



Board of
Behavioral
Sciences

BOARD UPDATE

August 22, 2013

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A. Budget

As of June 30, 2013, the Board had spent \$7,512,837 reflecting 93 percent of the total budget. The final 2012/2013 figures will be available later this month. The unspent funds reflect BreEZe expenditures that were not encumbered due to the delayed implementation of BreEZe. The BreEZe contract provisions specify that the Board's payment for the BreEZe data system will not begin until the data system is released.

The Board's 2013/2014 budget is \$8,063,000, a slight decrease from last year's budget. Reductions in the Board's equipment replacement costs and department pro rata costs can be attributed to the slight decrease.

Effective July 1, 2013, the furlough program and personal leave program (one day a month off without pay) ended. State employee salaries were restored to levels prior to the furlough and personal leave program. Additionally, state employees received a three percent increase. The restoration of employee salaries and increases is reflected in the Board's personnel expenditures.

The Board's loan balance to the General Fund is \$12.3 million. Repayment of the \$6 million loaned to the General Fund during the 2002 Budget Act is scheduled to occur in multiple fiscal years. These fiscal years are not specified. Repayment of the \$6 million loaned to the General Fund during the 2008 and 2011 Budget Act is scheduled for fiscal year 2015/2016.

B. Operations

The quarter reflected the seasonal increases in MFT applications as a result of graduations. MFT Exam Application processing is currently at 202 days, which is 31 days longer than in the first quarter of 2013. The LCSW Exam application process jumped to 200 days, which is 33 days longer than just last quarter. Executive Staff is assisting with evaluating applications, but staff time dedicated to BreEZe has impacted the ability to focus on primary roles. Stakeholder groups raised concerns about the delays, while acknowledging the hard work of BBS staff. BBS is using mechanisms to request new staff.

The Enforcement staff received 235 consumer complaints and 246 criminal convictions representing a three percent and 23 percent increase respectively from the previous quarter. There were 487 cases closed this quarter and 12 cases were referred to the Attorney General's office for formal discipline.

There were 477 new LMFT licenses issued in the second quarter of 2013 and 368 new LMFT licenses issued in the first quarter of 2013.

In the second quarter, 110 LPCC grandparent applications from LMFTS were approved, bringing the total number of applications approved via the grandparenting process to 957. (Note: "approved" means the applicant has satisfied all requirements for licensure.)

Final testing of the BreEZe system, referred to as regression testing, will take place in the coming weeks. However, the BreEZe system launch was delayed to mid-October. In early October, all BBS cashiering functions will be suspended until BreEZe goes live, the online verification function will freeze with data, and all DOJ fingerprint functions will be suspended until BreEZe goes live. Five days before BreEZe goes live, all systems will be down, though staff will continue to be available to answer phones and emails. Stakeholders should expect delays in cashiering to address the backlog that will grow between early October and the launch date. Licensees are encouraged to renew as early as 100 days in advance of expiration.

Note: The online renewal feature will not be available for four to six months after the launch of the BreEZe system.

Personnel Update

The Board met in closed session to evaluate the performance of the Executive Officer.

A part-time employee was added to the LMFT Exam Application Unit and she will become a full-time LMFTS Exam Evaluator once her commitments to the BreEZe project are complete. A full-time employee was added to the LSCW Exam Application Unit. It is expected that the addition of these evaluators will ease the backlogs in coming months (provided that the BreEZe system launches in October, as planned).

C. LPCC Grandparenting

To date, 71 percent of the 2196 grandparent applications from LMFTs have been evaluated (meaning the applications have been approved or have been sent deficiency notices). The BBS estimates that the remainder of the applications will be evaluated by the end of 2013.

To date, 458 LPCC licenses and 295 PCI registrations have been issued. California already has more LPCC licensees than five other states.

D. Out-Of-State Education Review Committee Update

On April 26, 2013, and June 28, 2014, the Out-of-State Education Review Committee met to discuss the potential barriers to licensure that out-of-state applicants may face after January 1, 2014 since they will no longer be eligible to remediate required coursework through continuing education programs. Ten percent of LMFT applications and 35 percent of LPCC applications are from out-of-state.

