

legislation (if.) to bring  
from LEGISLATOR  
legislation (filed in  
laws; enactment  
legislative (Medi-Cal)  
2. having the pow  
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word

# Legislative Update

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Catherine Atkins, JD  
Deputy Executive Director

## LEGISLATIVE AND REGULATORY UPDATE

The 2015 California legislative session recently ended, and, as expected, Gov. Jerry Brown signed into law many bills which effect Marriage and Family Therapists mental health generally. Bills which were signed by the Governor will take effect January 1, 2016. This article provides a brief overview on CAMFT bills and some of the bills CAMFT influenced this year. For more complete descriptions, as well as the full list of bills CAMFT followed this year, you can subscribe to CAMFT's Action E-lets for CAMFT emails on key pieces of legislation.

### **STATE ADVOCACY—CAMFT Legislation for 2015**

**AB 250 (Obernolte): Trainees and Telehealth:** Marriage and Family Therapist Trainees are currently allowed to count some pre-degree hours towards licensure through telehealth services with their patients. However, Business and Professions Code §2290.5, the statute that sets the provisions for the practice of telehealth for healing arts providers, excludes trainees from its definition. Because trainees, who routinely provide telehealth services, are not specifically accounted for under the telehealth statute, there is concern that trainees and their supervisors may be vulnerable to liability for providing telehealth services outside of the §2290.5 list of acceptable providers. AB 250 provides a fix to this disparity in the law. This bill has been signed by the Governor and will go into effect January 1, 2016.

**AB 858 (Wood): Medi-Cal: Federally Qualified Health Centers:**  
**AB 858 is the re-introduction of AB 1785 (Lowenthal) from 2012:**  
Current law provides that federally qualified health center services and rural health clinic services, as defined, are covered benefits under the Medi-Cal program to be reimbursed, to the extent that federal financial

## legislative update

participation is obtained, to providers on a per-visit basis. “Visit” is defined as a face-to-face encounter between a patient of a federally qualified health center or a rural health clinic and specified health care professionals. This bill would include a marriage and family therapist within those health care professionals covered under that definition.

AB 858 was co-sponsored by the California Primary Care Association, and was supported by AAMFT-CA, California Medical Association, SEIU, and many other advocacy groups. Unfortunately, NASW-CA opposed this legislation stating that there was a sufficient workforce of social workers and only social workers have the training and skills necessary to treat this community.

The good news is that AB 858 made it through both the Assembly and Senate, much further than in 2012. However, the bill (along with five other Medi-Cal-related bills) was vetoed by Governor Brown, stating that it “...unnecessarily... required the expansion or development of new benefits and procedures in the Medi-Cal program...[it]would require new spending at a time when there is considerable uncertainty in the funding of this program. Until the fiscal outlook for Medi-Cal is stabilized, I cannot support any of these measures.”

We are hopeful that this bill will be reintroduced in the next few years.

### Other 2015 State Legislation

**AB 41 (Chau): Health Care Coverage Discrimination:** Existing federal law, beginning January 1, 2014, prohibits a group health plan and a health insurance issuer offering group or individual health insurance coverage from discriminating with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable state law. This bill would prohibit a health care service plan or health insurer from discriminating against any health care provider who is acting within the scope of that provider’s license. CAMFT was in support of this bill. This bill did not make it out of the Assembly Appropriations Committee, and is a two-year bill.

**AB 796 (Nazarian): Health Care Coverage of ABA Services:** This bill modifies the definition of “qualified autism service professional” to allow insurance coverage for types of behavioral health treatment other than applied behavior analysis, specifically LCSWs and Psychologists in training. While we agree with the general intent of AB 796, we are very concerned about the exclusion of Marriage and Family Therapist Registered Interns, who are qualified to do this work, as well as already working in the field. This could lead to the loss of jobs, as well as a lack of desire to hire additional MFT Interns. CAMFT took an Oppose Unless Amended position to this bill. AB 796 met with great opposition by other stakeholders and is now a two year bill.

**AB 832 (Garcia): Mandated Reporting of Oral and Anal Sex between Minors:** Existing law provides parameters for when consensual intercourse involving a minor is a mandatory report. However, there is no such break down for consensual oral copulation or sodomy; legally these two acts are always a mandatory report if a minor is involved.

In 2014, this bill died in Appropriations, an unusual Committee for a substantive, non-fiscal, bill to die; this action indicated the lack of support of legislation involving minors and sex. CAMFT worked with the sponsors/authors to write language that does not create any additional over/under reporting unintended consequences. CAMFT was in support of this bill, unfortunately AB 832 did not receive the votes it needed to move it forward and as such has become a two-year bill.

**AB 1279 (Holden): Music Therapy:** This bill creates, within the Business and Profession Code a classification of “Music Therapist.” CAMFT, as well as many other psychotherapy advocacy groups, had concerns about this bill, including the scope of practice, title protection, and consumer protection. Earlier this season, CAMFT lobbied to have certain amendments put into the law which protects psychotherapist’s ability to practice music therapy, as well as clarifies that “music therapists” are not necessarily psychotherapists—and because these amendments were accepted, CAMFT took a neutral position on this bill. This bill was vetoed by the Governor essentially stating that the classification was unnecessary.

