



BOARD UPDATE

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The following excerpt summaries are taken from the Board of Behavioral Sciences' (Board) Policy and Advocacy Committee February 9, 2018 materials:

**Discussion and Possible Action Regarding Revisions to Assembly
Bill 93 (Medina) Healing Arts: Marriage and Family Therapists:
Clinical Social Workers: Professional Clinical Counselors:
Required Experience and Supervisors**

AB 93 (Medina) is BBS Board-sponsored and was introduced as proposed legislation last year (January 2017). It represents the work of the Board's Supervision Committee. The bill seeks to strengthen the quality of supervision, by focusing on supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also strives to make the Board's supervision requirements more consistent across its licensed professions.

AB 93 passed through the Assembly last year, and then moved on to the Senate. However, it became a 2-year bill in the Business & Professions Committee. The Business and Professions Committee expressed consumer protection concerns about the 90-day rule, and requested other substantive changes to the language in the code sections the bill amended. Staff has worked extensively with the Business & Professions Committee to develop amendments that strike a balance of preserving the original intent of the bill, while making changes that address the Committee's concerns.

Two of the most significant amendments are as follows:

Phase-Out of the 90-Day Rule for LMFT and LPCC Applicants:

The "90-day rule" is a provision currently in the Board's law that allows applicants for registration as an AMFT or an APCC to count supervised experience hours gained in between the degree award date and the date the Board issues the registration, if the applicant applies for the registration within 90 days of the date the qualifying degree was granted. At its last meeting, the Policy and Advocacy Committee discussed the 90-day rule at length. It voted to remove the 90-day rule, with a two-year phase-out period-- only applicants completing graduate study prior to January 1, 2021 would be able to utilize the 90-day rule.

Amendments to Law for Corporations and Private Practice:

The Business & Professions Committee requested changes to the sections of law discussing corporations and private practice, citing concerns about clarity because an entity that is a corporation may also be a private practice. The Board is currently working on a concise definition of the term "private practice" in its Exempt Setting Committee. However, the work of the Exempt Setting Committee is not complete, and its recommendations will be introduced in future legislation. In the meantime, the amendments in this draft of AB 93 seek to better delineate the requirements for private practices versus entities that are incorporated. One major change is the elimination of the cap on the

number of supervisees a corporation may retain (currently set at 15 supervisees). The ratio of three supervisees allowed per supervisor remains for both private practices and corporations.

The California Association of Marriage and Family Therapists (CAMFT) has also been working with the Senate Business and Professions Committee, and has proposed an alternative to phasing out the 90-day rule, which they believe will maintain public protection. This alternative proposal also has the support of the Business and Professions Committee. Under CAMFT's proposal, counting experience hours under the 90-day rule could continue if the applicant's worksite requires Live Scan fingerprinting prior to any direct service or client experience being gained.

After lengthy testimony by CAMFT, the Senate Business and Professions Committee, AAMFT, and other interested stakeholders, the Policy and Advocacy Committee unanimously voted to adopt CAMFT's proposed alternative to the elimination of the 90-day rule.

Review of Six-Year Limit on Experience Hours and Associate Registrations

LCSW, LMFT and LPCC statutes set forth the following six-year limits for registrants gaining supervised experience hours:

1. **Age of Experience Hours:** Hours of supervised experience must be completed during the six-year period prior to submitting the application for licensure (aka examination eligibility). Once experience hours are six years old (based on the submittal date of the application), they expire and do not count toward a license. There is one exception to this—for LMFT applicants, the 500 hours of clinical experience gained in supervised practicum as a trainee is exempt from the six year requirement.
2. **Length of Associate Registration:** An associate registration may be renewed five times, so it can be held for a total of six consecutive years. If the supervised experience has not been completed (or if the employer requires it, etc.) a new registration may be obtained. However, individuals issued a subsequent registration are NOT permitted to work in a private practice setting. There are no exceptions.

The rationale behind the limits are that they protect the public by ensuring applicants for a license have recent relevant experience. It also ensures that applicants continue progressing through the licensing process, by prohibiting working in a private practice perpetually without ever becoming licensed.

