

Legislative Report

by Mary Riemersma, Executive Director

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Friday, February 18, 2011 was the deadline for introduction of bills for the first of a two-year legislative cycle. The only exception to the deadline would be non-controversial committee bills, which can be introduced at any time. A plethora of bills were introduced that day, even though, generally speaking, legislators were reluctant to author bills, especially if there was controversy. In all, over 2,200 bills were dumped into the State Legislature in 2011. Only two CAMFT-sponsored bills were introduced, even though we were seeking the introduction of five bills. Following are the two CAMFT-sponsored bills as well as some of the bills CAMFT is following or that CAMFT has taken positions of watch, support, or oppose.

CAMFT Sponsored Bills

AB 367 (Smyth)

Elder and Dependent Adult Abuse Reporting

This bill would require a county adult protective services agency or a local law enforcement agency to accept a report by a mandated reporter even if the agency lacks jurisdiction to investigate the report and it would be that agency's responsibility to refer the report to the agency with proper jurisdiction. The mandated reporter would therefore not be directed to go from one agency to another to make the report. The Elder and Dependent Adult Reporting Act would thus be consistent with the Child Abuse and Neglect Reporting Act. CAMFT is the author of this legislation and is therefore in support of the bill.

AB 956 (Hernandez)

Advertising by MFT Interns and Trainees

This bill would require Marriage and Family Therapist Interns and Trainees to be clear in their advertising that they are not yet licensed, they are being supervised, and they are appropriately employed. Acronyms like MFTI would not be able to be lawfully used. Further, such abbreviations lead the public to believe the person possesses some type of license. CAMFT is the author of this bill and is in support.

Other Bills of Interest

AB 39 (Beall)

Mental Health Services Act Funds

This bill would require the State Department of Mental Health to allocate \$57,000,000 of the Mental Health Services Act Funds that it receives to county mental health departments to provide special education services. The bill would also require the development of a transitional program to transfer special education services from County Mental Health to the State Department of Education. CAMFT is watching this bill and has not taken a position at this time.

AB 40 (Yamada)**Elder and Dependent Adult Abuse Reporting**

This bill would require mandated reporters of elder and dependent adult abuse, where the abuse has occurred in a long term care facility, to report to BOTH the local ombudsperson and the local law enforcement agency. In other words, the mandated reporter would have to make two separate reports. While we understand that a problem exists when a mandated reporter makes a report to the ombudsperson, that person is not permitted to share the information with the law enforcement agency, we believe it is excessively onerous for the mandated reporter to make two reports.

AB 73 (Feuer)**Dependency Proceedings**

This bill would express the intent of the Legislature to enact legislation to provide that juvenile dependency cases shall be presumptively open to the public unless the court finds that admitting the public would not be in a child's best interest. At this time CAMFT's official position is watch but will likely change to oppose unless amended.

AB 154 (Beall)**Parity for Coverage for Mental Disorders**

This bill, like the same measure vetoed on several prior occasions, would provide for parity coverage for all mental disorders and substance abuse as defined in the DSM IV. Excluded would be nicotine dependence and some other specific diagnoses (V Codes). If successful, this bill would be applicable to health care service plan contracts and health insurance policies issued, amended, or renewed on or after January 1, 2012. If successful, these provisions would not be applicable to the Public Employees' Retirement System unless the board elects to purchase a plan, contract, or policy that provides mental health coverage. CAMFT is in support of this legislation.

AB 171 (Beall)**Autism Spectrum Disorders**

This bill would require health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of autism spectrum disorders. However, no benefits are required to be provided by a plan offered through the California Health Benefit Exchange that exceeds the essential health benefits required under federal law. CAMFT is watching this bill at this time, but may move to support as the bill evolves.

AB 499 (Atkins)**Minors Consent for Treatment**

This bill would allow a minor who is 12 or older to consent to medical care related to the prevention of a sexually transmitted disease. CAMFT is watching this bill.

AB 671 (Portantino)**Certifications for Persons in Child Welfare Services**

This bill would require a child welfare services social work supervisor to have a master's degree in social work, or a master's degree in behavioral science and a certification from an entity that

certifies supervisors in child welfare services. Persons in such positions before January 1, 2012 would be exempt from these requirements. CAMFT has taken a position of “oppose” on this legislation. It is unclear which organizations could or would issue the certificates. The bill appears to permit a multitude of persons or entities to issue certificates. The specific criteria necessary to acquire the certificate is unclear. Further, the bill gives preference to MSWs to the detriment of LMFTs who may be seeking these positions. Finally, the problem the sponsor is attempting to be fix has not been identified. The sponsor is NASW, California Chapter.

