



Legislative & Regulatory Update

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The second year of a two-year legislative cycle is well underway. The CAMFT Legislative Committee worked with staff and the CAMFT lobbyist and reviewed hundreds of bills introduced for consideration in 2016 to determine the impact on CAMFT members and the profession. This article provides a brief overview on CAMFT-sponsored legislation and some of the bills CAMFT will be actively following in 2016. For more complete descriptions, as well as the full list of bills CAMFT will be following this year, visit the CAMFT Legislative Action Center on the CAMFT website.

STATE ADVOCACY

CAMFT Legislation for 2016

Two of CAMFT's legislative priorities were introduced for this legislative session. This is a significant accomplishment given the limited amount of bills each legislator can author and a testament to CAMFT's sphere of influence in Sacramento.

AB 1808 (Wood): Trainee Treatment of Minors over 12 years of age: Currently, under Health and Safety Code section 124260 and Family Code section 6924, a therapist can provide services to a minor, twelve years or older, without parental consent, in certain circumstances. While LMFTs and registered interns are listed as appropriate providers, "trainees" have been left off the list of eligible providers. This impacts the number of providers available to the consumer, as well as limits the job opportunities for trainees. We have seen this impact services in schools, where many trainees gain their hours; the trainee providers send a

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consent form to the parents who are unwilling or unable to consent, and thus the student gets no services. If a registered intern was in the same position and the parents did not consent, the student (twelve years or older) could consent on his/her own behalf. This legislation would add LMFT trainees to the H&S Code and Family Code so that trainees, like LMFTs and Interns, can see clients 12 and older w/o parent consent. This bill is off the Assembly Floor and on its way to the Senate.

AB 1863 (Wood): LMFTs Within Medi-Cal: Federally Qualified Health Centers: AB 1863 is a reintroduction of AB 858 (Wood-2015) and AB 1785 (Lowenthal-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 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 received immense support from the legislature and stakeholders in 2015. And although Governor Brown did not object to the merits of the bill, the veto message stated 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.” Since that veto, a managed care organization tax has passed and been signed by the Governor, which provides the financial stability the Governor sought.

This bill moved out of the Assembly Business and Professions Committee and is at the Appropriations Committee.

Other 2016 State Legislation

AB 1644 (Bonta): Early Mental Health Intervention: This bill, among other things, would establish a 4-year pilot program, the School-Based Early Mental Health Intervention and Prevention Services Support Program, to provide outreach, free regional training for local educational agencies (LEAs) in providing mental health services at school sites. The bill would require the State Department of Public Health to submit specified reports after 2 and 4 years. Given the lack of mental health providers accessible to the K-12 school system, and the lack of information flowing from LEAs to the state, CAMFT believes this legislation would increase quality services at the schools, as well as increase job opportunities for members. CAMFT is in support of this legislation.

AB 1715 (Holden): Licensure of Behavioral Analysts: This bill establishes the Behavior Analyst Act, which provides for the licensure, registration, and regulation of behavior analysts and assistant behavior analysts, and requires the California Board of Psychology to administer and enforce the Act. While CAMFT is in support of the better regulation of applied behavioral analysts, especially given the

vulnerability of the population served, there are numerous sections of this bill that cause concern. Some of these concerns include: those working towards licensure could only do so under a psychologist or licensed Behavior Analyst (not a LMFT, LPCC, or LCSW); to gain licensure the M.A. degree must be in psychology or behavioral analysis (excluding most our practitioners—many who currently work in applied behavioral analysis); there are no real qualifications or standards for the ABA technicians, who will be doing much of the work with this population; interns are not listed as those that can work in ABA; they are not deemed mandated reporters; and we have concerns that this bill will create a “Gold Standard” for what health care plans will require for reimbursement. CAMFT has taken an opposed unless amended position on this bill.

AB 1884 (Harper): Mental Health Awareness License Plates: This bill requires the Department of Health Care Services (DHCS) to apply to the DMV to create a specialized license plate program to promote mental health awareness. According to the author, “Awareness is an important part of treating mental health issues in California. This bill will let Californians spread the word about this critical issue every time they get in their cars.” CAMFT is in support of this piece of legislation.

