as a trainee is exempt from the 6-year requirement.) (BPC §§4980.43, 4980.72, 4996.23, 4999.46, 4999.60)

2. Length of Intern / ASW Registration

An intern or ASW registration may be renewed 5 times, so can be held for a total of 6 years. If the supervised experience has not been completed (or if the employer requires it, etc.) a new registration may be obtained. However, those issued a subsequent registration are NOT permitted to work in a private practice setting. There are no exceptions. (BPC §§4984.01, 4996.28, 4999.100)

While LEP law is structured a bit differently, it has a similar limitation. It does not require registration with the Board in order to gain experience toward licensure. However, LEP law requires two years of full-time experience as a credentialed school psychologist in public schools as a condition of licensure. This experience must have been obtained no more than 6 years prior to application for licensure. (BPC §4989.20)

The Committee may wish to review these two laws as separate, but connected requirements.

Background

Based on the information available, it appears that both the LMFT and LCSW programs have always limited the length of registrations, initially to five (5) years. It was increased in 1986 to six (6) years.¹ Documentation of the specific rationale for implementing time limits on registrations and hours of

¹ AB 3657 (Chapter 1365, Statutes of 1986)

experience cannot be located. It can be reasonably assumed that the purpose of the limits were as follows:

- *Six year limit on age of hours of experience* – This requirement may have been implemented to help ensure that newly licensed therapists have recent relevant experience.
- *Six year length of initial intern/ASW registration* - Encourages applicants to continue progressing through the licensing process and frees up supervisors to supervise others. Limits the use of the registration in an unintended manner, such as solely for employment purposes.
- *Private Practice Limit* – Prevents registrants from working in private practice perpetually without ever becoming licensed. Frees up potential private practice supervisors so that others may gain private practice experience.

Stakeholder Feedback

The following stakeholder feedback has been received regarding the time limits:

Arguments in Support of the 6-year Age Limits:

- *The majority of applicants do not have a problem completing hours within four years (see below).*
- *The six-year limit is important in agency settings, as many agencies do not have the funding or staffing to continue providing the necessary supervision on a more permanent basis.*

Arguments Against the 6-year Limits:

- *Some people take longer than 6 years to gain the required supervised experience.*
- *There can be continuity of care issues when an intern who is working in a private practice must give up clients because he or she is now working under a second registration number.*
- *The law does not allow applicants to obtain an extension to the 6 years for any reason, and does not take the following situations reported by applicants into account:*
 - Being unable to find a full-time job (more common in certain regions of the state)
 - Can only earn hours on a part-time basis because the internship is unpaid (or for health reasons, caregiving responsibilities, etc.)
 - Attending to personal matters such as serious illness, caregiving responsibilities, or the birth of a child.

Staff Research on Time to Gain Experience Hours

- LMFT: In late 2014, data was compiled on 100 LMFT applicants who recently completed their experience hours. Of those sampled:
 - **78%** were able to obtain their post-degree hours in **less than 4 years** from the date of graduation (*does NOT include pre-degree hours*).
 - The **average** length of time to complete the experience was **3.4 years**.
 - The **median** length was **3 years** (NOTE: the median gives a better picture of middle values and gives less weight to extreme cases).
- LCSW: In 2008, staff researched the time taken from graduation to examination eligibility for 100 ASWs. Of those sampled:
 - **81%** were able to obtain their hours in **less than 4 years**

- The **average** ASW is able to complete the experience within **3.1 years**
- The **median** length was **2.8 years**.

These averages have remained fairly consistent over time, and staff does not believe there are currently any unique circumstances that are leading to increases in these times.

Research From Other States and the Board of Psychology

In October 2014 Staff reviewed the experience requirements for the 10 states previously surveyed regarding experience requirements. The findings were as follows:

State	Experience Requirements	Limit on Age of Hours	Limit on Intern Registration
Colorado	2 years	None	4 years
Florida	2 years	None	None
Illinois	2 years	None	None
Indiana	2 years	None	None
New York	2-3 years (depending on license type)	None BUT all hours must be gained within a single 6-year period	None
Ohio	2 years	None	None
Oregon	2-3 years (depending on license type)	25% of hours must be within 5 years prior to application for licensure AND All hours must be gained within a single 5-year period	None
South Carolina	2 years	None	None
Texas	2 years	5 years prior to application for licensure	5 years
Washington	2-3 years (depending on license type)	None	6 years

In 2010, the Board of Psychology passed a regulation that limited the length of a Psychological Assistant registration to a total of 6 years, due to concerns that the registration was being used by some as a career of its own rather than for the purpose of gaining licensure. The Board of Psychology does not require experience hours to be gained within a particular period of time.

Previous Committee Discussion

This topic was previously discussed by the by the Policy and Advocacy Committee in September 2010 and March 2011, and more recently by the Supervision Committee at its October 2014 meeting.

At the 2014 Supervision Committee meeting, Board members and stakeholders expressed that the exam restructure and elimination of the “buckets” of various experience hour requirements may help interns and associates obtain licensure in less time.

The Committee and stakeholders also expressed interest in allowing an extension of the 6 year limit to count hours for individuals who could document that they had suffered an extreme hardship that was out

of their control, such as a severe illness, needing to provide care for a family member with a severe illness, or being deployed by the military.

The Policy and Advocacy Committee also discussed this topic at its September 30, 2016 meeting. However, at that time, the Committee requested the topic be deferred to another meeting.

Options for Discussion

The Committee may wish to conduct an open discussion on the following:

- The six year limit on the age of hours of experience; and
- The six year length of the initial registration number and the inability of a registrant to work in a private practice after this period has ended.

The following options may provide resolutions to some or all of the issues discussed:

- 1. Option 1: Draft Statute or Regulations Exempting Certain Applicants from the Six-Year Limit on Age of Experience.** The Board could pursue a statute or regulation that exempts certain applicants from the six-year limit on age of experience due to specific circumstances such as military service, being a primary caregiver, or a physical or mental disability.

This option would require the Committee to determine and specify certain parameters to qualify for the exemption, such as the following:

- The length of hardship/illness/service in order to qualify for exemption;
- The allowable age of experience if an exemption is granted;
- Whether or not the exemption is renewable; and
- How to define a qualifying physical or mental disability.

Attachment A shows language staff had previously drafted to allow such an extension. However, the language does not address the issues listed above yet.

- 2. Option 2: Extend the Age of Experience and Registration Number Timeframes.** The Board could pursue an extension of the six-year limit on age of experience and registration number timeframes to a longer period of time, such as seven or eight years.

An extension of these timeframes would allow experience hours to remain valid for longer and would allow registrants to work in a private practice for longer. The time limit chosen should balance the need of applicants to have sufficient time to gain hours, while keeping in mind public protection needs of applicants for licensure having recent relevant experience, and ensuring that registrants working in private practice have incentive to eventually become licensed.

- 3. Option 3: Abolish the Work Setting Limits of a Second Registration Number, and Implement Stricter Requirements to Obtain a Subsequent Registration.** Under this option, Board could decide to abolish the second registration number and extend the time a registration number is valid to a longer timeframe (for example, 8 years). Once the registration number expires, the applicant would need to meet current education requirements (those in effect at the time of registration expiration) and take additional coursework (this would need to be determined by the Board and specified in law) in order to qualify for another registration number. Once a new number was obtained, the applicant could continue gaining hours in a private practice.

Because this option would require an applicant to meet current education requirements in order to obtain a new registration, individuals with an older degree may have trouble qualifying for a new number. For example, LMFT and LPCC degrees were required to be 48 units prior to 2012, but the law currently requires a 60 unit degree.

4. Option 4: Examine the Effects of New and Recent Law Changes. Recent and upcoming changes to the Board's licensing laws may make it easier to obtain the required supervised experience in a shorter timeframe:

- The elimination of the "buckets" – specific categories of experience – for LMFT and LPCC applicants. (Phasing in now.)
- Decrease in required experience hours for LCSW applicants from 3,200 hours to 3,000 hours. (Proposed in AB 93.)
- Allowing triadic supervision in lieu of individual supervision for LMFT, LCSW, and LPCC applicants. (Proposed in AB 93.)