AB 774 (Campo)

Waivers for Employees in State Department of Public Health

Currently there is a four-year waiver from licensure in California law for marriage and family therapists and clinical social workers pursuing the license. This waiver can be extended for one year for extenuating circumstances. This bill would require other departments that employ aspiring marriage and family therapists or clinical social workers to grant the extension of a waiver for extenuating circumstances. Extenuating circumstances include the person requesting the extension has experienced a recent catastrophic event, he/she has difficulty speaking or writing the English language, or he/she has experienced personal hardship. CAMFT is watching this bill at this time, but may later change its position to support for the bill.

AB 922 (Monning)

Office of Health Consumer Assistance

The bill would eliminate the Office of Patient Advocate and would instead create an Office of Health Consumer Assistance. It would provide outreach and education about health care coverage to consumers and help them resolve problems accessing coverage or care. The Office would be permitted to contract with community organizations that have a long-standing record of consumer assistance to provide such services. CAMFT will likely support this legislation.

AB 958 (Berryhill)

Regulatory Boards and their Statute of Limitations

This bill would provide that any accusation filed against a licensee would have to be filed within one year after the Board discovers the alleged act or omission, or within four years after the act or omission occurred, whichever occurs first. In the case of a minor, the four-year period would be tolled until the minor reaches the age of majority. CAMFT is watching this bill at this time to see what it will become. The position may change to support depending upon the particulars that are incorporated into the bill as it moves along.

AB 993 (Wagner)

Disciplinary Action and Immunity for Mediation or Counseling Services

This bill would specify that a mediator or a licensed mental health professional are not liable for damages for an act or omission constituting ordinary negligence that occurs on or after January 1, 2012, when performing mediation or counseling services. The bill would prohibit the filing of a complaint with the Board that issued the license and would instead require that the complaint be made to the court that sent the matter for mediation or that required the counseling. The court would then refer the matter to the licensing board for disciplinary action if it found unprofessional conduct on the part of the professional. CAMFT is watching this bill to see what it will become and may support the bill if it moves through the process.

AB 1003 (Smyth)**Department of Consumer Affairs**

This is a “spot” bill or placeholder for a bill that would require all professional and vocational licenses currently issued by the Department of Consumer Affairs and its affiliated Boards to be issued from one central location, with other responsibilities remaining with the Boards themselves. CAMFT is watching this legislation to see what it will become.

AB 1059 (Huffman)**Health Care Service Plans**

This bill would require the Director of the Department of Managed Health Care, upon a determination that a health care service plan has underpaid or failed to pay a provider, to assess an administrative penalty and to require the plan to pay the provider the amount owed plus interest. The bill would authorize the Director to exempt a plan from paying the administrative penalty if a finding is made that paying both the penalty and the provider would jeopardize the financial solvency of the plan. The bill would also specify that a provider would not be required to resubmit a claim unless it is determined that an extraordinary circumstance exists and it would require the plan to reimburse the provider for the cost of resubmission. CAMFT is now watching this legislation to see what it will become and may move to support the legislation.

AB 1205 (Berryhill)**Certified Applied Behavior Analysts**

This bill would provide for the certification of Applied Behavior Analysts, which would be administered by the Board of Behavioral Sciences. While conceptually we have no specific objection to the regulator of Applied Behavior Analysts if they have had appropriate education, training, and experience and they work within a relevant limited scope of practice and competence, we do have a grave concern about the BBS being saddled with another discipline to regulate without adequate staffing to regulate the professions it already is responsible for. We are also concerned about the broad scope of practice the bill proposes. It specifically excludes long-term counseling, which seems to indicate that short-term counseling would be acceptable. Further, there are no definitions of what it intended by long-term counseling. CAMFT is opposed to this legislation.

AB 1348 (Mansoor)**Student and Mental Health Screenings**

This bill would prohibit a school district from conducting mental or psychological screening or testing of a minor unless it uses an authorization form developed by the State Department of Education. The parent or guardian would have to provide written authorization not less than 45 days prior to conducting the psychological screening or testing. The parent or guardian would also have to be provided with access to published information about the testing or screening. CAMFT is watching this legislation at this time.

SB 146 (Wyland)

Licensed Professional Clinical Counselors

This bill makes numerous changes to various provisions concerning the practice of professional clinical counselors, clinical counselor trainees, and clinical counselor interns. In essence, the bill, which is about 100 pages long, places LPCCs in every section of law that currently recognizes Licensed Marriage and Family Therapists, including, but not limited to, insurance reimbursement, psychotherapist patient privilege, treating minors without parental consent, the Child Abuse and Neglect Reporting Act, use of hypnosis, peer review, patient records, waivers from licensure, staffing requirements in certain circumstances, etc. CAMFT worked for years to achieve MFT inclusion for each of these provisions and LPCCs will be able to ride the coattails of CAMFT and attempt to accomplish it all in one year. It is anticipated, however, that the LPCC organization could be faced with some opposition. CAMFT is watching this bill at this time.