**SB 11 (Beall): Mental Health Training of Police Officers:** Existing law requires specified categories of law enforcement officers to meet training standards pursuant to courses of training certified by the Commission on Peace Officer Standards and Training (POST). This bill would require POST to include in its basic training course a 15 hour evidence-based behavioral health classroom training course and instructor-led active learning, such as scenario-based training, to train law enforcement officers to recognize, deescalate, and refer persons with mental illness or intellectual disability who are in crisis. CAMFT supported this bill. This bill was signed by the Governor and goes into effect in January 1, 2016 and shall be implemented no later than August 1, 2016.

**AB X2-15 (Wolk): End of Life Legislation:** AB X2-15 (formally SB 128) makes assisted death available to those 18 or older who are diagnosed with a terminal illness that is expected to result in death within six months, provided they are mentally capable of making healthcare decisions. Proponents of the legislation state that this legislation establishes a humane process that honors a terminally ill patient’s right to make informed decisions about dying, including an individual’s option to reduce suffering by taking aid-in-dying medication. Opposition comes from religious leaders who consider suicide immoral; from some medical groups, that believe that a health provider’s job is to heal; and from advocates for disabled persons, who say the sick could be coerced to end their lives to save medical costs or by heirs with other agendas.

The Board of Directors voted to support the merits of AB X2-15, as well as request that the author include LMFTs as the mental health specialists who assess the mental capacity of individuals making end of life decisions. An amendment to add LMFTs was not introduced, but CAMFT will continue to advocate that inclusion in the years ahead. This bill was signed by the Governor, and goes into effect January 1, 2016.

**SB 478 (Huff): Mandated Reporting via Internet:** This bill would authorize a county welfare agency to develop a five-year pilot program for internet-based reporting of child abuse and neglect, to be used by specified mandated reporters in lieu of or in addition to the initial telephone report requirement under existing law. While CAMFT had no concerns with the intent of the bill, the language utilized to describe a mandated reporter's responsibilities to "cooperate" with subsequent follow-up investigations leaves room for abuse, as well as a therapist's breach of the Confidentiality of Medical Information Act. CAMFT, as well as other provider advocacy groups, took a position of Oppose Unless Amended to this bill given this particular sub-section which resulted in psychotherapists being removed from this bill in its entirety. This bill was signed by the Governor, and goes into effect January 1, 2016.

**SB 479 (Bates): Behavior Analysis License:** This bill establishes the Behavior Analyst Act, to be administered and enforced by the Board of Psychology. This bill creates a license specifically for those who practice behavioral analysis, however there is an exclusion for the licensure mandate for licensed marriage and family therapists, as well as those working under supervision towards licensure. This bill also specifies that a license in behavior analysis does not authorize the practice of psychotherapy. While CAMFT is not opposed to better regulation of this field, especially given the vulnerable population, we are concerned that LMFTs currently providing behavioral analysis could be disenfranchised with the creation of this specific license. To date, the sponsor and author have not been open to the vast majority of CAMFT's amendments; CAMFT is Opposed Unless Amended to this legislation. This bill did not make it out of the Assembly Appropriations Committee and is now a two-year bill.

**SB 614 (Leno): Peer Specialist:** This bill requires the State Department of Health Care Services to develop a peer and family support specialist certification program. While we agree with the intent given the lack of current regulation of peer counselors, this bill does not provide a clear definition of a peer and family support specialist, as well as does not adequately address therapy services currently performed by existing therapists --these tasks appear to be delegated to DHCS. The BBS, has taken an Oppose Unless Amended position to this bill for the above concerns, and while CAMFT has not taken an official oppose position, we have conveyed those concerns to the Author, as has AAMFT-CA, the LPCCs, and psychologists. This bill did not make it out of the Assembly Appropriations Committee and is now a two-year bill.

**SB 620 (Block): Licensure Requirements of LMFTs:** This bill revamps the current hours of experience requirement for LMFTs and streamlines the various "buckets" of hours that LMFTs must achieve in order to become licensed. The purpose of this bill is to remove barriers to aspiring LMFTs to obtain hours in a more efficient and effective manner.

This bill removes the majority of the ("buckets") currently in place, but keeps in place the following:

- Minimum of 1,750 hours of direct counseling with individuals, groups, couples or families
- Maximum of 1,250 hours of non-clinical experience (Performing any combination of the following activities: direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client-centered advocacy, workshops, seminars, training, conferences)
- Maximum of 1,300 hours of pre-degree experience
- Maximum of 750 hours of "direct counseling and direct supervisor contact" for trainees

The bill also removes the incentive for double-counting hours performed providing conjoint treatment of couples or families, and no longer allows personal psychotherapy obtained by the applicant. CAMFT advocated against the removal of personal psychotherapy hours, as we believe it provides beneficial training to providers that cannot be gained through direct counseling. However, the BBS was steadfast in their decision to remove the personal psychotherapy hours given it is not included in any other mental health provider licensure, are generally not portable to other states, and are not viewed as serving any kind of consumer protection role. Given CAMFT's larger goal of protection of the 1,300 pre-degree hours, CAMFT backed off on its opposition to the removal of the personal psychotherapy hours, to reserve a seat at the table during negotiations of this sweeping legislation.