AB 1917 (Obernolte): Educational Requirements for LMFTs and LPCCs: This bill proposes modifications to the education required to become an LPCC or an LMFT as follows: 1) It 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, 2) It 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. This concept has previously been discussed and approved by stakeholders, including CAMFT. CAMFT is in support of this legislation.

Ab 2262 (Levine): Prisoners-Mental Health Treatment: This bill allows the court to order a defendant to serve all, or part, of their state prison or county jail sentence in a residential mental health facility, when a defendant establishes that they meet specified criteria regarding mental illness. Defendants with a current conviction for a violent felony would not qualify. This bill also mandates that the California Department of Corrections and Rehabilitation (CDCR) or the county jail prepare a post-release mental health treatment plan six months prior to the defendant’s release to parole or post-release community supervision which specifies the manner in which the defendant will receive mental health treatment services following that release. CAMFT is in support of this legislation.

AB 2507 (Gordon): Telehealth Access: This bill requires health care service plans and health insurers to reimburse telehealth services to the same extent as services provided through in person. A few of the sections include: 1) Requirement that a health plan or health insurer include in its plan contract coverage and reimbursement for services provided to a patient through telehealth to the same extent as though provided in person or by some other means; 2) Requirement that a health plan or health insurer reimburse a health care provider for the diagnosis,

consultation, or treatment of the enrollee when the service is delivered through telehealth at a rate that is at least as favorable to the health care provider as those established for the equivalent services when provided in person or by some other means; and, 3) Revising of the definition of telehealth to include video communications, telephone communications, email communications, and synchronous text or chat conferencing. CAMFT is in support of this legislation.

Ab 2606 (Grove): Mandated Reporting of Licensees: This bill requires a law enforcement agency to report to a state licensing agency (like the BBS) 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. While CAMFT believes it is important to uphold the integrity of the profession, as well as protect our most vulnerable populations (children, elders, dependent adults, persons with disabilities), we are concerned that the language as currently written could lead to frivolous complaints/reports against providers. CAMFT is currently watching this bill to see if any amendments will be made to better protect providers from frivolous and unduly harmful complaints.

SB 614 (Leno): Peer Specialist: This bill requires the State Department of Health Care Services (DHCS) to develop a peer and family support specialist certification program. While we are concerned about the current lack of 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. AAMFT-CA, the LPCCs, and psychologists have all conveyed similar concerns on this bill. CAMFT will likely be changing its position from watch to oppose unless amended as the sponsor has not accepted our amendments to date.

SB 1101 (Wieckowski): Licensed Alcohol and Drug Counselors: This bill establishes the Alcohol and Drug Counseling Professional Bureau within the Department of Consumer Affairs (DCA) to license and regulate licensed alcohol and drug counselors. CAMFT is generally in favor of better regulation of those providing alcohol and drug counseling to consumers in California, especially those working in private practices. However, the language of the bill as currently written is problematic. CAMFT is asking that certain amendments be introduced, including: scope of practice definition; clarity that this licensure does not interfere with current work being done by LMFTs; and greater clarification of grand-parenting of non-Masters level providers. CAMFT is working with the sponsors of this bill and have not yet gone on record with our opposed unless amended position in the hopes that the changes will readily be made.

SB 1113 (Beall): Pupil Mental Health: This bill authorizes local educational agencies (LEAs) to enter into partnerships, as specified, with county mental health plans for the provision of Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services and to expand the allowable uses of specified mental health funds, and requires the California Department of Education (CDE) to expand

its reporting system for mental health services to include academic performance and other measures. Similar to AB 1644, CAMFT believes this bill will increase the quality and quantity of mental health services within the K-12 schools, as well as increase jobs for mental health providers, like LMFTs. CAMFT is in support of this bill.

SB 1155 (Morrell): Licensing Veterans: This bill requires every board under the Department of Consumer Affairs, including the BBS, to grant a waiver for the application and initial licensing fee to an honorably discharged veteran. It is worth noting that the BBS already provides for an expedited review process for military applicants. CAMFT is in support of this legislation.

SB 1478 (Committee on Business, Professions and Economic Development): Among other things, this non-controversial technical bill would change the title for those obtaining hours towards licensure as a Marriage and Family Therapist from "Intern" to "Associate." The bill also reinforces 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. CAMFT is in support of this bill.