These changes were designed to increase the applicant's ability to gain experience hours, while preserving public protection safeguards such as ensuring quality supervision and the need for applicants for licensure to have current and relevant experience. However, the changes are either in the beginning of the phase in process (for the "buckets"), or are not law yet, and therefore data on their effects will not be available for a few years. Conducting a new analysis of average time needed to gain experience hours, by license type, after the above changes have been in effect for a few years would allow the Board to obtain a more accurate account of their effect.

5. Option 5: Other Alternatives as Suggested by Committee Members or Stakeholders. They Committee may wish to discuss other alternatives suggested by its members, or by stakeholders.

Attachments

Attachment A: Draft Language for Option 1 – Allow Certain Applicants an Exemption from the Six-Year Limit on Age of Experience

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Attachment A
Option 1: Draft Language

ADD § _____ EXCEMPTIONS FROM SIX YEAR LIMIT ON AGE OF EXPERIENCE HOURS

(a) Notwithstanding any other provision of law, the board may, at its sole discretion, allow an applicant for licensure to be credited with experience obtained more than six years prior to the date of application for licensure. To qualify for consideration, the applicant for licensure shall submit a written request for exception from the six year limit on age of experience hours, providing evidence, satisfactory to the board, of one of the following:

(1) For at least three (3) of the past six (6) years immediately prior to the date the application was filed, the applicant for licensure was absent from California due to his or her military service; or

(2) For at least three (3) of the past six (6) years immediately prior to the date the application was filed, the applicant for licensure or an immediate family member, including a domestic partner, where the applicant for licensure is the primary caregiver for that family member, had a physical or mental disability or medical condition as defined in Section 12926 of the Government Code. The physical or mental disability or medical condition must be verified by a licensed physician or psychologist with expertise in the area of the physical or mental disability or medical condition. Verification of the physical or mental disability or medical condition must be submitted by the applicant for licensure on a form entitled "Request for Exception from Six Year Limit on Age of Experience Hours– Verification of Disability or Medical Condition."

(b) The board will notify the applicant for licensure within thirty (30) working days after receipt of the request whether the request was granted, and the terms of the exception.

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To: Committee Members **Date:** May 24, 2017

From: Rosanne Helms
Legislative Analyst **Telephone:** (916) 574-7897

Subject: **California Law & Ethics Exam – Discussion of 12-Hour Course Requirement for Registrants with a Failing Score**

Overview

The Board requires all of its marriage and family therapist, clinical social worker, and professional clinical counselor registrants to take the California Law and Ethics Examination (L&E exam) a minimum of once each renewal period, until passed.

If the registrant fails the L&E exam, he or she is still permitted to renew the registration, but must show proof of completing a 12-hour California law and ethics course in order to be able to participate in the exam in the next renewal cycle.

A registration may be renewed up to five times. After the fifth renewal, the applicant can obtain a subsequent registration number, but only if he or she has passed the L&E exam.

Board staff has observed that since the examination restructure became effective and the 12-hour course became a requirement, completion of the course has been consistently problematic for registrants.

Background

The Board's examination restructure, which became effective on January 1, 2016, was the result of an extensive review process which began with the formation of the Examination Program Review Committee in 2008 and 2009. After careful analysis and discussion, that committee made recommendations to the Board, which were drafted into legislation (SB 704, Chapter 387, Statutes of 2011) that eventually became the exam program we have today.

The 12-hour course was originally proposed to be 18-hours. In addition, the original proposal would have disallowed a registrant from renewing a registration if he or she did not pass the L&E exam after 3 years. However, eventually the Board settled on a 12-hour course so that the course could be completed in less than 3 days, and decided to disallow issuance of a second registration number (after five renewals) until the L&E exam was passed.

Issues with the 12-Hour Law and Ethics Course

The timing and need to take the 12-hour law and ethics course after renewing, if the L&E exam was failed in the prior renewal period, has been problematic for registrants for the following reasons:

- Many registrants are confused about when they need to take the 12-hour course (upon failure of the L&E exam, the registrant needs to renew the registration and then take the 12-hour course once renewed. The Board will not accept a course that was taken **prior** to the previous failure of the exam.
- Many registrants are not realizing the need to take the 12-hour course. Therefore, they do not take it, and when they need to take the L&E exam again, they are not able to do so until they take the course. This can delay the registrant’s next renewal, and in some cases, impact their employment if their registration lapses.
- In addition to the costs of registration renewal (\$75 to \$100 per year) and costs to take the L&E exam (\$100 per test; test can be taken every 90 days, or up to four times per renewal cycle), taking a required course results in an additional cost to registrants. Staff reviewed costs for the 12-hour course from several CE providers, and found prices ranging from \$70 to \$150.

Pass Rates for the California Law and Ethics Exam

Currently, the pass rates for applicants taking the L&E exam are as follows:

CALIFORNIA LAW & ETHICS PASS RATES (1.1.16 - 4.30.17)

	FIRST TIMERS				REPEAT TESTER			
	FAILED	PASSED	Failed%	Passed%	FAILED	PASSED	Failed%	Passed%
LMFT	3461	9035	28%	72%	544	1246	30%	70%
LCSW	2610	7230	27%	73%	401	895	31%	69%
LPCC	390	966	29%	71%	30	144	17%	83%
TOTAL/AVG %	6461	17231	28%	72%	975	2285	26%	74%

NOTE: There is usually a lower percentage of candidates that pass as a repeat tester. The LPCC exam stats seem to discredit this pattern.

Recommendation

The Committee may wish to weigh whether requiring registrants who fail the L&E exam in a renewal cycle to take a 12-hour California law and ethics course provides a true public protection benefit.

Attachment A provides draft language of LMFT, LCSW, and LPCC licensing law if the 12-hour course requirement were deleted. If the law were changed, corresponding regulations regarding the 12-hour course would need to be amended as well.

Should the Committee decide to pursue deleting the course requirement, the following public protection elements would remain in place:

- a) All applicants for a registration must have completed California law and ethics coursework as part of their degree program. If the degree was obtained out-of-state, they must complete California-specific coursework in addition to the law and ethics content in their degree program.
- b) Registrants who are gaining hours toward licensure must always be working under a qualified supervisor.
- c) Registrants may not obtain a subsequent registration number until they have passed the L&E exam.

Attachments

Attachment A: Proposed Language

**ATTACHMENT A
PROPOSED LANGUAGE**

AMEND BUSINESS AND PROFESSIONS CODE (BPC) §4980.399.

(a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

~~(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.~~

~~(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (e), and submission of an application for re-examination.~~

~~(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state or governmental entity, or a college or university.~~

~~(f) The board shall not issue a subsequent registration number unless the applicant has passed the California law and ethics examination.~~

~~(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.~~

~~(h) This section shall become operative on January 1, 2016.~~

AMEND BPC §4992.09.

(a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

~~(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.~~

~~(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (e). and submission of an application for re-examination.~~

~~(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider, as specified by the board by regulation, a county, state or governmental entity, or a college or university.~~

(f) The board shall not issue a subsequent registration number unless the applicant has passed the California law and ethics examination.

~~(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.~~

~~(h) This section shall become operative on January 1, 2016.~~

AMEND §4996.28.

(a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

- (1) Apply for renewal on a form prescribed by the board.
- (2) Pay a renewal fee prescribed by the board.
- (3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

~~(4) On and after January 1, 2016, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09. Participate in the California law and ethics examination pursuant to Section 4992.09 each year until successful completion of this examination.~~

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration number and has passed the California law and ethics examination described in Section 4992.09. An applicant issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

AMEND BPC §4999.55.

(a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

~~(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.~~

~~(d)~~ If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (e), and submission of an application for re-examination.

~~(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall~~

~~only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state, or governmental entity, or a college or university.~~

~~(f)~~ The board shall not issue a subsequent registration number unless the registrant applicant has passed the California law and ethics examination.

~~(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.~~

~~(h) This section shall become operative January 1, 2016.~~

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To: Committee Members **Date:** June 12, 2017
From: Rosanne Helms **Telephone:** (916) 574-7897
Legislative Analyst
Subject: Discussion of MFT Referral Service Registrations

Summary

The purpose of this agenda item is to discuss the Board's issuance of MFT referral service registrations, and whether these registrations are necessary to ensure public protection.

