

1. Proposed BBS 2017 Omnibus Legislation

The Committee discussed items to include in legislation for 2017, including:

- Amend Business and Professions Code to state that references in law or regulation to an “intern” shall be deemed a reference to an “associate”. This captures the intent of the 2016 legislation that changed the “intern” title to “associate” effective January 1, 2018. The BBS has already begun the process of amending the new title into law in sections that are amended during the 2017 legislative session.
- Change references in law regarding “applying for examination eligibility” to “applying for licensure”. This updates the language to reflect the new examination structure, where interns are eligible to take an exam while they are still gaining hours.
- Amend Board statutes to require that licensees or registrants requesting a name change provide a current government issued photo ID and sign statement under penalty of perjury. This aligns with requirements in BreEze that were added for security reasons.
- Amend Business and Professions Code to clarify that out of state licensees applying in California must have a license that is active and in good standing to qualify for waiver of a national clinical exam that is accepted by the BBS. License must be valid and in good standing to qualify for evaluation as an out-of-state licensee.

2. Proposed BBS 2017 Regulatory Changes

The Committee discussed regulatory items to change in 2017, including:

- Delete regulations that set forth minimum and maximum application processing times since the existing metrics are antiquated. The BBS noted that an “Application Processing Times” page on the website provides minimum number of days for processing. The BBS is available for status checks when the application has not been processed by the minimum number of business days.

CAMFT noted that removing the maximum application processing time could impact stakeholders’ ability to advocate for additional staff to overcome future backlogs. BBS accepted the concern and suggested there might be a better way to hold BBS accountable to give stakeholders the ability to advocate, including listing minimum of

number of days required for processing in lieu of the existing metrics. (It was noted that the existing metrics have not been updated in more than a decade.)

CAMFT asked how status check inquiries sent to the general mailbox on the Contact Us page will be answered and within what timeframe. The BBS acknowledged that they are inundated with emails and would like to develop an auto-response with an expected timeframe for a response. CAMFT requested that the BBS consider a specific mailbox for status checks so they are quickly routed to the proper staffperson.

The BBS is planning to revise the content of the BBS website, which would include addressing how to direct inquiries, timely responses, and updating processing times on a monthly basis. The BBS hopes to have a re-designed website released at the start of 2017.

Currently, all of the applications are being processed within the timeframes posted.

- Add the use of “Registered Associate Marriage and Family Therapist” or “Registered Associate Professional Clinical Counselor” to the list of acceptable titles when advertising, effective January 1, 2018. The use of the term “intern” would sunset on December 31, 2018, to allow for a year to phase-in the change in title for interns. The recognized term is “Registered Associate Marriage and Family Therapist”. Other forms of this title (i.e. Marriage and Family Therapist Associate) are not recognized and should not be used.

3. Proposed Supervision Amendments

The Board’s Supervision Committee met 11 times beginning in April 2014, and ending in August 2016. The Committee’s work initially resulted in the 2015 legislation which streamlined the experience categories required for licensure. The Committee then worked to propose amendments to the qualifications of supervisors, supervisor responsibilities, types of supervision provided, and employment. Some of the changes being proposed are significant, and are based on the results of a survey of supervisors and supervisees, a large amount of stakeholder feedback, and supervision standards in other states. When considering proposed changes, the Committee attempted to balance any potential barriers to providing supervision with the needs expressed by stakeholders, as well as the need for public protection.

The most substantive changes include:

- **Supervisors Licensed for at Least Two Years:** Current law requires a supervisor to have been licensed in California for at least two years. The amendments allow a licensee to supervise only if he or she has been actively licensed in California or holds an equivalent license in any other state for at least two of the past five years immediately prior to commencing any supervision.

This would be addressed via legislation.

- **Experience Required of Supervisors:** In order to supervise a registrant, current regulations require a supervisor to have practiced psychotherapy or provided direct clinical supervision for 2 of the past 5 years. An amendment would clarify that supervision of LPCC trainees or social work students is acceptable as experience to qualify as a supervisor, and makes the language consistent for each of the Board's license types.

This would be addressed via legislation.

- **Definition of Supervision:** The definition of "supervision" has been revised to include responsibility for, and control of, the quality of services being provided. Some significant additions to the definition are as follows:

- A statement that consultation or peer discussion is not supervision and does not qualify as supervised experience. This is consistent with what is already in LCSW and LPCC law.

- A statement about providing regular feedback to the supervisee.

- An amendment to require the supervisor to monitor for and address any countertransference, intrapsychic, and interpersonal issues that may affect the supervisory or the practitioner-patient relationship;

CAMFT and AAMFT raised concern that countertransference is a theory-specific term, from a psychodynamic model. It was suggested that the language be used to address and monitor "clinical dynamics, such as, but not limited to countertransference, intrapsychic, interpersonal, or trauma-related issues...."

- An amendment stating that the supervisor should review progress notes, process notes, and other treatment records as he or she deems appropriate, and also an amendment stating the supervisor should engage in direct observation or review of audio or video recordings, with client written consent, as the supervisor deems appropriate.

