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Definition of Out of State Education

Currently, out-of-state education requirements are triggered based on the residence of the applicant while obtaining his or her degree. Applicants may not be aware that a degree program taken from an online school while they reside in California can make them ineligible for licensure because they are considered an in-state applicant and remediation outside the degree program is not permitted for in-state applicants. In addition, it can be difficult for the Board to obtain proof of where an applicant resided while he or she completed his or her degree program, especially if the degree program was completed several years prior.

This Committee discussed a proposed amendment that triggers out-of-state education requirements based on the location of the school, rather than the location of the student while he or she gained the education. It will allow applicants who live in California, but who obtained an online degree from a school located outside of California, to remediate California-specific course content that may have not been in the degree program.

CAMFT and AAMFT raised the issue about an online, out-of-state program that has a California "building" and whether that degree is from an out-of-state program. The BBS indicated that the intent of the language is to be vague enough to give discretion to staff to determine whether the program is geared to California licensure.

The Committee voted to send the proposed language to the Board for review.

Required Degree for LPCC License Pursuant to law, applicants shall possess a master's or doctoral degree that is counseling or psychotherapy in content, as described in the Code. The Board is receiving LPCC applications from applicants who have degrees that may not be intended to lead to licensure as a clinical counselor, but have counseling content. Although the law does require the degree to contain practicum and certain specified core content areas, the new out-of-state licensure requirements, which become effective January 1, 2016, allow remediation of most degree requirements, including up to 6 out of the 13 core content areas. Practicum may also be remediated if licensed out-of-state, and the practicum requirement is waived if the applicant has been licensed in another state for two or more years.

Committee discussed: specifying acceptable degrees for both in-state and out-of-state degrees; tightening in-state practicum requirements to ensure direct client contact is required (this is specified in the LMFT practicum requirement) and to remove any equivalencies to in-state supervised practicum/field study experience; amending practicum requirements for out-of-state applicants to specify that the 280 hours of face-to-face experience must now be "supervised clinical experience counseling individuals, families, or groups" instead of just experience doing "face-to-face counseling."

CALPCC and the Dance Therapy Association presented concerns about the scope of the proposed amendments that proscribe the name of the degrees that would be accepted; the intent of the law was to judge the degree based on core requirements—not the name.

CALPCC agreed to limit the number of core content areas that can be remediated to six.

The Committee voted to specify which content could not be remediated instead of changing the number of core content areas that can be remediated. The Committee decided against including titles in the proposals. The practicum proposals were approved, as presented.

Possession of Controlled Substance as Basis for Discipline

The Board has no statute or regulation stating that it is unprofessional conduct to unlawfully possess a controlled substance. Due to this, the Board's Enforcement Unit has difficulty pursuing disciplinary action when a licensee or registrant is arrested (but not convicted) for possession of drugs and/or drug paraphernalia and no evidence that the licensee was actually taking the drugs.

Currently, the Board needs to argue that the possession is general unprofessional conduct. To do this, a subject matter expert needs to review police reports and sign a declaration stating that, in their expert opinion, unprofessional conduct occurred. Staff at the Attorney General's Office notes that many healing arts boards have a provision in law that include possession of a controlled substance as a basis for disciplinary action, and suggests the Board consider similar language.

The Committee discussed a proposal to add language to the unprofessional conduct statute that unprofessional conduct includes, but is not limited to, *"Obtaining or possessing in violation of law, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, any controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined."*

CAMFT and AAMFT raised concerns about the broad nature of the language and noted that the BBS already has a mechanism in place to address this, via subject matter experts.

The Committee tabled the proposal to give the BBS an opportunity to review data to determine the extent of this problem.

MFT Registrant Title: "Intern" vs. "Associate"

AAMFT has raised the issue that the title "Intern" is confusing to the public and that "Associate" would better reflect the position of MFT registrants. The Board research demonstrated that many states have moved away from the term "Intern" for post-graduates, in favor of "Associate." The term "Associate" is used to describe a post-graduate Social Worker in California.

Legislative and regulatory changes will be needed if the Board decides to change LMFT and LPCC registrant titles from "Intern" to "Associate." The proposal would afford a one-year phase-in period to allow Interns to transition marketing materials, etc.

There was a discussion regarding possibly changing the term "Trainee" to "Intern" in future years, once the term "Intern" is phased out for post-graduates and consumers are not apt to be confused with the training of a pre-degree "Intern."