The Committee, stakeholders, and Board staff discussed the current and future educational requirements, as well as the current and future options to remediate coursework. The Committee will review draft language at its September meeting.

F. Legislation

AB 186 (Maienschein) – Military Spouses; Temporary License

This bill would require the BBS to issue a provisional license to an applicant who holds a current license in another state in the same profession for which he/she is seeking a California license and is married to, or in a domestic partnership with, an active member of the U.S. military who is on active duty in California. The bill does NOT require that the licensing requirements from the other state be substantially equivalent to the requirements in California nor does it require the applicant to pass the required Board administered exams.

The BBS voted to oppose unless amended to require the applicant to provide a transcript to the Board, to allow delayed implementation to accommodate DCA's transition to the BreZE database system, and to require the applicant to pass the California law and ethics examination prior to issuance of a temporary license.

To date, the requested amendments have not been made. This bill is now a two-year bill.

AB 213 (Logue) – Licensure/Certification; Military Experience

This bill would require that schools accredited or approved by boards offer credits towards licensing requirements to submit proof that they have procedures in place to evaluate an applicant's military education, experience, and training.

The Board took no position. This bill is now a two-year bill.

AB 252 (Yamada and Eggman) – Social Worker Title

This bill would only allow the job title "Social Worker" to be used by a person who has a degree from an accredited school of social work. This title protection applies to all individuals, including those who work in exempt settings. (Those people in Social Worker positions prior to January 1, 2014, may continue in that title.) If an employer hires someone without a degree in social work to fulfill duties similar to a social worker, the employer would be required to give that person a different title. The BBS would have the ability to impose discipline against licensees who are employed as "social workers" and do not have the requisite social work degree, though the main intent of the bill is to ensure that agencies do not misuse the title.

CAMFT noted that it has a position of "oppose unless amended." CAMFT would like to see the implementation of this bill delayed to allow for adequate time to educate agencies about the changes and for the agencies to make the requisite title changes. Furthermore, CAMFT

believes the enforcement remedy is too severe and recommends that agencies be allowed to take corrective action once they are aware of the possible charge before charges are instituted. NASW-CA indicated that it would be open to modifying the enforcement mechanism and delaying the implementation.

The Board adopted a “support if amended” position on this bill, and requested that several specific amendments be made. This bill is now a two-year bill.

AB 376 (Donnelly) – Regulations; Notice

This bill would require the BBS to notify all affected parties when it enforces a regulation that has been promulgated. Currently, when there are pending regulations, the BBS notifies everyone who subscribes to the Board’s notification service and posts the notice on the BBS website.

The Board voted to oppose this bill. This bill is now a two-year bill.

AB 512 (Rendon) – Healing Arts; Licensure/Certification

This bill extends provisions of current law until January 1, 2018. Current law allows out-of-state healing arts practitioners to participate in government or non-profit sponsored health care events to provide health care services to the uninsured. To date, the BBS has not had any requests from out-of-state practitioners to participate in such an event.

The Board voted to support if amended to remove BBS from the bill. The author’s office indicated that they do not intend to amend this bill, as they do not believe the Board is required to adopt regulations to implement the bill since it does not apply to its licensees’ services.

This bill has passed both houses and has been sent back to Assembly for concurrence.

AB 790 (Gomez) – Child Abuse; Reporting

This bill deletes a provision in the current law that allows a team of mandated reporters to designate one member to make a single mandated report. Therefore, all mandated reporters who obtain knowledge of suspected child abuse or neglect would be required to make their own report.

CAMFT opposes this bill because the reporting requirements would be duplicative and inefficient for both the mandated reporters as well as for the county and community departments that receive the reports and are already overburdened.

The Board opted to take no position on this bill at its May 23, 2013 meeting, but directed staff to provide technical support to the author’s office on specified points. Staff has provided the author’s office with the Board’s feedback.