Existing Law

1. Prohibits a licensed healing arts practitioner from offering, delivering, receiving, or accepting a rebate, refund, commission, preference, discount, or other consideration, monetary or not, as compensation for referring patients, clients or customers to someone. (Business and Professions Code (BPC) §650(a))
2. Makes it unprofessional conduct for a licensed marriage and family therapist to pay, accept, or solicit consideration, compensation, or remuneration (monetary or not) for the referral of clients. (BPC §4982(o))
3. Prohibits a licensed healing arts practitioner from advertising in a manner that is false, fraudulent, misleading, or deceptive. (BPC §651(a))
4. Allows a person to participate in or operate a group advertising and referral service for marriage and family therapists if all of the following conditions are met (BPC §650.4(a)):
 - The patient referrals by the service are patient-initiated responses to the service's advertising;
 - The service's advertisements are compliant with advertising law;
 - The service does not employ a solicitor;

- The service does not impose a fee on its advertising members that is dependent on the number of referrals or the amount of professional fees paid by the patient;
 - Participating marriage and family therapists charge no more than their usual and customary fees to any patients referred;
 - The service registers with the Board of Behavioral Sciences, providing its name, address, and phone number;
 - The service provides the Board with a copy of the standard form contract that regulates its relationship with the member marriage and family therapists;
 - If more than 50 percent of its referrals are made to one individual, corporation, or group, the service must disclose this in all public communications.
 - Requires advertisements by the referral service to clearly include a statement that says “Paid for by participating marriage and family therapists.”
5. Allows the Board to suspend or revoke a MFT referral service registration for violations of any of the conditions listed in item #3 above.
 6. States that it is unlawful and a misdemeanor for a person to operate a group advertising and referral service for marriage and family therapists without providing the required information to the Board. (BPC §650.4(d))
 7. States that it is not the intention of this section to otherwise affect the prohibitions of BPC §650, and that the legislature intends to allow the pooling of resources by marriage and family therapists for the purposes of advertising. (BPC §650.4(e))
 8. Specifies additional requirements regarding registration, advertising, and revocation and denial for MFT referral services (California Code of Regulation (CCR) Title 16, §§1889-1889.3)

History

BPC §650.4, which is the section requiring registration of MFT referrals services, was added to the law in 1995 via SB 675 (Chapter 559, Statutes of 1995). SB 675 was sponsored by CAMFT.

According to the bill analysis from the Assembly Committee on Health (dated June 26, 1995 and shown in **Attachment B**), the law already has similar provisions for dentists and chiropractors, and the language in the bill was modeled after those provisions. At the time, the analysis quoted CAMFT as stating that “Business and Professions Code Section 650 (generally stating it’s unlawful for healing arts licensees to accept compensation or inducement for patient referrals) unnecessarily prohibits many otherwise legitimate referral services from operating; this bill would clarify the conditions under which such referral services must operate.”

After SB 675 became law, the Board adopted regulations clarifying the requirements for referral service registrations further, and began issuing the registrations. However, the issuance of these registrations dropped off suddenly in 2002 and 2003. Staff has been unable to locate any Board materials discussing a reason for this shift. Therefore, it is unclear if the registrations ceased due to a change in Board policy, or due to lack of demand for the registrations.

Currently the Board has 25 registered MFT referral services. The majority of these were issued between 1998 and 2003 (**Attachment C**). However, three were issued after 2003, with the last one being issued in 2010. The Breeze system currently does not have the capacity to issue MFT referral service registrations.

There is no fee charged for the issuance of a MFT referral service registration, and they do not need to be renewed. All of the registered referral services list an expiration date of January 1, 2050 (likely a computer system default).

Discussion of Need for MFT Referral Service Registrations

Given that the application volume is almost nonexistent, staff wishes to discuss if there is a need for the Board to register MFT referral services, and whether their registration serves to protect the public.

Attachments

Attachment A: Relevant Code Sections (BPC §§650, 650.4, 651 and 16 CCR 1889-1889.3)

Attachment B: SB 675 (Chapter 559, Statutes of 1995) Analysis (Assembly Committee on Health, June 26, 1995)

Attachment C: List of BBS Registered MFT Referral Services

Attachment D: Example: East Bay Counseling Choices (BBS Registration Number MRF 20)

Attachment E: Example: Marin CAMFT Referrals (BBS Registration Number MRF 27)

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**ATTACHMENT A
RELEVANT LAW**

BUSINESS AND PROFESSIONS CODE (BPC)

BPC §650.

(a) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest, or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

(b) The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

(c) The offer, delivery, receipt, or acceptance of any consideration between a federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code, and any individual or entity providing goods, items, services, donations, loans, or a combination thereof to the health center entity pursuant to a contract, lease, grant, loan, or other agreement, if that agreement contributes to the ability of the health center entity to maintain or increase the availability, or enhance the quality, of services provided to a medically underserved population served by the health center, shall be permitted only to the extent sanctioned or permitted by federal law.

(d) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility, provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

(e) Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2 of this code, it shall not be unlawful to provide nonmonetary remuneration, in the form of hardware, software, or information technology

and training services, as described in subsections (x) and (y) of Section 1001.952 of Title 42 of the Code of Federal Regulations, as amended October 4, 2007, as published in the Federal Register (72 Fed. Reg. 56632 and 56644), and subsequently amended versions.

(f) "Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Public Health under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(g) Notwithstanding the other subdivisions of this section or any other provision of law, the payment or receipt of consideration for advertising, wherein a licensee offers or sells services through a third-party advertiser, shall not constitute a referral of patients when the third-party advertiser does not itself recommend, endorse, or otherwise select a licensee. The fee paid to the third-party advertiser shall be commensurate with the service provided by the third-party advertiser. If the licensee determines, after consultation with the purchaser of the service, that the service provided by the licensee is not appropriate for the purchaser or if the purchaser elects not to receive the service for any reason and requests a refund, the purchaser shall receive a refund of the full purchase price as determined by the terms of the advertising service agreement between the third-party advertiser and the licensee. The licensee shall disclose in the advertisement that a consultation is required and that the purchaser will receive a refund if not eligible to receive the service. This subdivision shall not apply to basic health care services, as defined in subdivision (b) of Section 1345 of the Health and Safety Code, or essential health benefits, as defined in Section 1367.005 of the Health and Safety Code and Section 10112.27 of the Insurance Code. The entity that provides the advertising shall be able to demonstrate that the licensee consented in writing to the requirements of this subdivision. A third-party advertiser shall make available to prospective purchasers advertisements for services of all licensees then advertising through the third-party advertiser in the applicable geographic region. In any advertisement offering a discount price for a service, the licensee shall also disclose the regular, nondiscounted price for that service.

(h) A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in a county jail for not more than one year, or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or by that imprisonment and a fine of fifty thousand dollars (\$50,000).

BPC §650.4.

(a) Notwithstanding Section 650, subdivision (o) of Section 4982, or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 13 (commencing with Section 4980) or any other person, to participate in or operate a group advertising and referral service for marriage and family therapists if all of the following conditions are met:

- (1) The patient referrals by the service are the result of patient-initiated responses to service advertising.
- (2) The service advertises, if at all, in conformity with Section 651 and subdivision (p) of Section 4982.
- (3) The service does not employ a solicitor to solicit prospective patients or clients.
- (4) The service does not impose a fee on the member marriage and family therapists that is dependent upon the number of referrals or amount of professional fees paid by the patient to the marriage and family therapist.
- (5) Participating marriage and family therapists charge no more than their usual and customary fees to any patient referred.
- (6) The service registers with the Board of Behavioral Sciences, providing its name, street address, and telephone number.
- (7) The service files with the Board of Behavioral Sciences a copy of the standard form contract that regulates its relationship with member marriage and family therapists, which contract shall be confidential and not open to public inspection.
- (8) If more than 50 percent of its referrals are made to one individual, association, partnership, corporation, or group of three or more marriage and family therapists, the service discloses that fact in all public communications, including, but not limited to, communications by means of television, radio, motion picture, newspaper, book, list, or directory of healing arts practitioners.
- (9) (A) When member marriage and family therapists pay any fee to the service, any advertisement by the service shall clearly and conspicuously disclose that fact by including a statement as follows: "Paid for by participating marriage and family therapists." In print advertisements, the required statement shall be in at least 9-point type. In radio advertisements, the required statement shall be articulated so as to be clearly audible and understandable by the radio audience. In television advertisements, the required statement shall be either clearly audible and understandable to the television audience, or displayed in a written form that remains clearly visible to the television audience for at least five seconds.