The Board's standing committees have discussed this topic several times over the past few years due to stakeholder requests. The Policy and Advocacy Committee discussed this topic most recently at its June 23, 2017 meeting. At that meeting, the Committee asked staff to gather specific data about registrations (Staff did not compile data for LPCC applicants, because the license has only been in existence for six years; therefore, most have not had the option to utilize second registration numbers yet):

1. Number of registrants on a subsequent registration number: 10.5% of ASWs are on subsequent number and 12.6% of AMFTs are on subsequent number;
2. Average time to complete supervised experience hours: It is taking LMFT applicants an average of 3.33 years to gain the required hours and the median is 3.02. It is taking LCSW applicants an average of 3.67 years to gain their required supervised experience hours. The median is 3.19 years; and,
3. Common reasons for needing a subsequent registration number: Registrant stopped gaining hours to raise a family:
 - Illness (self)
 - Caregiver for a family member with an illness
 - Working part-time
 - Unable to obtain employment or supervision
 - Still need a registration number for work purposes (for example, they are in the exam cycle, or are in the process of applying for licensure, but a registration number is required at their job.)
 - Registrant was denied a portion of their hours during the evaluation process for some reason (for example, the supervisor was not licensed for two years prior to supervision, too many nonclinical hours, etc.) and hours must be made up.

Previous Research on Time to Gain Experience Hours: The Board previously researched time to gain experience hours or time to obtain licensure.

In late 2014, data was compiled on 100 LMFT applicants who recently completed their experience hours. Of those sampled: 78% were able to obtain their post-degree hours in less than 4 years from the date of graduation, the average length of time to complete the experience was 3.4 years, and the median length was 3 years.

In July 2008, the Board conducted a study of its licensing processes based on data for all 2002, 2003, and 2004 graduates that registered with the Board. The study showed that, for those graduating classes, it typically takes approximately 3 to 4 years for an ASW to obtain a license once they have submitted their registration application.

Recent and Proposed Law Changes: Recent and proposed changes to the Board’s licensing laws may make it easier to obtain the required supervised experience in a shorter timeframe:

- The elimination of the “buckets”—specific categories of experience— for LMFT and LPCC applicants. (Effective January 1, 2016 and phasing in now.)
- Decreasing in required experience hours for LCSW applicants from 3,200 hours to 3,000 hours. (Proposed in AB 93.)
- Allowing triadic supervision in lieu of individual supervision for LMFT, LCSW, and LPCC applicants. (Proposed in AB 93.)

These changes were designed to increase the applicant’s ability to gain experience hours, while preserving public protection safeguards such as ensuring quality supervision and the need for applicants for licensure to have current and relevant experience. However, the changes are either in the beginning of the phase in process (for the “buckets”), or are not law yet, and therefore data on their effects will not be available for several years. After testimony by CAMFT, NASW-CA, AAMFT, and other interested stakeholders, the Committee took no action and instead indicated they would like to see the effect that the recent and proposed law changes have on the length of time registrant’s take to obtain required hours.

Proposed Changes to Continuing Education Regulations

The Committee was asked to consider possible regulation changes pertaining to continuing education (CE) and training requirements. The Board made major changes to its CE program effective January 1, 2015. The transition to the new requirements took place over a 2.5 year period, which ended recently. This proposal would delete the regulations that served during the transition, and clarify and update provisions of the current regulations. In addition, this proposal would amend the requirements to obtain an exception to (waiver of) CE requirements. This proposal would also update and streamline the regulations that require certain coursework required to be completed by applicants for licensure, as well as LEPs renewing for the first time.

Proposed Changes: The proposed language provided in Attachment C would do all of the following:

1. Update the list of acceptable providers for the following courses (most of which are required prior to licensure), and streamline the lists of acceptable providers into one section:
 - Human Sexuality (pre-licensure requirement for LMFT, LCSW and LPCC applicants)
 - Child Abuse Assessment and Reporting (pre-licensure requirement for LMFT, LCSW and LPCC applicants; first-time renewal requirement for LEPs)
 - Alcoholism and Other Chemical Substance Dependency (prelicensure requirement for LMFT, LCSW and LPCC applicants; first-time renewal requirement for LEPs)
 - California Law and Ethics (out-of-state LMFT, LCSW and LPCC applicants only)
 - Crisis or Trauma Counseling (LPCC applicants only)
2. Update the content required for the Human Sexuality course for consistency with statute, DSM-V and to ensure currency.
3. Update the content required for the Alcoholism and Other Chemical Substance Dependency class, to clarify that it should also include substance abuse (as opposed to only dependency)
4. Clarify the definitions pertaining to a “renewal period” (determines when CE is required to be completed).
5. Clarify that an individual who holds a retired license is exempt from CE requirements.
6. Modify the terms of obtaining an exception from (waiver of) CE requirements as follows:

- Clarify that a CE waiver is temporary (only in effect for one renewal cycle).
 - Delete the reference to “reasonable accommodation.” An accommodation (as opposed to an exception) was previously granted to individuals who needed to complete all CE hours via “self-study.” The limitation on the number of hours of self-study was removed effective July 1, 2015. All CE can be completed online.
 - Allow active military duty CE waivers only for those stationed outside of the U.S. (currently specifies stationed outside of California).
 - Stipulate that a waiver will only be granted due to being out of the country or on active military duty if the individual was prevented from accessing CE courses during that time (for example, cannot access acceptable CE provider websites).
 - Require those requesting a waiver due to a physical or mental disability to also have been substantially limited from the ability to practice.
 - Limit waivers for licensees who are a primary caregiver of an immediate family member, to only family members with a total physical or mental disability.
 - Require those granted a CE waiver to take the 6-hour law and ethics course despite the waiver.
7. Update the CE waiver request forms and instructions. 7. Delete the requirement that LMFTs and LCSWs who began graduate study prior to January 1, 1986 take a CE course in Alcoholism and Other Chemical Substance Dependency. All applicants for LMFT and LCSW licensure must now meet this requirement prior to license issuance.
 8. Clarify that a course on Law and Ethics that is also designed to meet supervisor training requirements shall be accepted toward the 6-hour Law and Ethics course required for each renewal period.
 9. Clarify that a CE course taught by a licensee may only count toward his or her CE if it is a course taught for a board-accepted provider; specify that teaching such courses may only count for 18 of the 36 required CE hours.
 10. Update the list of approval agencies and acceptable providers. After discussion and testimony by CAMFT and other interested stakeholders, the Committee directed staff to make the proposed changes.

Trainees Paying for Supervision/Practicum

At its May 2017 meeting, the Board discussed the issue that some trainee practicum sites charge trainees fees to volunteer with their organization, or fees for supervision. The Board expressed a desire for further research therefore, it recently conducted two surveys to determine the prevalence of the fees, the amounts typically charged, and the reasons for charging them.

The highlights of the school surveys are as follows:

1. A total of 53 school programs responded to the survey. Most respondents (45%) offered a program preparing students for both LMFT and LPCC licenses.
2. School programs were asked to report the number of agencies they utilize for their student’s practicum sites. The number of practicum sites utilized by programs varied widely, from 2 sites to around 150 sites. (This is likely due to varying sizes of the school programs.) The average number practicum of sites per school program is 26 sites, and the median is 20 sites. However, this is a rough estimate, as many schools gave a range of the number of sites utilized.
3. Of the 53 responding school programs, 12 indicated that some of their practicum sites charge fees (22.6%). Of these 12 school programs, on average 3 of their sites charged a fee. (Programs were asked to exclude practicum sites that only charge trainees a fee for fingerprinting or background checks).
4. If a fee is charged, 78% of school programs report that the trainee pays the fee directly to the practicum site. 22% of school programs report that the school pays the fee, with no cost to the trainee.
5. 77% of reporting school programs report having no students who pay practicum fees. 23% report having some students who pay. Of these (12 total), in most cases 10% or less of the students pay for practicum. Two schools indicate a higher percentage of students paying for practicum.
6. The majority of reporting school programs indicate they do not place students in practicum sites that charge, or they would discourage students from choosing a site that charged.

7. School programs were asked to list practicum sites they utilize that charge fees, and the corresponding fee amounts—the fees ranged from \$500 to \$1,200 per year.
8. When asked if there are any alternatives offered if a student is unable to pay for a practicum site, most school programs indicated their students do not pay any fees, or that they are unaware of any alternatives at sites that do charge fees.
9. 83% of responding school programs reported that their students have the option to work for a practicum site that does not charge fees.
10. School programs were asked to report the counties where their fee-charging practicum sites are located— Los Angeles, Orange, Humboldt, San Diego, Santa Barbara, Santa Cruz, and Santa Clara.
11. Most responding school programs (62%) reported that they have seen no increase in the number of practicum sites that charge fees. Some schools (11%) reported seeing a slight increase, while 4% reported a moderate increase.