This bill is currently on the Senate Appropriations Suspense file.

AB 809 (Logue) – Telehealth

This bill allows the verbal consent to telehealth given by the patient at its initial use to apply in any subsequent use of telehealth. However, it does not correct another problem that requires the health care provider to obtain the verbal consent at the originating site (the location of the patient), which seems contrary to the purpose of telehealth. The author is still working to resolve this issue in a subsequent version of the bill. This bill is an urgency measure, which means it would become effective immediately upon signature by the Governor.

The Board took no position on the bill. This bill is currently in the Senate Committee on Health.

AB 1057 (Medina) – Licenses; Military Service

This bill would require the BBS licensing application to inquire if the applicant is currently serving, or has previously served, in the military. The intent of the bill is to make it easier for boards to identify applicants who may have applicable military training or experience. The implementation date is January 1, 2015, to accommodate the upcoming, new BreEZe database.

The Board voted to support this bill. This bill is currently in its third reading in the Senate.

SB 22 (Beall) – Health Care Coverage; Mental Health Parity

This bill requires health care service plans and insurers to submit an annual report to the Department of Managed Health Care or Department of Insurance which would contain an analysis of the plans' compliance with state law. The reports must contain a survey of plan enrollees and a survey of plan providers. The intent is to enforce mental health parity laws.

The Board voted to support this bill. This bill is currently in the Assembly Appropriations Committee.

SB 126 (Steinberg) – Health Care Coverage; PDD or Autism

This bill extends the operation of existing law until January 1, 2020. The existing law requires health care service plans contracts and policies to provide benefits, including coverage, for behavioral health treatment for pervasive developmental disorder or autism, except as specified.

The Board voted to support this bill. This bill is currently in the Assembly Appropriations Committee.

SB 243 (Wyland) – LPCC

This bill amends the requirements for an LPCC who opts to treat couples and families so that the required training and education in order to do this does not need to be in addition to the minimum training and education required for licensure. The intent of the original bill was that this training and coursework may be taken as part of the education and experience that is required for licensure. The bill also references that the licensee have not less than 1750 hours of direct counseling with individuals, groups, *couples or families*.

The Board voted to support the bill. The bill is currently in its third reading in the Assembly.

SB 282 (Yee) – Confidential Medical Information

This bill extends a provision in existing law to LMFTs. Current law requires that a settlement or compromise offer against a physician or surgeon be accompanied by an authorization to disclose medical information to the malpractice insurer.

CAMFT is the sponsor of this legislation. AAMFT-CA supports this bill.

The Board voted to recommend support if amended to include LCSWs and LPCCs. The bill was not amended. The bill was signed into law by the Governor.

SB 578 (Wyland) – LMFTs; Unprofessional Conduct

This bill adds certain dual relationships to the list of provisions that may be considered unprofessional conduct. It clarifies that dual relationships that constitute unprofessional conduct are relationships that are likely to impair professional judgment or lead to exploitation of the patient. The BBS currently categorizes unethical dual relationships under other provisions of the unprofessional conduct code section.

CAMFT is the sponsor of this legislation.

The Board voted to support the bill if amended to remove the reference to BPC section 4983. This bill is now a two-year bill.

The Committee discussed the following pieces of BBS-sponsored legislation:

AB 404 (Eggman) – Retired Licenses

This bill would clarify the law regarding eligibility for a retired license. This bill has passed through the Assembly and has been referred to the Senate Business, Professions, and Economic Development Committee.

CAMFT supports this bill. This bill is currently in its third reading in the Senate.

AB 428 (Eggman) – LMFT and LCSW

This bill would allow LMFT and LCSW applicants to remediate certain degree deficiencies. This bill is on its third reading in the Assembly.

CAMFT supports this bill. This bill is currently in its third reading in the Senate.

AB 451 (Eggman) – LMFT and LPCC Out-of- State Applicant Requirements

This bill would extend the effective date of the new education requirements for out-of-state licensees from January 1, 2014, to January 1, 2015. This bill has passed the Assembly Committees and is now in the Senate Business, Professions, and Economic Development Committee. CAMFT supports this bill.