(B) The Board of Behavioral Sciences may suspend or revoke the registration of any service that fails to comply with subparagraph (A). No service may reregister with the board if its registration currently is under suspension for a violation of subparagraph (A), nor may a service reregister with the board for a period of one year after it has had a registration revoked by the board for a violation of subparagraph (A).
- (b) The Board of Behavioral Sciences may adopt regulations necessary to enforce and administer this section.
- (c) The Board of Behavioral Sciences or 10 individual licensed marriage and family therapists may petition the superior court of any county for the issuance of an injunction restraining any conduct that constitutes a violation of this section.

(d) It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for marriage and family therapists without providing its name, address, and telephone number to the Board of Behavioral Sciences.

(e) It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions of Section 650. The Legislature intends to allow the pooling of resources by marriage and family therapists for the purpose of advertising.

(f) This section shall not be construed in any manner that would authorize a referral service to engage in the practice of marriage and family therapy.

BPC §651.

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(B) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(C) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical

Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(D) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the

adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

CALIFORNIA CODE OF REGULATIONS (CCR)

ARTICLE 10. GROUP ADVERTISING AND REFERRAL SERVICES FOR MARRIAGE AND FAMILY THERAPIST

§1889. DEFINITIONS

An "MFT referral service" means a group advertising and referral service for marriage and family therapists as provided for in Section 650.4 of the Code.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

§1889.1. REGISTRATION

(a) The board shall issue a registration for an MFT referral service to an applicant who submits:

(1) a completed MFT Referral Service Registration Application (form no. 37A-309, new 8/97), hereby incorporated by reference;

(2) a copy of the service's standard form contract regulating its relationship with member marriage and family therapists, demonstrating compliance with Section 650.4 of the Code and this article; and

(3) a copy of the service's advertising, demonstrating compliance with Section 650.4 of the Code and this article.

(b) An MFT referral service registration issued under this section shall remain valid until suspended or revoked, or until the MFT referral service notifies the board in writing that the

service has discontinued referrals to any marriage and family therapists and no longer desires registration, provided there are no pending disciplinary actions on the MFT referral service's registration.

(c) It is unlawful for any MFT referral service to make referrals to participating or member marriage and family therapists unless at the time of so doing such service holds a registration that is valid and in good standing.

(d) An MFT referral service registration is non-transferable.

(e) An MFT referral service shall notify the board within thirty (30) days concerning any changes or modifications to the service's standard form contract regulating its relationship with member marriage and family therapists, providing a copy of the new contract to the board.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

§1889.2. REVOCATION OR DENIAL OF REGISTRATION

(a) The board may revoke its registration of an MFT referral service or deny an MFT referral service application for good cause. For the purposes of this subsection, "responsible party" includes any owner, co-owner, or member on the board of directors of an MFT referral service. Good cause includes, but is not limited to, the following:

(1) the responsible party of an MFT referral service is convicted of a felony or misdemeanor offense substantially related to the activities of an MFT referral service;

(2) the responsible party of an MFT referral service, who is a licensee of the board, fails to comply with any provisions of Chapters 13 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations;

(3) an MFT referral service fails to comply with any provisions of Sections 650, 650.4, or 651 of the Code or these regulations; or

(4) an MFT referral service makes a material misrepresentation of fact in information submitted to the board.

(b) After a thorough case review, should the board decide to revoke or deny its registration of an MFT referral service, it shall give the MFT referral service written notice setting forth its reasons for revocation or denial. The MFT referral service may appeal the revocation or denial in writing, within fifteen (15) days after service of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point.

Should the board's designee decide to uphold the revocation or denial, the MFT referral service may appeal the decision of the board's designee in writing, within fifteen (15) days after service of the decision of the board's designee, and request a hearing with a referral services appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The referral services appeals committee shall contain three board members, one of whom shall

be a public member, and two of whom shall be members representing two of the four license types regulated by the board. The decision of the referral services appeals committee is final.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

§1889.3. ADVERTISING AND REFERRAL GUIDELINES

(a) An MFT referral service shall advertise and make referrals in accordance with Sections 650.4 and 651 of the Code and Section 1811 of these regulations.

(b) An MFT referral service shall only make referrals to marriage and family therapists with current, valid licenses. Referrals made to marriage and family therapists on probation shall be made in accordance with the terms of probation set by the board.

Note: Authority Cited: Sections 650.4 and 4980.60, Business and Professions Code. Reference: Section 650.4, Business and Professions Code.

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ATTACHMENT B -

BILL ANALYSIS

SB 675

Date of Hearing: June 27, 1995

ASSEMBLY COMMITTEE ON HEALTH
Doris Allen, Chairwoman

SB 675 (Craven) - As Amended: April 19, 1995

SUBJECT

Should Marriage, Family and Child Counselors (MFCCs) be authorized to participate in or operate group advertising and referral services?

DIGEST

Existing law:

- 1) Provides for the regulation and licensing of MFCCs by the Board of Behavioral Science Examiners (BBSE) of the Department of Consumer Affairs;
- 2) Makes it unlawful for any healing arts licensee to offer, deliver, receive, or accept any rebate, refund, commission preference, patronage dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person; and
- 3) Permits dentists and chiropractors to form and participate in group advertising and referral agencies under certain conditions.

This bill:

- 1) Allows persons licensed as MFCCs, or any other person to participate in or operate group advertising and referral services for MFCCs if specified conditions are met:

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- a) Referrals must be the result of patient-initiated responses to service advertising;
 - b) Service advertising must conform to Business & Professions Code Section 651 prohibiting false, fraudulent, misleading, or deceptive statements;
 - c) There is no soliciting;
 - d) There is no fee imposed on the MFCCs dependent on the number of referrals or fees paid by patient, and MFCCs charge no more than usual to a referred patient;
 - e) The service registers with the BBSE and files a copy of the standard form contract used with member MFCCs;
 - f) If more than 50 % of referrals are made to one group or individual, certain public disclosure is required; and
 - g) If member MFCCs pay fees to the service, certain specified, conspicuous disclosure is required. The BBSE may suspend or revoke registration for failure to comply.
- 2) Allows the BBSE to adopt regulations necessary to enforce and administer the bill's requirements.
 - 3) Prohibits operating such a referral service without furnishing the name, address and telephone number to the BBSE.
 - 4) Allows the BBSE or 10 individuals to enforce compliance with the bill by enabling them to seek an injunction for violations.

FISCAL EFFECT

Undetermined. This bill has a crimes and infractions disclaimer.

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COMMENTS

Background: Formation and use of group referral services has been authorized for dentists since 1983. In 1992, the Legislature

approved AB 316 (Chapter 856, Statutes of 1992) a similar bill authorizing a person licensed pursuant to the Chiropractic Act, or any other person to participate in or operate a group advertising and referral service for chiropractors, under certain conditions almost identical to this bill.

Need for the bill. The California Association of Marriage and Family Therapists (CAMFT) modeled this bill after existing statutes regarding the dental and chiropractic professions (Business & Professions Code Section 650.2 and Section 650.3). SB 675 is intended to provide more public protection by imposing reasonable limits upon entities that hold themselves out as referral services, and by requiring reasonable disclosures to be made under specified circumstances. CAMFT states that Business & Professions Code Section 650 (generally stating it's unlawful for healing arts licensees to accept compensation or inducement for patient referrals) unnecessarily prohibits many otherwise legitimate referral services from operating; this bill would clarify the conditions under which such referral services must operate.

Broader policy issue. B & P Section 650 is straight forward, if you are licensed under the Healing Arts division, offering or receiving any inducement for referring patients or clients to any person is unlawful. Exceptions are being carved out of 650 for individual licensee groups. The issues discussed no longer relate to the original intent of 650, but instead involve a "me too" philosophy. As an alternative to addressing patient referrals licensee group by licensee group, a broader vision focusing on the policy of allowing B & P licensees to operate referral services, within specified limitations, may be a more appropriate way to address the issue.

