

EXEMPT SETTING COMMITTEE MEETING NOTES

June 23, 2017

Discussion and Possible Action Regarding Draft Survey Topics Related to Practice Settings for LCSW, LMFT, and LPCC Students

In consultation with the Office of Professional Examination Services, staff developed a draft survey that would be provided to site placement coordinators for students in LMFT and LPCC degree programs. The goal of the survey is to obtain information that will help determine whether current laws pertaining to students in practicum or fieldwork performing services at a work site need to be changed.

The Committee heard testimony from CAMFT and other stakeholders regarding the suggested clarifications of the draft survey that had been submitted by fieldwork placement coordinators. These clarifications included expanding the scope of the survey to include LCSW students, among other grammatical and stylistic changes.

The Committee, after discussing such clarifications, directed staff to make the clarifications to the draft survey that had been suggested by the fieldwork placement coordinators.

Discussion and Possible Action Regarding Draft Survey Topics Related to Exempt and Private Practice Settings

In consultation with the Office of Professional Examination Services, staff has developed a draft survey pertaining to exempt and private practice settings. The survey was originally drafted with BBS licensees and registrants in mind, but will now also include exempt setting agency directors. The goals of the survey are primarily to obtain information that will:

- Help determine whether consumers are being harmed in exempt settings by unlicensed staff (who are not pursuing licensure as a mental health professional) who are performing clinical services.
- Help formulate a legal definition for “private practice,” “exempt” and other types of settings.

The Committee heard testimony from CAMFT and other stakeholders regarding suggested clarifications of the draft survey pertaining to exempt and private practice settings, including expanding the scope of the survey to include agency directors.

The Committee, after discussing such clarifications, directed staff to make the clarifications to the draft survey that had been suggested by the agency directors.

Discussion and Possible Action Regarding Business and Professions Code Sections 4980.43(h) (granting of qualifying master’s or doctoral degree) and 4999.46(d) (granting of qualifying degree) – 90 Day Rule

The 90-day rule has been included in LMFT licensing law for many years. Research by Board staff indicates that this law has been in effect since at least 1984. When the LPCC licensure act was created, it was modeled after LMFT law and included the 90-day rule. However, LCSW law does not contain the 90-day rule.

Currently, Assembly Bill 456 (Thurman) proposes to allow LCSW applicants the opportunity to participate in the 90-day rule. The 90-day rule allows applicants for registration as a marriage and family therapist intern or a professional clinical counselor intern to count post-degree hours of supervised experience acquired before the receipt of a BBS registration number, so long as they applied to the BBS for their intern registration within 90 days of the granting of their qualifying degree. These post-degree hours of experience are ONLY applied retroactively toward licensure if the BBS ultimately grants the applicant a BBS number. An applicant whose application is denied is not permitted to count any post-degree hours towards licensure.

Recently, a concern at the Legislature regarding the 90-day rule and consumer protection was brought to the Board's attention. Specifically, the concern is that the 90-day rule allows unregistered individuals to provide mental health services without a fingerprint clearance – a significant consumer protection issue. The Board's highest priority is consumer protection. The fingerprint clearance is an essential component to provide consumer's protection from unsafe mental health practitioners.

During the registration process, most applicants submit proof of their fingerprint submission with their application. As noted earlier, fingerprint results are typically received within 3 to 7 days. If the Board gets a "hit" on the fingerprint results, meaning if some type of background issue is found, the application is diverted to the Board's Enforcement Unit for further review. However, frequently, it is the receipt of the official transcripts that delays the issuance of a registration; not the fingerprint results.

The Committee, after listening to testimony from CAMFT and other stakeholders, discussed various issues regarding the 90-day rule, including eliminating the rule; maintaining the rule but also maximizing consumer protection; the problem of continuity of care of patients should the 90-day rule be repealed; and, various BBS staff and technological issues pertaining to the 90-day rule.

The Committee, after discussing such issues, directed staff to inquire into the possibility of allowing trainees to apply for intern registration prior to the granting of their qualifying degree as opposed to the current rule, which requires them to apply after their qualifying degree has been posted.

Due to previously scheduled events, CAMFT staff had to leave the Exempt Setting Committee at this time.