The Board voted to delay the implementation to January 1, 2016, due to delays in the BreZE database system. This bill is currently in its third reading in the Senate

AB 958 (Jones) – Child Custody Evaluators

This bill would specify that the BBS may access a child custody evaluation report for the purpose of investigating allegations that a licensee, serving as a child custody evaluator, engaged in unprofessional conduct.

CAMFT opposes this bill. This bill is now a two-year bill.

SB 821 (Senate Business, Professions, and Economic Development Committee) – Omnibus Legislation

This bill makes minor, technical and non-substantive amendments to add clarity and consistency to current Board licensing law. This bill has been referred to the Senate Appropriations Committee.

CAMFT supports this bill. This bill is currently in the Assembly Appropriations Committee.

G. Rulemaking Update

SB 363 (Chapter 384, Statutes of 2011) limited the number of client-centered advocacy hours for a marriage and family therapist intern to 500 hours.

This proposal deletes a provision of Board regulations that conflicts with SB 363 and that is no longer needed due to the new legislative provisions enacted by SB 363. This proposal also deletes an outdated provision in Section 1833 regarding crisis counseling on the telephone that directly conflicts with telehealth provisions in LMFT licensing law.

This proposal was approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on July 15, 2013. It becomes effective on October 1, 2013.

Regulations regarding enforcement were approved by the Office of Administrative Law and will become effective on July 1, 2013.

Regulations regarding revisions to the Disciplinary Guidelines were approved by the Office of Administrative Law and will become effective on July 1, 2013.

Regulations regarding the implementation of SB 704 (exam re-structure) were withdrawn.

Regulations regarding continuing education are being discussed at this Board meeting. Once approved by the Board, the regulations will be prepared to submit to the Office of Administrative Law for publication in its Notice Register. This publication will begin the 45-day public comment period.

Several other regulatory proposals have been submitted or will be submitted shortly.

H. Revisions to the BBS's Continuing Education Program

The Board discussed a “phase out period” for the Board’s existing continuing education approval system as it transitions to a new system. To address this, the proposed regulations now include a six-month delayed implementation of the new regulations. Under this delayed

implementation, the new CE approval system would go into effect six months from the OAL-designated effective date of the new regulations.

In addition, a new section, Section 1887.15, was added. This section specifies other details of the CE program transition period, including the date on which the Board will no longer accept CE provider applications, when the Board will cease CE provider renewals, and the time period during which Board licensees may submit CE credits from discontinued providers.

The Board directed staff to make changes to 1887(e) and 1887.8 and to initiate the Continuing Education rulemaking process with the authority to make non-substantive changes.

I. California Marriage and Family Therapy Occupational Analysis

Applied Measurement Services reported on the Occupational Analysis and the collaboration with the Association of Marital and Family Therapy Regulatory Boards. It was suggested that a dialogue be continued between the BBS and AMFTB regarding technical challenges and applicability to California, and that the rigor of the test questions needs to be reviewed by subject matter experts in the field.

J. BreEZe Presentation

The Board saw a demonstration of the BreEZe system.

K. Office of Professional Services Presentation

The Board was provided an overview of the examination development and testing process. The Office assists with exam development and oversight of computer-based testing for all DCA boards. Subject matter experts write the exam questions, which are linked to the exam plan. Exam questions are constantly reviewed and assessed. After final approval, the exam is sent to PSI Services for exam administration. There are 17 sites within California and 22 sites outside of California where the exam is offered, which maximizes convenience for candidates. Candidates must be given the location of an exam site within five days of requesting the exam (though not necessarily their first choice of site location).

The content in the DSM-5 will not appear until after July, 2014. At that time, it will be gradually introduced into exams.

L. Future Board Meeting Dates

- March 5-6, 2014—Sacramento
- May 21-22, 2014—Southern California
- August 20-21, 2014—Sacramento
- November 19-20, 2014—Southern California