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SPONSOR: California Association of Marriage and Family Therapists

SUPPORT: California Association of Marriage and Family Therapists

OPPOSITION: None received

- continued

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ATTACHMENT C
LIST OF REGISTERED MFT REFERRAL SERVICES

Rank	License #	Issue Date	Expires	Name
MRF	1	2/11/98	1/1/50	CAMFT SAN FERNANDO VALLEY CHAPTER INFORMATION AND REFERRAL SVC
MRF	2	2/19/98	1/1/50	WOMENS INSTITUTE FOR COUNSELING
MRF	3	2/19/98	1/1/50	CONTRA COSTA REFERRAL SERVICE
MRF	4	2/19/98	1/1/50	COUNSELING CONNECTIONS
MRF	5	2/24/98	1/1/50	WOMENS THERAPY NETWORK
MRF	6	4/1/98	1/1/50	CA ASSN OF MARRIAGE & FAMILY THERAPISTS REFERRAL & INFO SVC
MRF	7	4/3/98	1/1/50	ASSOCIATION FOR THERAPY REFERRALS
MRF	8	4/30/98	1/1/50	1-800-THERAPIST
MRF	9	5/15/98	1/1/50	PERSON TO PERSON
MRF	10	6/26/98	1/1/50	CA ASSN OF MARRIAGE & FAMILY THERAPISTS REF SVC SAN FRANCISCO CHP
MRF	11	7/29/98	1/1/50	CENTER FOR SOLUTIONS
MRF	12	8/6/98	1/1/50	A-ACCESS PSYCHOTHERAPY REFERRAL SERVICE & 1-800-THERAPIST
MRF	13	8/20/98	1/1/50	1-800-THERAPIST REFERRAL NETWORK
MRF	14	12/8/98	1/1/50	LOW FEE PSYCHOTHERAPY NETWORK
MRF	15	7/2/99	1/1/50	1-800-THERAPIST REFERRAL NETWORK - VALLEY CHAPTER
MRF	17	6/28/00	1/1/50	AAA ACCESS TO 1-800-THERAPIST REFERRAL NETWORK-NORTH COUNTY CHAP'
MRF	19	10/3/00	1/1/50	RECAMFT - INFORMATION AND REFERRAL SERVICE
MRF	20	12/27/00	1/1/50	EAST BAY COUNSELING CHOICES
MRF	21	2/20/01	1/1/50	PSYCHOTHERAPY REFERRAL NETWORK
MRF	22	7/17/01	1/1/50	CHRISTIAN COUNSELING REFERRAL SERVICE
MRF	23	6/7/02	1/1/50	PSYCHOTHERAPESOURCE
MRF	24	10/7/03	1/1/50	COUPLES THERAPY NETWORK
MRF	25	8/31/06	1/1/50	GOLDEN QUEST
MRF	26	8/14/07	1/1/50	MARITAL SUCCESS SERVICES
MRF	27	7/6/10	1/1/50	MARIN CAMFT REFERRALS

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- Blended families

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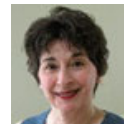
Meet Our Therapists



Don Kiehn
Oakland



Catherine Kvikstad
Castro Valley



Judy Levit
Oakland



Marcia Robbins
Orinda

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ATTACHMENT E

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MARIN CAMFT REFERRALS

Looking for a Counselor?

Marin CAMFT Referrals is a psychotherapy referral service provided by Marin CAMFT and registered with the California Board of Behavioral Sciences (#MRF27). In order to make the best possible referrals to Bay Area residents, Marin CAMFT Referrals draws on the diverse resources of more than 350 Licensed Marriage and Family Therapists. LMFTs are relationship experts who have been through rigorous training in order to assess, diagnose and treat individuals of all ages, couples, families and groups. They have been licensed by the state of California after completing a Master's degree in psychology, 3000 hours of supervised internship, a background check and two licensing exams.

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Include:

- Your name
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- A brief description of your circumstances
- Any special needs, such as an expert in trauma resolution or someone who will provide [low fee therapy](#) (less than \$50 per hour)

A Referral Manager will call to discuss your situation and will give you the names and numbers of three therapists. Set a time and negotiate a fee with your therapist. It is often helpful to interview potential therapists over the phone and/or in person to determine which one might be the best fit for you. If you are unable to find a therapist from the names given, please call back and leave a message.



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1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Committee Members **Date:** June 8, 2017
From: Rosanne Helms **Telephone:** (916) 574-7897
Legislative Analyst
Subject: Discussion of Supervised Experience Requirements for Out-of-State Applicants

Overview

The law for licensed clinical social workers (LCSWs) requires an applicant who is licensed out-of-state to have supervised experience that is substantially equivalent to California's supervised experience requirements. If the applicant has been licensed for at least four years immediately preceding the date of application in California, the law does not require that the applicant have the required 3,200 experience hours, as long as the Board determines their experience was substantially equivalent. However, if the applicant has been licensed in the other state for less than four years immediately preceding the date of application in California, the Board must verify that the individual has the 3,200 hours of supervised experience. Such an applicant gets credit for time licensed at a rate of 100 hours per month, up to a maximum of 1,200 hours.

There is no equivalent allowance in LMFT or LPCC law that out-of-state applicants who have been licensed four years or more do not have to have the 3,000 hours of supervised experience that California requires. These individuals must prove they have the 3,000 hours, even if they have 20 years of experience. This becomes problematic because some states do not require 3,000 experience hours, or even if they do now, they may not have many years ago. For example, the states of New York and Florida only require their MFT applicants to have 1,500 clinical hours (non-clinical hours are not counted).

History

The Board revised its supervised experience requirements for out-of-state LMFT and LPCC applicants in 2014 via AB 2213 (Chapter 387, Statutes of 2014). Previously, these out-of-state applicants needed to have substantially equivalent experience, and if licensed less than 2 years, they were required to obtain a minimum of 250 hours while registered as an intern in California.

In AB 2213, this language was deleted and instead more specific language about the required 3,000 hours, and its remediation at a rate of 100 hours per month for time licensed was added. Staff believes it was assumed that this change would be less restrictive for out-of-state licensees, and that it was assumed that out-of-state licensees would have the 3,000 experience hours. While this is true in most cases, it is problematic for applicants from states with lower supervised experience requirements. These applicants must register in California and gain additional hours, even if they have held their out-of-state license for a very long time.

Possible Solutions

Staff has drafted language to amend LMFT and LPCC statute so that it is similar to existing LCSW statute. It would require that supervised experience for all out-of-state licensees must be substantially equivalent. However, only those individuals who have been licensed less than four years immediately before application must meet the 3,000 experience hour requirement. These individuals may count time licensed at a rate of 100 hours per month, up to a maximum of 1,200 hours, and they can only do this if the practicum requirement is not waived or they are not remediating it. (LMFT and LPCC law allows individuals licensed at least two years out-of-state to be exempt from the practicum requirement. If they have been licensed out-of-state for less than two years may remediate it. (BPC §§4980.79(b)(1)(C), 4999.63(b)(1)(C), shown in **Attachment B**)

Additional Amendment

The law requires all applicants (LMFT, LCSW, and LPCC) with education gained out-of-state to complete an 18-hour California law and ethics course. For LMFT and LPCC applicants, the law specifically states that this must be done prior to registration as an intern. (BPC §§ 4980.78(b)(2)(A)(LMFT out-of-state unlicensed), 4980.79(b)(2)(A)(LMFT out-of-state licensed), 4999.62(b)(1)(D)(ii)(LPCC out-of-state unlicensed), 4999.63(b)(1)(D)(ii)(LPCC out-of-state licensed))

However, LCSW law is silent on whether applicants with out-of-state education must take the required 18-hour California law and ethics course prior to registration as an associate. Because taking the course prior to registration is the intent of the law (once they register as an associate, they must attempt the California law and ethics exam within their registration period), this needs to be specifically stated.

BPC Section 4996.17 is constructed as follows:

- Subsection (a) applies to all out-of-state applicants (unlicensed and licensed)
- Subsection (b) applies to out-of-state applicants who are licensed out-of-state
- Subsection (c) applies to out-of-state applicants who are licensed out-of-state and have held their out-of-state license for at least 4 years.

Due to the way this section is structured, the coursework requirements for each subset of applicants must be detailed separately in each subsection. Therefore, the 18-hour California law and ethics course is listed in each subsection, and each subsection must be amended to state the coursework must be taken prior to registration as an associate.

Attachments

Attachment A: Proposed Language

Attachment B: Relevant Code Sections: BPC §§ 4980.79, 4999.63

**ATTACHMENT A
PROPOSED LANGUAGE**

§4980.72. RECIPROCITY; EQUIVALENT REQUIREMENTS *(Note: Incorporates this year's SB 800 changes, which have not been chaptered yet)*

(a) This section applies to a person who is licensed outside of California and applies for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or country, if all of the following conditions are satisfied:

(1) The applicant's education is substantially equivalent, as defined in Section 4980.79. The applicant's degree title need not be identical to that required by Section 4980.36 or 4980.37.