This would be addressed via legislation.

- **Prohibition on Independent Contracting - Gaining Experience vs Performing Services:** The Supervision Committee discussed clarifying the existing language to state

that no trainees, associates, or applicants for licensure are allowed to perform services or gain experience within the defined scope of practice of the profession, as an independent contractor.

This would be addressed via legislation.

- **Prohibition on Independent Contracting - Submission of 1099 Documentation:** The Supervision Committee decided that the specific \$500 limit of reimbursement for expenses issued in a 1099 should be removed from the law since the number is arbitrary and expenses can easily exceed \$500. In addition, exception for stipends and loan repayments is also proposed to be added.

This would be addressed via legislation.

- **Handling Crises and Emergencies:** The American Counseling Association's Ethical Code requires supervisors to establish and communicate to supervisees procedures for contacting either the supervisor, or an alternate on-call supervisor, in a crisis. The Supervision Committee decided to adopt this requirement for all supervisors.

This would be addressed via regulation.

- **Amount of Direct Supervisor Contact Required for Applicants Finished Gaining Experience Hours:** Currently, the statute does not specifically define how much direct supervisor contact an associate MFT or PCC needs once he or she is finished gaining experience hours needed to count toward licensure. This amendment requires associates and applicants who have finished gaining experience hours to obtain at least one hour of supervision per week for each setting in which direct clinical counseling is performed. Supervision for nonclinical practice would be at the supervisor's discretion.

This would be addressed via legislation.

- **Definition of "One Hour of Direct Supervisor Contact"; Triadic Supervision:** Triadic supervision (one supervisor meeting with two supervisees) is now included in the definition of "one hour of direct supervisor contact". Furthermore, the 52 weeks of supervision may now be individual or triadic.

This would be addressed via legislation.

- **Supervision in a Group:** Current statute allows group supervision to consist of up to 8 supervisees. An amendment states that the amount and degree of supervision is appropriate for each supervisee.

This will be addressed via legislation.

- **Supervision via Videoconferencing and HIPAA Compliance:** The supervisor shall be responsible for ensuring compliance with state and federal laws relating to confidentiality of patient health information.

This will be addressed via legislation.

- **Marriage and Family Therapy Corporations:** Current statute limits the number of registrants a marriage and family corporation may employ. The use of the word “employ” is intended to include both employees and volunteers. Since volunteers are not actually “employed,” the language has been revised to more accurately account for this. Additionally, the language regarding limits on number of registrants working for marriage and family corporations has been separated into subsections for clarity purposes.

This will be addressed via legislation.

- **Supervision in a Non-Private Practice Setting – Written Agreement:** Currently, a supervisor only needs to sign a written agreement with the supervisee’s employer if the supervisor is a volunteer (volunteer supervisors are not allowed in private practice settings). The purpose of the agreement is to document that the employer agrees to provide the supervisor with access to records and will not interfere with the supervisor’s legal and ethical responsibilities. An amendment was made to require a written agreement when the setting is a non-private practice and the supervisor is not employed by the applicant’s employer or is a volunteer. Proposed amendments would require the written agreement to contain an acknowledgement by the employer that the employer is aware the supervisor will need to provide clinical direction to the supervisee in order to ensure compliance with the standards of practice of the profession.

The BBS noted that a template would be provided.

This will be addressed via legislation.

- **Substitute Supervisors:** It is sometimes necessary for supervisees to temporarily have a substitute supervisor. This situation may happen with or without warning. The

Supervision Committee has recommended language that would clarify the specific requirements and necessary documentation for a temporary substitute supervisor, based on how long the substitute will be filling in.

This would be pursued via regulation after the legislation is passed.

- **Required Training and Coursework for Supervisors**

This section applies only to BBS-licensed supervisors. This section requires supervisors commencing supervision for the first time in California, beginning January 1, 2019, to complete a 15-hour supervision course covering specified topic areas. Age limits for the course are specified, and the course can be counted as continuing education if taken from an accepted provider. Any supervisor who has not supervised in two of the last five years, must re-take a 6-hour course.

This new section also specifies that supervisors must complete 6 hours of continuing professional development in each subsequent renewal period while supervising. This can consist of a supervision course, or other professional development activities such as teaching, research, or supervision mentoring. All of these activities must be documented. This may include, but is not limited to, quantitative or qualitative research, literature reviews, peer reviewed journals or books, monographs, or academic or industry published work deemed equivalent by the board. It shall not include personal opinion papers, editorials, or blogs. "Supervision of supervision" as continuing professional development is defined as "Collaboration with another board licensee who also qualifies as a supervisor through use of mentoring or consultation."