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) to discuss this situation, which confirmed a different interpretation of the controlling law on telehealth. CAMFT and other stakeholders will be reviewing and planning next steps in the coming months, including meeting with legislators.

BBS Regulations on Telehealth: The BBS has created regulations which would guide how psychotherapists practice telehealth in California. For instance, providers licensed in California that wish to provide services to out of state clients would need to adhere to the patient's state's laws surrounding how a provider can practice within the state in question. Also, providers that wish to provide therapy to patients that live in California, must be licensed/registered in California. To review the entire regulation package, see: http://bbs.ca.gov/bd_activity/reg_pending.shtml. These regulations are expected to be final this summer.

LMFTs within the Schools: CAMFT is seeking to find ways to increase the presence of LMFTs in the K-12 school system in California. Currently there are unnecessary barriers for ensuring that students receive necessary and competent mental health care services in the K-12 school system in California. Unmet mental health needs rank among the most pressing concerns for California educators, directly affecting student attendance, behavior and readiness to learn. Depending on the

district, LMFTs and other licensed psychotherapists are unable to obtain jobs within the school based on credentialing requirements—creating schools that have no mental health services or services rendered by individuals either underqualified or overloaded with other school duties. This not only limits jobs for qualified psychotherapists, but harms children needing services. Accordingly, CAMFT is advocating on ways to open the doors to greater mental health providers within the schools, including LMFTs. We are hopeful to meet with the Department of Education/Commission on Teacher Credentialing in the coming year to advocate on this important issue, as well as support legislation advocating for greater mental health in the K-12 system.

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 assured CAMFT that this proposal will be out to the public by summer 2016.

FEDERAL LEGISLATION & REGULATION

Medicare: Bi-partisan HR 2759 was introduced in 2015, 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. The companion bill is S. 1830. In March 2016, CAMFT sent members from key districts to Washington D.C. in an attempt to garner additional co-sponsors from legislators on the committees of jurisdiction over this legislation. To date, H.R. 2759 has 16 co-sponsors, and S. 1830 has 14 co-sponsors.

As the number of co-sponsors of this bill starts to increase, Rep. Chris Gibson (R-NY) and Mike Thompson (D-CA (5)), plan to request that this bill come to the floor of the House of Representatives under an expedited procedure. At this time, it is unclear whether or not the leadership of the House will agree to this legislative tactic. If this approach is approved, CAMFT will be calling upon members in a grassroots effort to encourage Representatives to support the bill.

Veterans Affairs: In 2015, Rep. Scott Peters (D-52) re-introduced H.R. 2639 that would eliminate the requirement that LMFTs employed by the Department of Veteran Affairs (VA) be graduates of a COAMFTE approved school. As mentioned above, CAMFT also sent members from key districts to Washington D.C. to garner additional co-sponsors on H.R. 2639. This bill currently has 10 co-sponsors.

In a significant, positive development, the House Appropriations Bill that funds the VA, contains language that will allow employment in the VA for those LMFTs who did not attend a COAMFTE-accredited program but who possess a Master’s degree in marriage and family therapy from a regionally accredited program; have the highest form

of licensure from a state in marriage and family therapy; and have passed the Association of Marital and Family Therapy Regulatory Board (AMFTRB) Examination in Marital and Family Therapy. We expect that this bill will pass the full House of Representatives when it comes to the floor in May. While the bill does not remove the barrier to employment for California therapists (who must pass the California licensing exam and not the AMFTRB exam), the accompanying Committee report does include language that allows for VA employment if a therapist has passed the California licensing exam.

It will be critical to get Sen. Feinstein’s support for the Committee report language adding the House bill language to the Senate version of the Veterans funding bill. The Senator is a member of the Senate Appropriations Committee, so her support is crucial to our efforts. CAMFT will be calling upon members in the near future to participate in an important grassroots movement on this issue.

Nuclear Regulatory Commission (NRC): In 2010, CAMFT petitioned the NRC to include LMFTs as “Substance Abuse Experts.” At this point, the petition is in final rulemaking phase for approximately one more year—late 2016. CAMFT has been in continued communication with the NRC inquiring as to the lengthy and frustrating delays—and have been assured that there should not be any more delays. Once the final rule is approved, it will open the door to new jobs for LMFT professionals as SAEs within the NRC. ☪



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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