Discussion and Possible Recommendation Regarding Practice Setting Definitions, Subsequent Registration Numbers, and Exam Limits

Entities Licensed or Certified by a Government Entity (BPC §§4980.05(b), 4980.06(a)(4))

The Committee reviewed BBS Staff’s proposal and the Exempt Setting Committee’s recommendations regarding specific definitions of the various types of practice settings that licensees and applicants may be working in, as well as other proposed changes related to private practice supervision.

The Committee agreed with the Exempt Setting Committee that an entity (whether for profit or nonprofit) licensed or certified by a government regulatory agency should not be considered a private practice. After hearing comments from stakeholders, the Committee recommends to clarify in the statute that county mental health departments are not private practice settings and should be included under the “non-exempt settings.”

Allowing Contract Supervisors in Private Practice (BPC §4980.43.4(b)(1))

Current law requires supervisors in a private practice to practice at the same site as their supervisees or be an owner of a private practice. The current law requires supervisors at a professional corporation to be employed and practicing full-time at the same site. The Committee discussed the Exempt Setting Committee’s recommendations to remove the full-time requirement, as well as allow for supervisors to be contracted. If the direct supervisor is required to provide psychotherapeutic services to clients at the same site as their associate, combined with the new supervisor requirements under AB 93, the Committee believed there would be adequate oversight and accountability.

Limit of Six Supervisees per Supervisor in Private Practice/Professional Corporation (BPC §4980.43.4(c))

Current law permits a supervisor in a private practice or professional corporation to have no more than 3 supervisees. At the Exempt Setting Committee, it was suggested that it may be appropriate to increase this limit to 6 supervisees per supervisor in these settings. With the ability to provide triadic supervision, as well as the supervisor requirements set forth in AB 93, the Committee agreed with the Exempt Setting Committee to recommend increasing the limit of 6 supervisees per supervisor in private practice settings.

The Committee also discussed whether to limit the number of supervisees per supervisor in private practices and professional corporations only, or to limit in other non-exempt settings, as well. The Committee recommends the limitation to extend to other non-exempt settings (not to exempt settings such as nonprofits, government entities, and schools/universities).

Motion: The Committee moved to send Staff’s proposed language and additional changes to BPC §§4980.05(b), 4980.06(a)(4), 4980.43.4(b)(1) and 4980.43.4(c) to the BBS Board for review.

Extending Registration Numbers to 8 Years (with Coursework Required for a Subsequent Number) and Allowing Private Practice with a Subsequent Number

At the June Exempt Setting Committee, BBS Staff recommended a solution that would extend the length of a registration number and eliminate the private practice prohibition on a subsequent number. In order to maintain the incentive to obtain licensure and ensure continued proficiency, it would require that those needing a subsequent registration take additional graduate level coursework.
bbs board update

Highlights are as follows:

- The length of a registration number would increase from 6 years to 8 years. It still must be renewed every year.
- The allowable age of experience hours would also be increased from 6 years to 8 years to correspond with the increased length of the registration number.
- If an applicant needs a subsequent registration number, he or she must do both of the following:
  - Have a passing score on the California law and ethics examination, obtained within the past 2 years; and
  - Demonstrate successful completion of 15 semester units of graduate level coursework within the past two years. Some of this graduate level coursework must cover specified topic areas.
- The private practice prohibition on a subsequent registration number would be removed.

NASW raised concerns that the 15 semester units of graduate level coursework was nearly impossible to obtain thus creating a barrier for those applicants in this situation. CAMFT supports the increase from 6 to 8 years, however, expressed concerns whether the 15 semester units is feasible for applicants to obtain. The Committee also discussed the pros and cons of removing the private practice prohibition on a subsequent registration number. While CAMFT empathizes with those applicants who, for various reasons must obtain a subsequent registration number and have difficulty or challenges in finding positions in exempt work settings, CAMFT is concerned about Registered Associates working in private practice settings in perpetuity. Given the substantial changes that were proposed, CAMFT requested gathering further stakeholder input and engaging in more thorough discussions regarding this important topic.