NASW requested that the Committee consider dropping Associate for social workers (since there is a NASW credential called ACSW). NASW suggested that perhaps all the licensees should wait until NASW had proposals for alternate language so all the post-graduates would have the same title.

The Committee voted to recommend the Board consider legislation to change the MFT and LPC licensing law from Intern to Associate.

Proposed Omnibus Legislation

The Committee discussed proposed changes:

- Clarify that interns, trainees, and associates may not be employed as independent contractors, and that they may not gain any experience hours for work performed as an independent contractor and/or reported on an IRS Form 1099. The law allows LMFT, LCSW, and LPCC applicants to gain experience hours as a W-2 employee or a volunteer, but not as an independent contractor and the BBS reported significant confusion.
- Clarify law to state that interns and applicants for examination must receive at least one hour of individual and two hours of group of direct supervisor contact per week for each setting he or she is working. This intends to clear up confusion about how much supervision an applicant who is finished gaining his or her hours, but who has not yet passed the examination, must obtain.
- Require LPCC applicants to provide a program certification to the Board, just as LMFT applicants are required to do.
- Change Associate Social Worker to Associate Clinical Social Worker to make it consistent with the term used in every other spot in the statute.

CAMFT raised concerns about the burden of getting supervision, even if there is no client contact and suggested that this issue may not be appropriate for Omnibus bill.

NASW objected to changing one section of the statute to ACSW to make it consistent with the rest of the statute (which references ACSW). NASW objected because there is a credential for Academy of Certified Social Workers (ACSW) and using ACSW as an acronym would be confusing.

The Committee voted to remove the supervision issue from the proposal, confirm the proper language for the 1099, and recommend the rest of the language to the Board for consideration.

Acceptance of Accreditation Agencies

Current LMFT law requires the qualifying degree be obtained from a school, college or university that is approved by the state Bureau for Private Postsecondary Education, or accredited by either the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or by a regional accrediting agency that is recognized by the United States Department of Education (USDE). LPCC law also requires qualifying degree be obtained from an accredited or approved school. It defines “accredited” as a school, college, or university that is accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting association.

The Committee discussed the proposal of accepting a degree from a program accredited by a “regional or national institutional accrediting agency” that is recognized by the USDE, rather than simply referring to a USDE-recognized regional accrediting entity (as currently written in law). This amendment would make Board’s statute consistent with the categories recognized by USDE.

The Committee voted to recommend this change to the Board.

BBS Legislation

- **SB 531 (Bates) Board of Behavioral Sciences Enforcement Process** - This bill makes two separate amendments to the law governing the enforcement process: a) it modifies the Board’s requirements for an individual to petition for a termination of probation or modification of penalty. Under the proposal, the Board may deny a petition without hearing if the petitioner is not in compliance with the terms of his or her probation; b) the status of a license or registration changes or if the license or registration expires. The goal of these changes is to increase the efficiency of the enforcement process. This bill was signed by the Governor.

- **SB 620 (Block) Board of Behavioral Sciences: Licensure Requirements** - This bill streamlines the experience requirements for LMFT and LPCC applicants. It eliminates the complex assortment of minimum and maximum hours of differing types of experience required for licensure (also known as the “buckets” of experience) and instead requires 1,750 hours of the experience to be direct clinical counseling hours. The remaining required 1,250 hours may be non-clinical experience. The bill also makes amendments to LCSW law to allow LCSW applicants to count some direct supervisor contact hours, as well as some hours spent attending workshops, trainings, conferences, and seminars, toward their required experience.

This bill was signed by the Governor.

- **SB 800 (Senate Business, Professions, and Economic Development Committee) Healing Arts (Omnibus Bill)** - This bill proposal, approved by the Board at its November 20, 2014 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law. This bill was signed by the Governor.

BBS Regulations

- **Uniform Standards for Substance Abuse** - Regulations were approved by the Secretary of state on June 23, 2015 and took effect October 1, 2015.
- **Implementation of Exam Restructure** - Proposed regulations are under concurrent review by the Office of Administrative Law and the Department of Finance, and are expected to take effect January 1, 2016.
- **Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families** - This proposal is under concurrent review by the Office of Administrative Law and the Department of Finance, and is expected to take effect January 1, 2016.
- **Standards of Practice for Telehealth** - This proposal is currently under review by the Department of Consumer Affairs.

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