

Policy and Advocacy Committee Meeting

April 21, 2017

I. Discussion and Recommendations on Bills

Assembly Bill 191 (Wood) Mental Health: Involuntary Treatment

This CAMFT-sponsored bill seeks to add 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. Currently, a physician or psychologist must be the first signer. The second person to sign an involuntary treatment certification may be another physician, another psychologist, a social worker or a registered nurse. It is not uncommon for LMFTs or LPCCs to be part of involuntary hold treatment teams, but they are currently not able to provide the second required signature. If a social worker or registered nurse is not available, this can lead to a person being held longer than authorized by law, or it can cause continuity of care issues, because the treating LMFT or LPCC is unable to sign the certification.

The Committee voted to recommend a position of Support.

CAMFT's position on this bill is Support.

Assembly Bill 456 (Thurmond) Healing Arts: Associate Clinical Social Workers

This bill seeks to 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.

The Committee discussed concerns about consumer protection, particularly applicants who are able to continue to provide counseling services, but have a criminal conviction that has not been reviewed by the BBS. The fingerprinting requirement is a deficiency that can be made up after a one-year period, therefore applicants who have a conviction or criminal history are providing services to clients during the period their registration application is pending. However, the Committee is hesitant to oppose the bill if applicants from the other two professions, MFT and LPCC, are able to count hours per the 90-day rule. The Committee suggested further discussion on the 90-day rule, generally.

The Committee voted to defer a recommendation to the full Board for discussion at its May meeting.

CAMFT is watching this bill.

Assembly Bill 508 (Santiago) Health Care Practitioners: Student Loans

This bill seeks to 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. The bill is further seeking to protect the professional licenses of people who have defaulted on their federal student loan debt, arguing that by removing a person's ability to practice their profession, they remove their ability to repay their loans

and other bills. BBS staff indicated they have not taken any action when in receipt of this information, although they have the legal authority do so. The Committee discussed it is not within their purview to cite/fine applicants and licensees for being in default of loans.

The Committee voted to recommend a position of Support.

CAMFT does not yet have a position on this bill.

Assembly Bill 703 (Flora) Professions and Vocations: Licenses: Fee Waivers

This bill would require licensing boards within the Department of Consumer Affairs (DCA), which would include the BBS, to grant fee waivers for the application for and issuance of an initial license to a person who holds a current license in the same profession in another state and is married to or in a domestic partnership with an active duty member of the U.S. military. The BBS only charges an initial license fee. (Applicants also typically have to pay a registration application fee, registration renewal fees, and exam application fees, but these fees are not waived under this bill.) The fees that the BBS charges that would qualify for a military service waiver under this bill are as follows: LMFTs: \$130 initial license fee; LEPs: \$80 initial license fee; LCSWs: \$100 initial license fee; LPCCs: \$200 initial license fee. This change would require modifications to the BreZE system which would be paid for by the BBS.

The Committee voted to recommend a position of Support.

CAMFT is watching this bill.

Senate Bill 27 (Morrell) Professions and Vocations: Licenses: Military Service

This bill would require licensing boards within the Department of Consumer Affairs (DCA), which would include the BBS, 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.

The Committee directed BBS staff to obtain more data on how many applicants are active duty member or honorably discharged from the California National Guard or the U.S. Armed Forces and referred to the full Board for further discussion at its May Meeting.

CAMFT is watching this bill.

Assembly Bill 767 (Quirk-Silva) Master Business License Act

This bill seeks to create 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. The bill would require, among other items, that each state agency to cooperate and provide reasonable assistance to GO-Biz in implementing the Master Business License Act.

The Committee discussed the complexity of obtaining a license with the BBS. The licensing process for BBS-licenses is a unique process, including intern registration, taking the L&E exam during registration, and the clinical exam after hours have been obtained. The Committee discussed supporting the concept of the master business license system, but not for BBS-licensees.

The Committee voted to recommend a position of Support If Amended to exclude BBS.

CAMFT does not yet have a position on this bill.

Assembly Bill 1116 (Grayson) Peer Support and Crisis Referral Services Act

This bill was amended on 4/21/2017. Existing law provides a definition of a “psychotherapist” for purposes of establishing the psychotherapist-patient privilege. This bill establishes the “Peer Support and Crisis Referral Services Act.” The bill specifies that a communication made by emergency service personnel to a crisis hotline or crisis referral service is confidential and cannot be disclosed in a civil or administrative proceeding. The bill also states that except under certain specified circumstances, a communication made by emergency service personnel to a peer support team member while receiving peer support services is confidential and cannot be disclosed in a civil or administrative proceeding. Prior to amendments, the bill included these professionals under the definition of “psychotherapists” as defined under Evidence Code 1010. The amendments remove these professionals under the definition of “psychotherapists.”

