

BBS Policy and Advocacy Meeting  
April 14, 2016

I. Discussion and Recommendations on Bills

**AB 796 – Health Care Coverage: Autism and Pervasive Development Disorders**

This is a 2-year bill that was introduced in 2014, with the BBS taking a neutral position in 2014. This bill seeks to ensure that individuals with pervasive development disorder or autism are able to receive insurance coverage for types of evidence-based behavioral health treatment other than applied behavior analysis. To accomplish this, it directs the Board of Psychology to form a committee to develop a list of acceptable behavioral health evidence-based treatment modalities. The bill defines “behavioral health treatment” as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets specific criteria.

The Committee voted to recommend a neutral position.

*CAMFT is watching this bill.*

**AB 1001 – Child Abuse Reporting**

This is a 2-year bill that was introduced in 2014 and was supported by the BBS, but has been significantly amended. The bill makes four new amendments in an effort to increase the Department of Social Services’ enforcement power over foster family agencies in order to ensure that they are following mandated reporting requirements.

The Committee voted to recommend a support position.

*CAMFT is watching this bill.*

**AB 1715 – Behavioral Analysis: Licensing**

This bill establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology. In addition, it would require behavior analyst interns and behavior analyst technicians to register with the Board of Psychology.

As written, this bill allows BBS licensees to continue to practice behavior analysis as part of their scope of services, as long as they are competent to practice them, and as long as they do not hold themselves out to be a licensed behavior analyst or licensed assistant behavior analyst. BBS trainees and registrants would no longer be eligible to practice behavior analysis even if they are doing so to gain experience hours toward a BBS license. Licensed assistant behavior analysts and behavior analyst interns must be supervised only by a licensed behavior analyst or a licensed psychologist. Behavior analyst technicians must be supervised only by a licensed behavior analyst, licensed assistant behavior analyst, or a licensed psychologist. It is unclear if marriage and family therapy, clinical social work, or clinical counseling degrees would be accepted towards Behavior Analyst Licensure under the current educational requirements.

The Committee expressed concern on the potential limitations on BBS licensees becoming dually licensed, the ability of BBS trainees and registrants to gain hours practicing behavior analysis and the restrictions against supervision by BBS licensees. There was also a concern about licensing a specific behavioral modality.

CAMFT, AAMFT and NASW shared the concerns of the Committee. The Board of Psychology is opposed for other reasons.

The Committee directed staff to provide technical assistance and express concerns that were identified.

*CAMFT's position on this bill is Opposed Unless Amended.*

**AB 1808 – Minors: Mental Health Services**

This CAMFT-sponsored bill includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances. The bill would require the marriage and family therapist trainee and clinical counselor trainee to consult with his/her supervisor as soon as reasonably possible when assessing the maturity of the minor.

CAMFT noted that they are working to tweak the language to clarify the point when the supervisor needs to be consulted.

The Committee voted to recommend a position of Support and provide technical assistance regarding code changes to add Associate Social Worker.

*CAMFT's position on this bill is Support.*

**AB 1863 – Medi-Cal: Federally Qualified Health Centers/Rural Health Clinics**

This CAMFT-sponsored bill would allow Medi-Cal reimbursement for covered mental health services provided by a marriage and family therapist employed by a federally qualified health center or a rural health clinic. The original bill was supported by the BBS in 2015 and passed the legislature. It was vetoed by the Governor, along with several other Medi-Cal bills because he wanted the fiscal outlook for Medi-Cal to be stabilized. Since that time, the managed care organization tax has passed, which provides the financial stability the Governor sought. That tax bill has been signed and is under review by the Federal Government.

The Committee voted to recommend a position of Support.

*CAMFT's position on this bill is Support.*

**AB 1917 - Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants**

This BBS-sponsored bill proposes modifications to the education required to become an LPCC or an LMFT as follows: amends the coursework and practicum required of LPCC applicants in order to ensure that the degree was designed to qualify the applicant to practice professional clinical counseling and amends the law to define education gained out-of-state based on the location of the school, instead of based on the residence of the applicant

*CAMFT's position on this bill is Support.*

**AB 2083 – Interagency Child Death Review**

This bill would, at the discretion of the provider, allow medical and mental health information to be disclosed to an interagency child death review team. Existing law allows counties to establish

interagency child death review teams to review suspicious child deaths and to help identify incidents of child abuse or neglect. Existing law allows domestic violence and elder and dependent adult death review teams the ability to review mental health information, if disclosed to the team at the discretion of the person who has the information.