The bill changes how experience is evaluated come January 1, 2016. Although the requirements are not changing in a way that would impact most applicants' ability to qualify, CAMFT successfully lobbied for language that includes a five-year grace period ensure that no applicant is disenfranchised by the change in requirements. Specifically, an individual who submits an application for examination eligibility between January 1, 2016 and December 31, 2021, may alternatively qualify under the experience requirements that were in place prior to this change.

CAMFT supported this bill. This bill was signed by the Governor, and goes into effect January 1, 2016.

### Non-Legislative Advocacy

**Reimbursement for Telehealth Services:** California law mandates that managed health care service plans and insurers cover telehealth services (Health and Safety Code, §1374.13, Welfare and Institutions Code §14132.72, and Insurance Code §§10123.13 and 10123.85). Over the course of the last few years, however, some insurance companies are maintaining the law *does not* require telehealth to be covered, or have created additional barriers to reimbursement. CAMFT recently met with the California Association of Health Plans (CAHP), the Telehealth Network, and the California Telehealth Resource Center to discuss this situation. CAMFT and other stakeholders will be reviewing and planning next steps in the coming months.

**DMV Gender Identity:** In March 2013, CAMFT submitted an informal proposal to the Department of Motor Vehicles ("DMV") to request an amendment to Section 20.05 of Adm. Code, Title 13, to



add licensed Marriage and Family Therapists (LMFTs) to the list of those who can certify that gender identification is transitional and will require a change. This certification appears on DMV Form DL 329: Medical Certification and Authorization. The DMV has approved our petition and will be putting the proposal out for public comment in late 2015/early 2016.

## FEDERAL LEGISLATION & REGULATION

**Medicare:** Bi-partisan HR 2759 was introduced earlier this year, which would amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program. To date, HR 2759 has 16 co-sponsors; CAMFT has sent a member-wide grassroots request for members to pressure their congressperson to co-sponsor HR 2759—this resulted in 15 co-sponsors from our California districts.

Tragically, with the numerous mass shootings of late, there is increased interest in passing a wide reaching mental health bill in both the House and the Senate. The Republican majority has centered its efforts on a bill sponsored by Rep. Tim Murphy (R-PA), a child psychologist. Along with our coalition partners, we have been actively seeking support among members of the Energy and Commerce Committee, such as Rep. Anna Eshoo (D-18), to urge Rep. Murphy to add our Medicare bill to his. Similar efforts in the Senate with a similar mental health bill being sponsored by Senators Cassidy (R-LA) and Murphy (D-CT) are underway, although that bill is not as far along in the legislative process. Finally, there is a Medicare bill related to hospital costs being developed in the Ways and Means Committee; although related to hospitals, there is recognition by the staff that our bill will cut down on hospital admissions, thus saving money so we are attempting to be part of this bill.

**Veterans Affairs:** In Summer 2015, Rep. Scott Peters (D-52) re-introduced HR 2639 from the last Congress that would eliminate the requirement that LMFTs employed by the Department of Veteran Affairs be graduates of a COAMFTE approved school. At introduction, it had 5 co-sponsors including Representatives Brownley (D-26), Takano (D-41), Gibson (R-NY). Currently, it has 10 co-sponsors, with 4 from California districts.

CAMFT continues to meet with Member and Committee staffs after our HR 2639 was an agenda item in a hearing by the House Veterans Committee Subcommittee on Health. The purpose of these meetings is to encourage these offices to ask the Chairman of the Committee, Rep. Jeff Miller, (R-FL) to include this bill on a larger bill covering a variety of Veterans' issues. The VA has been non-responsive, but House Committee staff have volunteered to “nudge” them if they do not respond soon.

**US Office of Personal Management:** Approximately two years ago CAMFT and its national coalition started meeting with OPM to try to

get an “occupational series” that would apply to LMFTs throughout the Federal Government so that it would be easier for LMFTs to move between agencies, possibly get more pay, and make it more streamlined in the job posting position. To be included within the OPM, an Agency (like the VA) has to make the request for OPM to act, and while the VA did make such request they indicated “it was not a priority.” In response, Sen. Tester (D-MT) has become involved by inserting some report language in the FY2015 appropriation bill that VA should make this a high priority—which would circle back to the OPM creating a job classification for LMFTs throughout the federal government job base.

**Nuclear Regulatory Commission (NRC):** In 2010, CAMFT petitioned the NRC to include LMFTs as “Substance Abuse Experts.” At this point, the petition has entered the final rulemaking phase which should be completed by early 2016. CAMFT has written a letter to the NRC Commissioners requesting the review be expedited, and the NRC replied stating they would do their best to usher this process along. ☺



*Catherine L. Atkins, JD, is a staff attorney and the Deputy Executive Director at CAMFT. Cathy is available to answer members' questions regarding legal, ethical, and licensure issues.*

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