CAMFT and NASW expressed support for the concept of protecting the confidentiality of these communications, however is concerned with the unintended consequences of defining these professionals as “psychotherapists” under the law. CAMFT and NASW have met with the sponsors of this bill to discuss how to protect the confidentiality of these communications without placing these persons under the definition of “psychotherapist” in the Evidence Code.

The Committee voted for BBS staff to further review and analyze the recent amendments and to refer to the full Board for further discussion at its May meeting.

Assembly Bill 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. The BBS has requested minor amendments to change all references of “interns” to “associates” in the bill.

The Committee discussed the urgency measure of the bill, meaning the law would be effective upon the governor’s signature. BBS Staff indicated that implementing the change immediately upon the governor’s signature would be impracticable given the necessary administrative changes that would need to occur, including amendments to forms, renewal notices and the BrEZe system. BBS Staff suggested they would be comfortable implementing the required changes on July 1, 2018. The Committee discussed supporting the bill, but to request the bill be amended to include an implementation date of July 1, 2018.

The Committee voted to recommend a position of Support If Amended to include an implementation date of July 1, 2018.

CAMFT’s position on this bill is Support.

Assembly Bill 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. This bill is similar to AB2198 (2014), which included BBS licensees. The Governor vetoed AB2198 and asked the licensing boards to evaluate the issues raised. Per the Governor's direction, the BBS distributed a survey to graduate programs requesting the programs to report the number of required courses covering these courses. 28 programs responded and after review of the results, the BBS found the graduate programs commonly integrate the topic of suicide assessment across a variety of courses. The BBS concluded that mandating a specific number of hours of suicide assessment coursework is unlikely to be effective in reducing suicides because degree programs are already providing coverage of the topic.

The Committee discussed the current bill's inapplicability to BBS-licensees. BBS Staff indicated they were not concerned the bill would extend to include BBS-licensees.

The Committee voted to recommend taking a Neutral position.

CAMFT is watching this bill.

Assembly Bill 1372 (Levine) Crisis Stabilization Unit: Psychiatric Patients

This bill would allow a 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.

The Committee discussed the importance of consumers to have access to crisis stabilization services.

The Committee voted to recommend a position of Support.

CAMFT is watching this bill.

Assembly Bill 1591 (Berman) Medi-Cal: Federally Qualified Health Centers and Rural Health Centers: Licensed Professional Clinical Counselors

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.

The Committee voted to recommend a position of Support.

CAMFT does not yet have a position on this bill.

Senate Bill 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. Under existing law, the Department of Consumer Affairs (DCA) is required to collect from applicants an individual taxpayer ID number or their social security number. This bill requires that information collected from applicants cannot be disclosed except for licensing purposes or required by state or federal law. This bill would also prohibit information obtained by applicants to the Mental Health Practitioner Education Fund loan repayment grant from being considered public record per the Public Records Act. The information would be confidential and used for assessing eligibility or as required by state or federal law.

The Committee voted to recommend a position of Support.

CAMFT is watching this bill.

Senate Bill 374 (Newman) Health Insurance: Discriminatory Practices: Mental Health

This CAMFT-cosponsored 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.

The Committee voted to recommend a position of Support.

CAMFT's position on this bill is Support.

Senate Bill 399 (Portantino) Health Care Coverage: PDD or Autism

This bill seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment. It also revises the definitions of a “qualified autism service professional” and a “qualified autism service paraprofessional.”

CAMFT has not taken a position on this bill, but expressed concerns that paraprofessionals who render the services to this vulnerable population receive adequate supervision from qualified licensed professionals.

The Committee voted to recommend taking a Neutral position.

CAMFT is watching this bill.

Senate Bill 572 (Stone) Healing Arts Licenses: Violations: Grace Period

This bill would require a healing arts board to grant a licensee a 15-day grace period to correct any violations of law that do not cause irreparable harm before imposing discipline. BBS Staff is concerned that the term “irreparable harm” is not defined, which leaves it open for subjective interpretation. The BBS would have to send more cases to subject matter experts in order to determine if irreparable harm occurred. BBS Staff is also concerned the bill would create a disincentive for licensees to complete their required continuing education. If a licensee was provided with a 15-day grace period to come into compliance, some licensees may decide there is no need to complete their education unless audited. BBS Staff also expressed concerns with the vagueness of when the 15-day window to correct the violations commences. In addition, BBS Staff indicated the 15-day grace period will extend the time it takes to complete some investigations. The current performance measure for completing an investigation is 180 days. The Committee discussed and agreed with Staff’s concerns.