The Committee voted to recommend a Support position.

*CAMFT is watching this bill.*

**AB 2191 – Sunset Bill to Extend Board to 2021**

This bill extends the operation of the Board until January 1, 2021. The “sunset review” process permits the periodic review of the need for licensing and regulation of a profession and the effectiveness of the administration of the law by the licensing board.

The Committee voted to Support this bill.

*CAMFT’s position on this bill is Support.*

**AB 2199 – Sexual Offenses Against Minors: Persons in a Position of Authority**

The bill would subject persons who engage in specific acts of a sexual nature with a minor to be subject to additional jail terms if the person held a position of authority over a minor. Defines a person in a “position of authority” as including the child’s counselor or therapist, among others.

The Committee voted to recommend position of Support.

*CAMFT does not yet have a position on this bill.*

**AB 2507 – Telehealth: Access**

This bill requires that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person. It also specifies various communications platforms that are acceptable for telehealth. This bill aims to provide a viable telehealth reimbursement infrastructure in California in order to improve patient access. Under this bill, providers will be able to offer telehealth services with a guarantee that they will receive health plan reimbursement.

The BBS noted that while texting, chat, and email may be permitted modes of telehealth and acceptable for use in some healing art professions, the statute and regulations make it clear that it is the practitioner’s ethical obligation to ensure the mode of service delivery is appropriate to each client, and that it is acceptable according to the industry standards of his or her profession.

The Committee discussed that since the law regarding telehealth includes all healing arts practitioners, it may be appropriate to replace the term “physician-patient relationship” with the term “provider-patient relationship” or “practitioner-patient relationship”.

The Committee voted to Support and provide technical assistance with the concerns about language.

*CAMFT position on this bill is Support.*

**AB 2606 – Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities**

This bill requires a law enforcement agency to report to a state licensing agency if the law enforcement agency receives or makes a report that one of the licensing agency's licensees has allegedly committed certain crimes, including failure to file a mandated report. Currently, the Board would learn of instances of the crimes listed if an arrest was made, or if a complaint was received.

The Committee discussed the effects of this bill on the enforcement process. If there were no other evidence to the claim, other than that a complaint was received, the Board would need to contact the client to obtain a release of records in order to investigate the case. The ability of the investigation to proceed would depend on the patient's willingness to consent to releasing the records to the Board.

The Committee voted to recommend Neutral position.

*CAMFT's position on this bill is Watch.*

**SB 614: Medi-Cal: Peer and Family Support Specialist Certification**

This is a 2-year bill and BBS position in 2014 was Oppose unless Amended. This bill requires the State Department of Health Care Services to develop a peer, parent, transition-age, and family support specialist certification body to provide statewide certification. The bill authorizes DHCS to add peer support providers as a provider type within the Medi-Cal program.

The Committee discussed concern that the bill is still silent on the amount of required supervision required for peer support specialists; it leaves the task to DHCS to establish via regulations. The bill also delegates the task of establishing specific education and training requirements to regulation. The Committee discussed whether some of the curriculum areas, such as psychiatric rehabilitation skills and trauma-informed care, overlap with the scope of practice of the Board's licenses and the concern that it might be clear enough that peer support specialists do not provide clinical services. Furthermore, the bill still does not have a fingerprint requirement.

The Committee voted to recommend a position of Oppose unless Amended.

*CAMFT's position on this bill is Oppose Unless Amended.*

**SB 1034 – Health Care Coverage: Autism**

This bill removes the January 1, 2017 sunset date so that health service plans and insurance policies will be required to provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A) indefinitely. The bill also makes a change to the definition of "behavioral health treatment" to clarify that it includes not only behavior analysis, but also other evidence-based behavior intervention programs. Also specifies that behavioral health treatment involves maintaining functioning of an individual with PDD/A.

The Committee voted to recommend a position of Support.

*CAMFT does not yet have a position on this bill.*

**SB 1101 – Alcohol and Drug Counselors: Regulation**

This bill provides for licensure of alcohol and drug counselors under Department of Consumer Affairs. The bill outlines the minimum qualifications for obtaining an alcohol and drug counselor license, but does not include a scope of practice. The bill provides a one-year grandparenting period where applicants with 12,000 experience hours are exempted from the degree requirements, the exam requirements, and the specified coursework requirements. However, such applicants must pass the exam within one year of the end of their licenses' first renewal period.

