



# LEGISLATIVE & REGULATORY UPDATE

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We are nearing the end of a two-year legislative cycle in California. 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 has actively followed 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**

**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, 12 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 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 (12 years or older)

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could consent on his/her own behalf. This legislation would add LMFT trainees to the H&S Code so that trainees, like LMFTs and Interns, can see clients 12 and older w/o parent consent. The language would also assure that trainees seek appropriate supervision consultation after seeing a minor without parental consent, if necessary. LPCC, LCSW and psychologists in training were also amended into AB 1808. This bill is at the Governor's desk.

**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. This bill is at the Governor's desk.

### Other 2016 State Legislation

**AB 1644 (Bonta): Early Mental Health Intervention:** This bill, among other things, would establish a four-year pilot program, the School-Based Early Mental Health Intervention and Prevention Services Support Program, to provide outreach and 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 two and four 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. This bill, that CAMFT opposed, has died for the 2016 legislative year.

**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 was in support of this piece of legislation, however it did not make it out of the Assembly Appropriations Committee.

**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, and it has been signed by the Governor.

**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, but it died in the Assembly Appropriations Committee.

**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. Although CAMFT was in support of this legislation, it did not make it out of the Assembly Appropriations Committee. We are very hopeful that it will be reintroduced next year.

**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. This bill died in the Assembly Appropriations Committee.

**AB 2607 (Ting): Gun Restraining Order:** This bill expands current law to include mental health providers as those who are eligible to apply for a gun violence restraining order (GVRO) for their patients. While we concur with the author that "...mental or emotional crises combined with access to firearms can be a deadly combination," including mental health providers as petitioners for a GVRO is not the solution. Mental health providers have in place the ability (and often the duty) to breach confidentiality if they believe that their patient is a harm to themselves or others—AB 2607 muddies the waters on a mental health provider's duty and obligation. Moreover, the language is very vague, as written—including no clear guidance on when a provider could/should apply for a GVRO. The lack of clarity leads to misunderstandings, unnecessary breaches of confidentiality and frivolous (but damaging) lawsuits against providers. Lastly, the language provides for no protection to the provider who does choose to breach confidentiality—there is still the ability for the patient to sue for that breach. This bill that was opposed by CAMFT, was vetoed by the Governor.

**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. This bill, that CAMFT was opposed to based on the concerns addressed above, has died for the 2016 legislation season.

**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; greater clarification of grand-parenting of non-Masters level providers; and less left to regulation. This bill did not make it out of the Senate Appropriations Committee and died.

**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

**BBS Regulations on Telehealth:** The BBS has created regulations that 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 learn more about these regulations, please see "Regulatory and Legal Considerations for Telehealth: What Therapists Need to Know" on page 60.

**LMFTs within the Schools:** CAMFT continues to advocate for finding 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 Pupil Personnel Services 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. CAMFT has been meeting with

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various stakeholders to uncover new pathways for more therapists to obtain jobs, and greater mental health access 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 the end of summer 2016.

## FEDERAL LEGISLATION & REGULATION

**Medicare:** Bi-partisan HR 2759/ S 1830 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. We are hoping to have the opportunity to have our Medicare bill attached to Senate Bill 2680 towards the end of 2016, on the off chance that bill moves through both chambers. Additionally, we are striving to get as many co-sponsors on both our House and Senate bills to create momentum for next year’s introduction of our bills. Presently, we have more co-sponsors both on HR 2759, (52 co-sponsors with 18 Californians) and S 1830 (15 co-sponsors including Senator Boxer), than we have ever had in the past.

**Veterans Affairs:** The Military Construction/Veterans Appropriation bill, that was agreed to in Conference now includes language that would allow an LMFT to work within the VA if they have passed a state licensing exam—removing the barrier to employment for LMFTs who did not graduate from COAMFTE-accredited programs. The House has already approved this bill and the Senate will vote on it when they return in September. While we are very encouraged that this bill will pass the Senate, the COAMFTE requirement remains in place until and unless the President signs the bill.

**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 until late 2016. CAMFT has been in continued communication with the NRC inquiring as to the lengthy and frustrating delays—and has 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.*

# at your service



## Kathie Miller

Member Services Manager

I have worked at CAMFT for 15 years and am glad to be a part of this great organization for MFTs. I enjoy working in membership and helping our members obtain the information they need to continue helping others.

## On a personal note...

**If you could meet any famous person or historical person, who would it be and what would you ask/tell him/her?**

*Dorothea Dix. This woman was amazing with what she accomplished during the time she lived. I would ask her to tell me the events in her life that were never published. Anyone in the mental health profession should read about this wonderful woman. Yes, she had her faults, but don't we all?*

**Share your best vacation.**

*I went on an Alaskan cruise for my 25<sup>th</sup> wedding anniversary. Alaska is a beautiful state and I loved every minute of it. The sun never set and the cool weather was invigorating.*

**Motto or personal mantra?**

*“Do what you can, with what you have, where you are.” - Theodore Roosevelt*

**Where is your home town?**

*I was born in Corona, CA—but grew up in San Diego as my father was in the Navy.*

**What do you like to do in your spare time?**

*Look for restaurant menus for really hard to please people, garden, shop online, read books about unusual historical facts.*