The Committee voted to recommend a position of Oppose.

CAMFT is watching this bill.

Senate Bill 636 (Bradford) Addiction: Treatment: Advertising: Payment

This bill prohibits persons, including BBS-licensees, who provide counseling services in an alcoholism or drug abuse recovery and treatment program licensed by the Department of Health Care Services (DHCS), from giving or receiving any type of remuneration for patient referrals. It permits DHCS to investigate potential violations and recommend disciplinary action to the relevant licensing board. The Committee discussed whether the BBS wants to share enforcement authority/oversight of BBS-licensees with the DHCS.

The Committee discussed supporting the concept of DHCS investigating its licensed facilities and the facilities' employees, including BBS-licensees and registrants. However, the Committee is concerned about DHCS having the authority to enforce and take disciplinary action against BBS-licensees and registrants. The Committee would rather see DHCS providing a referral to the BBS rather than making a recommendation to the BBS or taking disciplinary action through DHCS's administrative hearings.

The Committee voted a position of Oppose Unless Amended to remove DHCS's authority to take disciplinary action against BBS-licensees and registrants. The Committee directed staff to provide technical assistance to the author of the bill.

CAMFT is watching this bill.

II. Status of Board-Sponsored Legislation

Assembly Bill 93 (Medina) Healing Arts: Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Professional Clinical Counselors: Required Supervision and Experience

This bill 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 recently passed the Assembly Business and Professions Committee, and is currently in the Assembly Appropriations Committee.

Board Omnibus Bill - Proposed Technical and Non-Substantive Amendments to Business and Professions Code Sections 801, 801.1, 802, 4980.09, 4999.12.5, 4980.44, 4984.7, 4999.32, 4999.42, 4999.53, 4999.62, 4999.63, 4999.120, 4984.4, 4984.7, 4996.3, 4996.6, 4999.32, 4999.33, 4999.60, 4999.61, 4984.9, 4992.8, 4989.46, 4999.18, 4980.72, 4996.17, 4999.53; Evidence Code Section 1010(f)(o); and Penal Code Section 11165.7(a)(25) and (a)(40)

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.

One proposed amendment item was rejected by the Senate Business, Professions, and Economic Development Committee as being too substantive. The Committee has indicated that all other amendments the Board requested were accepted. The rejected proposal was as

follows: Proposal to Amend BPC Sections 801, 801.1, and 802 – Judgment and Settlement Reporting Amounts

Currently, healing arts licensees must report all judgments or settlements for negligence claims in excess of a certain dollar amount to his or her licensing board. For some boards, this amount is \$3,000. For the Board’s LMFT, LCSW, and LPCC licensees, this reporting amount is \$10,000. However, there is a reference error in law. The law states Board licensees subject to “Chapter 14 (commencing with Section 4990)” are subject to this reporting requirement. While Chapter 14 refers to LCSW statute, section 4990 is a reference to the beginning of the Board’s general provisions. This error needs to be corrected. In addition, LEPs are not included in the list of licensees that are subject to the \$10,000 reporting requirement. Instead, they are subject to the \$3,000 reporting requirement. The Board’s Enforcement Unit notes that there is no known reason why the reporting threshold should be any different for LEPs, and such a difference for only one Board license type is arbitrary and potentially confusing for staff and licensees.

Additionally, BPC Section 801.1(b) refers to the Board as the “Board of Behavioral Science Examiners.” This language was amended to reference the “Board of Behavioral Sciences.”

BBS Staff indicated the Committee may consider making a recommendation next year to propose amendments to BPC 801, 801.1 and 802 to correct the reference error to Chapter 14.

Status: The Senate Business, Professions, and Economic Development Committee indicates that it plans to amend the Board’s requested omnibus bill items into SB 800.

III. Status of Board Rulemaking Proposals

English as a Second Language: Additional Examination Time: Add Title 16. California Code of Regulations 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 being prepared for approval by the Department of Consumer Affairs (DCA) and OAL.

Application Processing Times and Registrant Advertising: Amend Title 16. California Code of Regulations, Sections 1805.1 and 1811

(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 is currently in the new “initial review phase” process required by DCA. The initial review phase is expected to be completed in the next few weeks, at which time the proposal will be submitted to OAL for publishing in the California Regulatory Notice Register to initiate the 45-day public comment period.

Contact Information; Application Requirements; Incapacitated Supervisors: Amend Title 16. California Code of Regulations, Sections 1804, 1805 and 1820.7; Add Section 1815.8

This proposal would:

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

Suggestions for Future Agenda Items

AAMFT-CA requested to bring to the May Board Meeting a discussion of AB387 Minimum Wage and a discussion of “Post-Traumatic Street Disorder.”