(2) The applicant complies with Section 4980.76, if applicable.

(3) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter.

i. For persons who have held their license for less than four years immediately preceding the date of application, the ~~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 described above. If the applicant has less than 3,000 hours of qualifying supervised experience, time actively licensed as a marriage and family therapist in the equivalent profession shall be accepted at a rate of 100 hours per month, up to a maximum of 1,200 hours, if the applicant's degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4980.79 without exemptions or remediation.

(4) The applicant passes the California law and ethics examination.

(5) The applicant passes a clinical examination designated by the board. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(B) The applicant's license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

§4996.17. ACCEPTANCE OF EDUCATION AND EXPERIENCE GAINED OUTSIDE OF CALIFORNIA *(Note: Incorporates this year's SB 800 changes, which have not been chaptered yet)*

(a) (1) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(2) Commencing January 1, 2014, an applicant with education gained outside of California shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process. [This coursework shall be completed prior to registration as an associate.](#)

(b) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes, or has passed, the licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process. [This coursework shall be completed prior to registration as an associate.](#)

(4) The applicant's license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, holds a valid clinical social work license issued by a board of clinical social work examiners or a corresponding authority of any state, if the person has held that license for at least four years immediately preceding the date of application, the person passes, or has passed, the licensing examinations as specified in Section 4996.1, and the person pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process. [This coursework shall be completed prior to registration as an associate.](#)

(3) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(4) The applicant's license is in good standing and is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(d) An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination specified in Section 4996.1 if both of the following conditions are met:

(1) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(2) The applicant's license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

§4999.60. OUT-OF-STATE LICENSEE; EXAMINATION ELIGIBILITY *(Note: Incorporates this year's SB 800 changes, which have not been chaptered yet)*

(a) This section applies to persons who are licensed outside of California and apply for licensure on or after January 1, 2016.

(b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license in good standing as a professional clinical counselor, or other counseling license that allows the applicant to independently provide clinical mental health services, in another jurisdiction of the United States, if all of the following conditions are satisfied:

(1) The applicant's education is substantially equivalent, as defined in Section 4999.63.

(2) The applicant complies with subdivision (c) of Section 4999.40, if applicable.

(3) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter.

- i. For persons who have held their license for less than four years immediately preceding the date of application, 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 described above. If the applicant has less than

3,000 hours of qualifying supervised experience, time actively licensed ~~as a professional clinical counselor in the equivalent profession~~ shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours if the applicant's degree meets the practicum requirement described in subparagraph (C) of paragraph (1) of subdivision (b) of Section 4999.63 without exemptions or remediation.

(4) The applicant passes the examinations required to obtain a license under this chapter. An applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination if both of the following conditions are met:

(A) The applicant obtained a passing score on the clinical licensing examination set forth in regulation as accepted by the board.

(B) The applicant's license or registration in that jurisdiction is active, in good standing at the time of his or her application, and is not revoked, suspended, surrendered, denied, or otherwise restricted or encumbered.

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**ATTACHMENT B
RELEVANT CODE SECTIONS**

LMFT STATUTE

**§4980.79. SUBSTANTIALLY EQUIVALENT EDUCATION; COURSEWORK
REQUIRED OF APPLICANTS LICENSED OUTSIDE OF CALIFORNIA**

(a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who hold a license as described in Section 4980.72.

(b) For purposes of Section 4980.72, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by a regional or national institutional accrediting agency recognized by the United States Department of Education and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.36, the degree shall contain no less than 60 semester or 90 quarter units of instruction.

(ii) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.37, the degree shall contain no less than 48 semester or 72 quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy.

(i) An out-of-state applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the practicum requirement, shall remediate it by obtaining 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy. These hours are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while registered as an intern.

(D) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) An applicant shall complete coursework in California law and ethics as follows:

(A) An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 that did not include instruction in California law and ethics, shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process. **This coursework shall be completed prior to registration as an intern.**

(B) An applicant who has not completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 shall complete this required coursework. The coursework shall include content specific to California law and ethics. An applicant shall complete this coursework prior to registration as an intern.

(3) The applicant completes the educational requirements specified in Section 4980.81 not already completed in his or her education. The coursework may be from an accredited school, college, or university as specified in paragraph (1), from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited school, college, or university as specified in paragraph (1) above, from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction pertaining to the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.

(6) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, unless otherwise specified.

LPCC STATUTE

§4999.63. SUBSTANTIALLY EQUIVALENT EDUCATION; ADDITIONAL COURSEWORK; LICENSE HOLDER

(a) This section applies to persons who apply for examination eligibility or registration on or after January 1, 2016, and who hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.60, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester or 90 graduate quarter units of instruction.

(ii) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an intern.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester or 72 graduate quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(i) An applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the practicum requirement, shall remediate the requirement by demonstrating completion of a total of 280 hours of face-to-face supervised clinical experience, as specified in subparagraph (K) of paragraph (3) of subdivision (c) of Section 4999.33. Any postdegree hours gained to meet this requirement are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while the applicant is registered with the board as an intern.

(D) The required areas of study specified in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study

specified in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet any deficiencies shall be the equivalent of three semester units or four and one-half quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient in the required areas of study specified in subparagraphs (E) or (G) of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients. **An applicant shall complete this coursework prior to registration as an intern.**

(iii) An applicant who has not completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. An applicant shall complete this coursework prior to registration as an intern.

(2) The applicant completes any units required under subdivision (c) of Section 4999.33 not already completed in his or her education as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) The applicant completes the following coursework not already completed in his or her education:

(A) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(B) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(C) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated under that section.

(D) A minimum of 10 contact hours of instruction in aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(E) This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units or 45 hours of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit or 15 hours of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required by subparagraph (D) of paragraph (1) or paragraphs (2), (3), and (4) not already completed in his or her education while registered with the board as an intern, unless otherwise specified.

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To: Committee Members **Date:** June 6, 2017
From: Rosanne Helms **Telephone:** (916) 574-7897
Legislative Analyst
Subject: Discussion of Education Requirements to Obtain a Subsequent Registration Number

Overview

Current licensing law requires associate marriage and family therapists, associate clinical social workers, and associate professional clinical counselors to renew their registration number each year. The registration may be renewed a maximum of five times (six years). Once they have five renewals, the individual needs to obtain a subsequent registration number.

To obtain a subsequent registration number, the individual must do both of the following:

1. Pass the California law and ethics examination; and
2. Meet the educational requirements for registration that are currently in effect.

Potential Problems Meeting Current Educational Requirements

The law says that an individual must meet current educational requirements in order to obtain a subsequent registration number. This has not historically been a problem, because the Board's education requirements have not changed drastically for a long time. However, for LMFT and LPCC applicants who began graduate study after August 1, 2012, the education requirements changed significantly. Some of the major changes are as follows:

- Units required in degree increased from 48 semester units to 60 semester units (LMFT and LPCC).
- An increase in required number of core content areas from 9 to 13 (LPCC only).
- An increase in the required amount face-to-face supervised clinical experience in practicum from 150 hours to 280 hours. (LPCC only).

The Board's Licensing Unit anticipates that this will increasingly become an issue, especially for PCC registrants as they begin to need subsequent registration numbers. For an initial registration, the law bases the education requirements on when the degree was obtained (older degree = less stringent requirements). However, for a subsequent registration, current education requirements must be met (those with an older degree need to meet more stringent requirements).

Possible Solutions

There are a couple of possible ways to resolve this situation:

- **Solution #1: Remove the provision requiring current education requirements to be met in order to obtain a subsequent registration number.** This means that the applicant would have met the education requirements in place at the time he or she applied for initial licensure, which would have been based on when he or she began the Master's degree (unless out-of-state, which has slightly different education requirements based on whether or not the individual held an out-of-state license).

This solution may be appropriate for individuals who have been registered continuously for six years, or for individuals with only small gaps in registration. However, one possible downside would be that it could allow an individual who held a registration many years (or decades) ago, to be able to come back and request a subsequent registration number. Such an individual would be allowed to obtain the subsequent registration number with an older degree, and without any current practice experience.