An exception to the initial and ongoing training requirements is proposed for a supervisor who holds a supervision certification from one of four specified entities: The American Association for Marriage and Family Therapy (AAMFT), The American Board of Examiners in Clinical Social Work (ABECSW), The California Association of Marriage and Family Therapists (CAMFT), or The Center for Credentialing and Education (CCE). The Board also has discretion to accept certification from another entity if it believes its requirements are equivalent or greater. Such a certification exempts the supervisor from the 15 hour coursework and 6 hour professional development requirements, and it allows them to waive the requirement that they must have been licensed and either supervising or practicing psychotherapy for two of the past five years prior to commencing any supervision. The proposed language is specifically worded so that it only applies to supervisors who are also Board licensees. Supervisors who are licensed psychologists or psychiatrists would not need to complete the supervision training and coursework, consistent with current law.

This would be addressed via regulation after legislation is passed.

- **Annual Assessment:** All supervisors to complete an annual assessment of the strengths and limitations of the registrant and to provide the registrant with a copy.

This would be addressed via regulation after legislation is passed.

- **Supervisory Plan:** The supervisor and the supervisee are required to develop a supervisory plan that describes goal and objectives of supervision. The registrant is required to submit the signed plan when applying for licensure.

This would be addressed via regulation after legislation is passed.

- **Supervision Agreement Form:** A “Supervision Agreement” would replace both the “Supervisor Responsibility Statement” and the “Supervisory Plan” forms. The “Supervision Agreement” would be completed by both the supervisor and supervisee, and signed under penalty of perjury. It would include information about the supervisor’s qualifications, and an acknowledgement of supervisor and supervisee responsibilities. The original would be retained by the supervisee and submitted to the Board upon application for licensure.

This would be addressed via regulation after legislation is passed.

- **Weekly Log:** The “Weekly Log” form is for the purpose of tracking completed supervised experience. Proposed language that specifies the required content of the weekly log, rather than including the actual form in the regulation.

This would be addressed via regulation after legislation is passed.

- **Experience Verification:** Supervisors must sign off on experience hours at the completion of supervision.

This would be addressed via regulation after legislation is passed.

- **Supervisor Registration:** All supervisors required to register with the Board. The supervisor’s registration with the Board would be initiated by submission of a “Supervisor Self-Assessment Report,” signed under penalty of perjury. For BBS licensees who qualify as a supervisor, a “supervisor” status will be added to the licensee’s BreEZe record.

Implementation of this framework would create a significant new workload that cannot be absorbed by existing staff. In addition, there would be a fiscal impact to the Board for new positions and BreEZe changes. The effective date of this requirement would be delayed to January 1, 2020 to allow time for the BreEZe system to be modified so that supervisors who are BBS licensees will be searchable. New supervisors would be required to submit the "Supervisor Self-Assessment Report" within 60 days of commencing any supervision. The deadline date for existing supervisors (those supervising prior to January 1, 2020) is proposed to be December 31, 2020. This extended deadline for existing supervisors is necessary so that the workload for this new program is manageable.

This would be addressed via regulation after legislation is passed.

- **Timelines for Supervisors:** The proposed regulations establish timelines to complete specified activities as follows:
 - The "Supervisor Self-Assessment Report" must be completed within 60 days of a new supervisor commencing any supervision. The effective date would be January 1, 2020. For existing supervisors, the report must be submitted by December 31, 2020.
 - The "Supervision Agreement" must be completed within 60 days of commencing supervision with any individual supervisee.
 - The initial 15-hour supervision training course must be completed by new supervisors within 2 years prior to commencing supervision (within 4 years if taken from a graduate program at an accredited or approved school), or within 60 days after commencing supervision.

This would be addressed via regulation after legislation is passed.

- **Audits of Supervisors:** A section has been added to allow the Board to audit a supervisor's records to verify they meet the supervisor qualifications specified in statute and regulations. It requires supervisors to maintain records of completion of the required supervisor qualifications for seven years after the completion of supervision, (consistent with statute regarding record retention) and to make these records available to the Board for an audit upon request. The Board would likely audit a supervisor during a continuing education audit or if a complaint was received. The "Supervisor Self-Assessment Report" would be used in such audits.

This would be addressed through legislation.

4. Documentation Acceptable for Supervised Work Experience in the Event of an Incapacitated or Deceased Supervisor

The Committee recommended language that would allow the Board, in its sole discretion, to accept specified documentation of supervised experience that has not been signed by the supervisor, if the supervisor is deceased or incapacitated.

5. 6-Year Limit on Experience Hours and Intern/Associate Registrations

The Committee postponed the discussion on these two issues until Spring, 2017.

6. Legislative Update

- AB 1917 – Signed by Governor
- SB 1478 – Signed by Governor
- AB 1001 – Signed by Governor
- AB 1808 – Signed by Governor
- AB 2083 - Signed by Governor
- AB 2191 - Signed by Governor

7. Rulemaking Update: English as a Second Language: Additional Time

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. This proposal, in its final format, is currently under review by the Business, Consumer Services and Housing Agency. Decisions are approved quarterly, so if approved in January, 2017, it will possibly have a spring, 2017, effective date.