The highlights of the agency surveys are as follows:

1. A total of 31 non-profit agencies responded to the survey.
2. Participating agencies reported utilizing an average of 10 trainees. However, the median trainees utilized was 3. This is likely due to varying sizes of the agencies.
3. 90% of the responding agencies reported providing individual supervision to trainees. 10% of the responding agencies reported that they do not provide individual supervision.
4. Most responding agencies (84%) stated that they do not charge fees to their trainees. Approximately 16% of reporting agencies reported that they do charge their trainees a fee. (Respondents were asked to exclude fees charged for fingerprinting or background checks.)
5. Of the responding agencies that charge fees, the typical fee ranged from \$150 to \$1,000.
6. Agencies that charge fees strongly indicated that the consequence of not being able to charge trainee fees would be that services available to their low-income clientele would be impacted. They also emphasized in many cases that the training opportunities that their agency provides is more in-depth than one would get in a graduate program, or is very specialized to a specific population.

Jurisdiction over trainees.

Legislative Update

Board staff is currently pursuing the following legislative proposals:

1. AB 93 (Medina) Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision This bill proposal represents the work of the Board's Supervision Committee. Its amendments focus on strengthening the qualifications of supervisors, supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also strives to make the Board's supervision requirements more consistent across its licensed professions.
2. Licensing Process Bill (No Bill Number Assigned at This Time) The Board is proposing a bill to make some amendments to its licensing process. The bill will make amendments to specify how an expired registration may be renewed, and to supervised experience hours required for long term out-of-state license holders. It also makes some corrections to LCSW law regarding the California law and ethics exam and law and ethics coursework.

3. Omnibus Legislation (Senate Business, Professions, and Economic Development Committee) (No Bill Number Assigned at This Time) This bill proposal, approved by the Board at its November 2, 2017 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

Rulemaking Update

Application Processing Times and Registrant Advertising:

This proposal would amend the Board's advertising regulations in line with SB 1478 (Chapter 489, Statutes of 2016) which changes the term "intern" to "associate" effective January 1, 2018, and makes several technical changes. This proposal would also amend the regulation that sets forth minimum and maximum application processing time frames.

The final proposal was approved by the Board at its meeting in November 2016. The proposal has completed the new "initial review phase" process required by DCA, and was published in the California Regulatory Notice Register on July 7, 2017. The 45-day public comment period has ended, and the public hearing was held on August 22, 2017. The rulemaking package is currently under review by the State and Consumer Services Agency as part of the final phase of the regulation process.

Contact Information; Application Requirements; Incapacitated Supervisors:

This proposal would:

- Require all registrants and licensees to provide and maintain a current, confidential telephone number and email address with the Board.
- Codify the Board's current practice of requiring applicants for registration or licensure to provide the Board with a public mailing address, and ask applicants for a confidential telephone number and email address.
- Codify the Board's current practice of requiring applicants to provide documentation that demonstrates compliance with legal mandates, such as official transcripts; to submit a current photograph; and for examination candidates to sign a security agreement.
- Require certain applications and forms to be signed under penalty of perjury.
- Provide standard procedures for cases where a registrant's supervisor dies or is incapacitated before the completed hours of experience have been signed off.

The proposal was approved by the Board at its meeting in March 2017, and is in the new "initial review phase" process required by DCA, which can take up to four months. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

Enforcement: This proposal would result in updates to the Board's disciplinary process. It would also make updates to the Board's "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015)," which are incorporated by reference into the Board's regulations. The proposed changes fall into three general categories:

1. Amendments seeking to strengthen certain penalties that are available to the Board;
2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and
3. Amendments to clarify language that has been identified as unclear or needing further detail.

The proposal was approved by the Board at its meeting in February 2017, and is in the new "initial review phase" process required by DCA. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

Examination Rescoring; Application Abandonment; APCC

Subsequent Registration Fee: This proposal would amend the Board's examination rescoring provisions to clarify that rescoring pertains only to exams taken via paper and pencil, since all other taken electronically are automatically rescored. This proposal would also make clarifying, non-substantive changes to the Board's application abandonment criteria, and clarify the fee required for subsequent Associate Professional Clinical Counselor registrations. The proposal was approved by the Board at its meeting in November 2017, and is currently being prepared by staff for the initial DCA review phase.

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.