- **Solution #2: Only require current education requirements to be met to obtain a subsequent registration number if the applicant has not been registered for a specified number of years.** The Board could state that if an applicant has not held a registration with the Board for a specific number of years, then he or she must meet current education requirements. The Committee would need to discuss the appropriate number of years to initiate this requirement.

Attachment A shows draft language for this solution.

Additional Amendment – BPC Section 4996.28(a)(4)

Business and Professions Code (BPC) Section 4996.28(a)(4) contains an incorrect statement that needs to be corrected. It states that to renew a registration, the registrant must obtain a passing score on the California law and ethics examination.

This is not the intent of the exam restructure. It should state that to renew a registration, the registrant must participate in the California law and ethics examination each year until passed. Passage of the examination is only needed for a subsequent registration or to obtain a license. Therefore, this subsection has been corrected accordingly.

Attachments

Attachment A: Proposed Language

Attachment B: Requirements of Other States

**ATTACHMENT A
PROPOSED LANGUAGE**

§4984.01. ASSOCIATE REGISTRATION; DURATION; RENEWAL

(a) The marriage and family therapist internassociate registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent internassociate registration number ~~if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4980.399. upon meeting both of the following requirements:~~

(1) Passage of the California law and ethics examination described in Section 4980.399.

(2) If the applicant has not held a registration number with the Board within the past (10? 15? 20?) years, he or she shall meet the current educational requirements for registration in effect at the time of the application for the subsequent associate registration number.

(d) An applicant who is issued a subsequent internassociate registration number pursuant to this subdivisionsection shall not be employed or volunteer in a private practice.

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

§4996.28. ASSOCIATE CLINICAL SOCIAL WORKER; REGISTRATION EXPIRATION; RENEWAL

(a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.

~~(4) On and after January 1, 2016, obtain a passing score on the California law and ethics examination pursuant to Section 4992.09. Participate in the California law and ethics examination pursuant to Section 4992.09 each year until successful completion of this examination.~~

(b) A registration as an associate clinical social worker may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number ~~if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration number. upon meeting both of the following requirements:~~

(1) Passage of the California law and ethics examination described in Section 4992.09.

(2) If the applicant has not held a registration number with the Board within the past (10? 15? 20?) years, he or she shall meet the current educational requirements for registration in effect at the time of the application for the subsequent associate registration number.

(c) An applicant issued a subsequent associate registration number pursuant to this subdivision section shall not be employed or volunteer in a private practice.

§4999.45. ASSOCIATE EMPLOYMENT; DUTIES, RESPONSIBILITIES AND LIMITATIONS *(Moved to 4999.46.1 in AB 93)*

(a) An internassociate employed under this chapter shall:

(1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an internassociate.

(2) Not be employed or volunteer in a private practice until registered as an internassociate.

(3) Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(4) Renew annually for a maximum of five years after initial registration with the board, as described in Section 4999.100. *(I don't think subsection (b) needs to be in the LPCC law twice – it isn't for the other licensees. Anyone disagree?).*

(b) When no further renewals are possible, an applicant may apply for and obtain a subsequent internassociate registration number as specified in section 4999.100. ~~if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.~~

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

§4999.100. EXPIRATION OF ASSOCIATE REGISTRATION; RENEWAL OF UNEXPIRED REGISTRATION

(a) An internassociate registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, ~~or~~ and whether any disciplinary action has been taken against him or her by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

(c) The internassociate registration may be renewed a maximum of five times. Registration shall not be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent internassociate registration number ~~if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. upon meeting both of the following requirements:~~

(1) Passage of the California law and ethics examination described in Section 4999.55.

(2) If the applicant has not held a registration number with the Board within the past (10? 15? 20?) years, he or she shall meet the current educational requirements for registration in effect at the time of the application for the subsequent associate registration number.

~~(d) An applicant who is issued a subsequent internassociate registration number pursuant to this subdivisionsection shall not be employed or volunteer in a private practice.~~

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

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**ATTACHMENT B
REQUIREMENTS OF OTHER STATES**

TEXAS - LPCs

Title 22 Texas Administrative Code, Chapter 681, §681.91 (g) and (h):

(g) An LPC Intern license will expire 60 months from the date of issuance.

(h) An LPC Intern who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure. The person may obtain a new license by complying with the current requirements and procedures for obtaining an original license, including examination requirements.

New York – Marriage and Family Therapist

New York State Regulations of the Commissioner, Subpart 79-10, Marriage and Family Therapy

79-10.4 Limited permits.

As authorized by section 8409 of the Education Law, the department may issue a limited permit to practice marriage and family therapy in accordance with the requirements of this section, to allow an applicant to practice under supervision while meeting the experience and/or examination requirements for licensure.

- a. An applicant for a limited permit to practice marriage and family therapy shall:
 1. file an application for a limited permit with the department and pay the application fee, as prescribed in section 8409(3) of the Education Law;
 2. meet all requirements for licensure as a marriage and family therapist, including but not limited to the moral character and education requirements, except the examination and/or experience requirements; and
 3. be under the supervision of a supervisor acceptable to the department in accordance with the requirements of section 79-10.3 of this Subpart.
- b. In accordance with the requirements of section 79-10.3 of this Subpart, the limited permit in marriage and family therapy shall be issued for specific employment setting(s), acceptable to the department and the permit shall identify a qualified supervisor, acceptable to the department.
 1. The supervisor shall be responsible for appropriate oversight of all services provided by a permit holder under his or her general supervision.
 2. No supervisor shall supervise more than five permit holders at one time.
- c. The limited permit in marriage and family therapy shall be valid for a period of not more than 24 months, provided that the limited permit may be extended for no more than two additional 12 month periods at the discretion of the department if the department determines that the permit holder has made good faith efforts to successfully complete the examination and/or experience requirements but has not passed the licensing examination or completed the experience requirement, or has other good cause as determined by the department for not completing the examination and/or experience

requirement, and provided further that the time authorized by such limited permit and subsequent extensions shall not exceed 48 months total.

Massachusetts – Mental Health Counselors

262 CMR 2.00: Requirements For Licensure As a Mental Health Counselor

§2.07: Post-master's Degree Clinical Field Experience Requirements

(1) Eligible applicants must complete, in no less than two and no more than eight years, a minimum of two years of full-time or equivalent part-time, post-Master's degree Supervised Clinical Field Experience and Direct Client Contact Experience.

Washington – Mental Health Counselor, Social Worker, and Marriage and Family Therapist Associates

RCW Title 18, Chapter 18.225, § 18.225.145

Associate licensing—Requirements.

(1) The secretary shall issue an associate license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements for the applicant's practice area and submits a declaration that the applicant is working toward full licensure in that category:

(a) Licensed social worker associate—advanced or licensed social worker associate— independent clinical: Graduation from a master's degree or doctoral degree educational program in social work accredited by the council on social work education and approved by the secretary based upon nationally recognized standards.

(b) Licensed mental health counselor associate: Graduation from a master's degree or doctoral degree educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards.

(c) Licensed marriage and family therapist associate: Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards.

(2) Associates may not provide independent social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(3) Associates shall provide each client or patient, during the first professional contact, with a disclosure form according to RCW [18.225.100](#), disclosing that he or she is an associate under the supervision of an approved supervisor.

(4) The department shall adopt by rule what constitutes adequate proof of compliance with the requirements of this section.

(5) Applicants are subject to the denial of a license or issuance of a conditional license for the reasons set forth in chapter [18.130](#) RCW.

(6) An associate license may be renewed no more than six times, provided that the applicant for renewal has successfully completed eighteen hours of continuing education in the preceding year. Beginning with the second renewal, at least six of the continuing education hours in the preceding two years must be in professional ethics.

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To: Committee Members
From: Rosanne Helms
Legislative Analyst
Date: June 14, 2017
Telephone: (916) 574-7897
Subject: Review of Board-Sponsored and Monitored Legislation

BOARD-SPONSORED LEGISLATION

The Board is sponsoring the following legislative proposals:

1. **AB 93 (Medina) Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision**

This bill proposal represents the work of the Board's Supervision Committee. Its amendments focus on strengthening the qualifications of supervisors, supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also strives to make the Board's supervision requirements more consistent across its licensed professions.

This bill proposal was approved by the Board at its November 4, 2016 meeting. Minor technical amendments to the bill were approved at the Board's March 3, 2017 meeting.