At this time, the bill is not a practice act, and the Board's licensees may continue to practice alcohol and drug counseling that is within the scope of their practice, education, and experience, as long as they do not use the title "licensed alcohol and drug counselor."

The Committee discussed that a defined scope of practice would help clarify that an alcohol and drug counselor is not permitted to practice within the scopes of practice of the Board's licensees. The Committee also discussed that this bill would create a license to treat only one diagnosis. An alcohol and drug counselor would therefore have to be able to differentiate between an issue that is solely attributed to alcohol and drug abuse problems and symptoms and issues that may be attributable to a diagnosis outside his or her scope of practice.

The Committee voted to recommend a position of Support if Amended.

*CAMFT's position on this bill is Opposed Unless Amended.*

#### **SB 1155 – Licenses: 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 a license to persons who are honorably discharged veterans.

The Board cannot make an accurate estimate at this time about how many individuals per year would qualify for the fee waiver and the fiscal implication to update the BrEZe system to accommodate this fee waiver. The Board noted that they already provide for an expedited review process for military applicants to assist.

The Committee voted to recommend to support the concept, but take a Neutral position.

*CAMFT's position on this bill is Support.*

#### **SB 1217 - Health Arts Reporting Requirements: Professional Liability resulting in Death or Personal Injury**

This bill requires a healing art licensee to report all judgments or settlements for negligence claims in excess of \$10,000 to his or her licensing board. This increases the reporting requirement from \$3000 to \$10,000 for many Boards. The BBS currently has a reporting threshold for LMFT, LCSW, and LPCC licensee judgments or settlements for negligence claims in excess of \$10,000.

The Committee directed staff to provide technical assistance.

*CAMFT does not yet have a position on this bill.*

### **SB 1334 - Crime Reporting: Health Practitioners, Human Trafficking**

This bill requires a health practitioner employed in a health facility, clinic, physician's office, or local or state public health department to make a report when he or she provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct. Currently such a mandated report is only triggered if there is a wound or injury.

The Committee noted that this bill requires a health care practitioner (which by definition includes Board licensees) to make specified mandated report based on observations made while providing medical services to the patient. It is unclear if medical services include mental health services, as no definition is provided. The Committee discussed the possible chilling effects on the psychotherapist-patient privilege if a Board licensee is required to make a mandated report upon learning that a patient is seeking treatment due to being a victim of assaultive or abusive conduct.

The Committee voted to recommend Oppose, Unless Amended for purpose of requesting that the bill exclude BBS licensees.

*CAMFT's position on this bill is Watch.*

### **SB 1478 – Healing Arts: Omnibus Bill**

This BBS-sponsored bill proposal, approved by the Board at its November 20, 2015 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law. The proposal to change the marriage and family therapist and professional clinical counselor "intern" title to "associate," also approved by the Board at its November 20, 2015 meeting, is also included in this bill.

*CAMFT's position on this bill is Support.*

## **2. Status of Board Rulemaking Proposals**

### **Standards for Practice for Telehealth**

This proposal addresses the use of telehealth in the provision of psychotherapy, and clarifies questions, such as when a California license is needed, actions a licensee must take in order to protect the client in a telehealth setting, and that failure to follow telehealth requirements is considered unprofessional conduct.

This proposal is currently under review by the Department of Finance. It will go to the Office of Administrative Law after that review.

### **English as a Second Language – Additional Examination 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 is currently under review by the Department of Consumer Affairs. It will then go to the State Business, Consumer Services, and Housing Agency.

## **3. Publication of Citation and Fines less than \$1500 on Board Website/Newsletter**

Pursuant Business and Profession code, the Board shall not publish on the Internet the final determination of a citation and fine of \$1500 or less for more than five years from the date of issuance.

After five years, the Board must remove the action from its website. Concerns related to the publication of citations and fines in the Board's newsletters were discussed.

Board staff is able to modify the titles in its newsletter so "Enforcement Citations" could be revised to "Administrative Actions" and better defined which would be consistent the reality of citation and fine provided in the newsletter. The newsletter could also include the basis for the citation, so it could be used to educate other licensees. "Administrative Actions" could be revised to "Formal Disciplinary Actions" with a definition that indicates a higher level of discipline. Revising the titles may provide clarification to the public and affected licensees/registrants.

The Committee recommended that the Board direct staff to the remove the newsletter from the Board's website after five years to comply with five year requirement specified in Business and Professions Code section 4990.09. Archived copies of the newsletter will be available upon request.