SB 363 (Emmerson)

Hours of Experience Gained by Trainees Outside of Practicum

This bill would permit trainees to gain hours of experience outside of their practicum assignments only for a period of 45 days. CAMFT will oppose this legislation because the restriction of 45 days is not warranted, is pulled from thin air, is disruptive to the needs of clients and agencies where trainees work, places a hardship on trainees, and is not based upon any identified problems.

The problem began with the changes brought about by SB 33 (2009), where the required hours of experience to be gained in practicum increased from 150 to 225 (of which 75 may be in client centered advocacy). A provision was added to this section of law [Business and Professions Code section 4980.36(d)(1)(B)(iii)] that states “A student must be enrolled in a practicum course while counseling clients.” Of course, this section of law is solely related to the educational requirements for an aspiring LMFT. Another section of law [Business and Professions Code section 4980.42] has been in existence since 1995 and says that hours may be gained outside of the practicum requirement, as long as certain conditions are met. This section says that “. . . Trainees may gain hours outside of the required practicum. . . all hours of experience gained as a trainee shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party’s responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student’s performance at the site. . .” As indicated, these hours are under the jurisdiction and responsibility of the school.

We believe the law should assure that trainees can gain hours of experience outside of their practicum assignments, without a 45 day limitation, as long as there is sufficient oversight by their schools for the services they are providing.

While not in the bill as it was introduced, it will be expanded to limit the number of hours that can be gained by interns and trainees in client centered advocacy. In other words, hours for client centered advocacy and administering and evaluating psychological tests, writing clinical

reports, and doing progress and process notes will be limited to 500 hours in total for the combination of these two categories.

Also not in the bill as it was introduced, this bill will be amended to include provisions to allow LPCCs who will be licensed in California for two years to supervise MFT Interns and Trainees. However, consistent with the demands of AAMFT-CA and the adoption of the BBS, to supervise MFT interns and trainees, a LPCC would have to have had six semester units or nine quarter units specifically focused on the theory and application of marriage and family therapy or a named specialization or emphasis in marriage and family therapy in their qualifying degree; no less than 500 hours of documented supervised experience working directly with couples, families, or children; and a minimum of six hours of continuing education specific to marriage and family therapy completed in each license renewal cycle. We are not in agreement with this limitation, especially for persons who will be grand-parented into the LPCC profession. We would be willing to concede to have these provisions applicable to persons who begin graduate study on or after January 1, 2012.

SB 651 (Leno)

Elimination of Statutory Differences between Marriage and Domestic Partnerships

This bill intends to eliminate statutory differences between marriage and domestic partnerships by implementing the holding of a California Supreme Court Case that made a narrow distinction between marriage and domestic partnerships. While CAMFT is watching this “spot” bill at this time, we are likely to change to a position of support as the bill moves forward and takes shape.

SB 690 (Hernandez)

Health Care Coverage and Discrimination amongst Providers

This bill would prohibit a health care service plan contract or health insurance policy that is issued, amended, renewed, or delivered on or after January 1, 2014, from discriminating against any health care provider who is acting within the scope of that provider’s license. The intent of this bill is not, however, to attempt to allow any willing provider to contract with a plan or insurer. CAMFT is watching this bill at this time and will be looking into the actual intent of the bill.

SB 704 (Negrete McLeod)

Examinations for BBS Licensees

This bill would re-create and separate the examinations administered to aspiring MFT and CSW licensees of the Board of Behavioral Sciences. If the bill is successful, a law and ethics examination would be required to be passed while registered as an intern or associate and then a clinical examination would follow the completion of the hours of experience. This examination change has been discussed at length in various “BBS Updates” in *The Therapist*. CAMFT is likely to support this legislation since the previously objectionable provisions have been revised.

SB 747 (Kehoe)**Continuing Education in Lesbian, Gay, Bisexual, and Transgender Patients**

This bill would require various licensed professionals to attain continuing education of one course of two to five hours in duration on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons. Licensing Boards would be charged with enforcing this requirement. Such a course would have to be completed prior to January 1, 2016, if the bill is successful. CAMFT generally opposes content-specific continuing education course requirements. Further, MFTs are required by law to have had graduate level coursework on multi-cultural and cross cultural issues and concerns.

SB 850 (Leno)**Confidential Medical Information**

This bill would provide that every provider of health care, amongst others, would be required when creating, maintaining, preserving, storing, abandoning, destroying, or disposing of written or electronic medical records to do so in a manner that preserves the confidentiality, accuracy, and integrity of the information contained in the records. CAMFT is watching this legislation.