Status: AB 93 has passed through the Assembly, and is currently in the Senate Business, Professions, & Economic Development Committee.

2. **SB 800 (Senate Business, Professions, and Economic Development Committee) Professions and Vocations (Omnibus Bill)**

This proposal, approved by the Board at its November 4, 2016 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

Status: This bill is currently in the Assembly Business and Professions Committee.

BOARD-SUPPORTED LEGISLATION

1. **AB 191 (Wood): Mental Health: Involuntary Treatment**

This bill adds 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.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill is in the Senate Health Committee.

2. **AB 456 (Thurmond): Healing Arts: Associate Clinical Social Workers**

This bill would extend the Board’s “90-day rule” to applicants for registration as an associate clinical social worker (ASW). Currently, the 90-day rule allows applicants for registration as a marriage and family therapist intern or a professional clinical counselor intern to count post degree hours of supervised experience before receiving a registration number, as long as they apply for their intern registration within 90 days of the granting of their qualifying degree.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill is in the Senate Committee on Business, Professions, and Economic Development.

3. **AB 508 (Santiago): Health Care Practitioners: Student Loans**

This bill would remove a healing art board’s 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.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill is in the Senate Appropriations Committee.

4. **AB 1116 (Grayson): Peer Support and Crisis Referral Services Act**

This bill establishes that a communication between an emergency service personnel worker and a peer support team member, crisis hotline staffer, or a crisis referral service staffer is privileged for a noncriminal proceeding to the same extent and limitations as a communication between a patient and a psychotherapist.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill has passed through the Assembly and is now in the Senate.

5. **AB 1188 (Nazarian): Health Professions Development: Loan Repayment**

This bill would increase 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 would also require LPCCs to pay a \$20 fee into the fund upon renewal, and would allow

LPCCs and PCC interns to apply for the loan repayment grant if they work in a mental health professional shortage area.

At its May 12, 2017 meeting, the Board took a “support if amended” position on this bill, asking for minor amendments and a delayed implementation until July 1, 2018. Since the Board meeting, the Board’s requested amendments were made, and therefore the Board now has a “support” position.

Status: This bill has passed through the Assembly and is now in the Senate.

6. AB 1372 (Levine): Health Professions Development: Loan Repayment

This bill allows a certified crisis stabilization unit that provides specialty mental health services, at its discretion, to provide medically necessary crisis stabilization services to individuals beyond the allowable treatment time of 24 hours under certain circumstances.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill is in the Senate Health Committee.

7. AB 1591 (Berman): Medi-Cal: Federally Qualified Health Centers and Rural Health Centers: Licensed Professional Clinical Counselor

This bill would allow Medi-Cal reimbursement for covered mental health services provided by a licensed professional clinical counselor employed by a federally qualified health center or a rural health clinic.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill is in the Senate Health Committee.

8. SB 27 (Morrell): Professions and Vocations: Licensees: Military Service

This bill would require licensing boards within the Department of Consumer Affairs (DCA) to grant fee waivers for the application for and issuance of an initial license to an applicant who has served as an active duty member of the California National Guard or the U.S. Armed Forces and was honorably discharged.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This is a 2-year bill.

9. SB 244 (Lara): Privacy: Agencies: Personal Information

This bill would provide additional privacy protections for personal information that is submitted to state agencies from an applicant for public services or programs.

At its May 12, 2017 meeting, the Board took a “support” position on the May 3, 2017 version of this bill. Amendments have been made to the bill since that time, some of which may be substantive.

Status: This bill has passed through the Senate and is now in the Assembly.

10. SB 374 (Newman): Health Insurance: Discriminatory Practices: Mental Health

This bill grants the Department of Insurance the authority to require that large group health insurance policies and individual or small group health insurance policies must provide all

covered mental health and substance use disorder benefits in compliance with federal law. This is parallel to current authority already given to the Department of Managed Health Care for its regulation of large, individual or small group health care service plans.

At its May 12, 2017 meeting, the Board took a “support” position on this bill.

Status: This bill is in the Assembly Health Committee.

BOARD-MONITORED LEGISLATION

1. **AB 89 (Levine) Psychologists: Suicide Prevention Training**

This bill would require, beginning January 1, 2020, an applicant for licensure as a psychologist, or a licensed psychologist, upon renewal of his or her license, to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention.

At its May 12, 2017 meeting, the Board decided to remain neutral on this bill.

Status: This bill is in the Senate Appropriations Committee.

2. **AB 700 (Jones-Sawyer) Public Health: Alcoholism or Drug Abuse Recovery: Substance Use Disorder Counseling**

This bill would establish a career ladder for substance use disorder counselors, with classifications for substance use disorder counselor certification or registration.

At its May 12, 2017 meeting, the Board discussed the bill, and requested an amendment to clarify that Board trainees and registrants do not have to have a substance use disorder certification to engage in the practice of substance use disorder counseling. This amendment has now been made.

Status: This bill has passed through the Assembly and is now in the Senate.

3. **AB 767 (Quirk-Silva) Master Business License Act**

This bill creates a master business license system under the Governor’s Office of Business and Economic Development. It would allow a person who needs to apply for more than one business license to submit a single master application through GO-Biz, which would then distribute the application information to the various relevant licensing entities.

At its May 12, 2017 meeting, the Board decided to take a “support if amended” position on this bill, and ask that the Board be exempted from the bill’s provisions.

Status: This is a 2-year bill.

4. **SB 715 (Newman) Department of Consumer Affairs: Regulatory Boards: Removal of Board Members**

This bill would allow the Governor to remove a board member appointed by him or her for failure to attend board meetings.

At its May 12, 2017 meeting, the Board decided to watch this bill.

Status: This has passed through the Senate and is now in the Assembly.

5. SB 762 (Hernandez) Healing Arts Licensee: License Activation Fee: Waiver

This bill would require all healing arts boards under the Department of Consumer Affairs (DCA) to waive the renewal fee for an inactive licensee returning to active status, if the licensee will solely be providing voluntary, unpaid services to indigent patients in medically underserved or critical-need population areas.

At its May 12, 2017 meeting, the Board took an “oppose unless amended” position on this bill, asking that it be excluded from the bill’s provisions.

Status: This bill has passed through the Senate and is now in the Assembly.

Updated: June 12, 2017

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To: Policy and Advocacy Committee Members **Date:** June 6, 2017
From: Christy Berger
Regulatory Analyst **Telephone:** (916) 574-7817
Subject: Status of Rulemaking Proposals

CURRENT REGULATORY PROPOSALS

English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2

This proposal would allow the Board to grant time-and-a-half (1.5x) on a Board-administered examination to an English as a second language (ESL) applicant, if the applicant meets specific criteria demonstrating limited English proficiency.

The final proposal was approved by the Board at its meeting in November 2015. It was published in the California Regulatory Notice Register on January 1, 2016. The 45-day public comment period has ended, and the public hearing was held on February 15, 2016. Upon review by the Office of Administrative Law (OAL), staff was notified wording changes that would be necessary for approval. The proposed changes were approved by the Board in March 2017, and a 15-day public comment period was held. The revised language and documents are currently under review by the Department of Consumer Affairs (DCA).

Application Processing Times and Registrant Advertising

This proposal would amend 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, and makes several technical changes. This proposal would also amend the regulation that sets forth minimum and maximum application processing time frames.

The final proposal was approved by the Board at its meeting in November 2016. The proposal has completed the new "initial review phase" process required by DCA. The proposal is being prepared for submission to OAL for publishing in the California Regulatory Notice Register to initiate the 45-day public comment period.

Contact Information; Application Requirements; Incapacitated Supervisors

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.
- Provide standard procedures for cases where a registrant's supervisor dies or is incapacitated before the completed hours of experience have been signed off.

The proposal was approved by the Board at its meeting in March 2017, and is being prepared for in the new "initial review phase" process required by DCA, which can take up to four months. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

Supervision

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; and
- Address supervision gained outside of California.

The proposal was approved by the Board at its meeting in November 2016, and is being prepared for in the new "initial review phase" process required by DCA. Upon completion of the DCA review, as well as the passage of the Board's supervision legislation (AB 93), the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

Enforcement

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)," which are incorporated by reference into the Board's regulations. 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 Business and Professions Code; and
3. Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was approved by the Board at its meeting in February 2017, and is in the new “initial review phase” process required by DCA. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.