**Motion**: The Committee moved to table this discussion and refer to the Exam and Licensing Committee.

**Requiring Continuing Education for Registrant**

**Motion**: The Committee moved to table this discussion and refer to the Exam and Licensing Committee.

**Limiting Clinical Exam Attempts**

**Motion**: The Committee moved to table this discussion and refer to the Exam and Licensing Committee.

**Discussion and Possible Recommendations Regarding Proposal to Increase Board Fees**

The BBS has not raised its licensing fees for marriage and family therapists, clinical social workers, or educational psychologists in at least 20 years. A recent audit of the Board’s licensing fees found that they are no longer sufficient to recover operating costs. Therefore, BBS Staff proposing new fees for all licensees.

CAMFT expressed support and understanding for an increase in fees. CAMFT requested the BBS provide education and information to licensees and associates regarding the fee increase and rationale. CALPCC express support for the fee increase and indicated perhaps a gradual fee increase to help make it more palatable to licensees and registrants. NASW expressed support and commented that it appears LCSWs and LPCCs are subsidizing the BBS’s work of regulating LMFTs given the much larger number of LMFTs and MFT Associates in California.

**Motion**: The Committee moved to send Staff’s proposed language on Board fee increase to the BBS Board for review.

**Discussion and Possible Action Regarding Continuing Education Requirements**

- Staff presented a proposal to consider possible regulation changes pertaining to both continuing education (CE) and “additional training” requirements, including:
  - Delete the regulations that were necessary for the CE program’s 2015 transition away from Board approval of individual CE providers
  - Clarify and update provisions of the current regulations
  - Propose several minor changes
  - Amend the requirements to qualify for a CE waiver
  - Update, clarify and streamline the regulations pertaining to “additional training” requirements (coursework required to be completed by applicants for licensure, as well as Licensed Educational Psychologists renewing for the first time)

The Committee also reviewed and discussed CAMFT’s letter to the BBS regarding the proposed regulations.

The Committee discussed CAMFT’s request that the BBS consider revising the definition of a continuing education course to mean a form of systematic learning **at least 15 minutes in length**. CAMFT believes psychotherapists would benefit from having access to short, timely and focused learning opportunities whenever changes to the laws, regulations or ethical standards that guide the practice of psychotherapy occur. BBS Staff and Committee expressed concerns about auditing 15-min course completions and indicated that the approval agency or CE provider can offer courses in shorter increments to equal the one hour that can be counted toward the continuing education requirement.

The Committee decided it was important to require those who obtain a temporary waiver from continuing education to still obtain 6 hours of law and ethics. CAMFT expressed concerns that licensees who qualify for the waiver will not have the ability to meet this requirement due to a need to focus on their health and recovery, the health and recovery of a loved one or their military service. The Committee believed a law and ethics course is necessary especially if
the licensee is still practicing with the waiver and that the course can be easily obtained.

CAMFT requested the BBS to clarify whether a course on law and ethics that is also designed to meet supervisor training requirements counts toward not only meeting the law and ethics continuing education requirement but also the 6-hour supervision course requirement for supervisors. The Committee recommended BBS staff to clarify that a law and ethics course for supervision does not also meet the requirements for the general 6-hour law and ethics continuing education.

CAMFT asked that the BBS revise regulations to require that CE providers include certain information in their course advertisements. CAMFT believes this proposal is a reasonable means of addressing licensees’ confusion about whether continuing education offerings meet the minimum requirements. CAMFT also asked that the Board consider maintaining the provision as a minimum requirement for all CE providers. Since the BBS is no longer approving CE providers, the Committee does not believe the BBS should require and enforce such activities. CAMFT requested the BBS provide educational materials to approval agencies and CE providers regarding clear advertisements and course content.

Motion: The Committee moved to accept discussed changes and to send the regulation proposal on continuing education requirements to the BBS Board for review.

Update on Board-Sponsored and Board-Considered Legislation
BBS Staff provided an update on the Board-sponsored and Board-considered legislation, including:

- Assembly Bill 630 (Low) Board of Behavioral Sciences: Marriage and Family Therapists: Clinical Social Workers: Educational Psychologists: Professional Clinical Counselors: Required Notice
- Senate Bill 679 (Bates) Healing Arts: Therapists and Counselors: Licensing
- Senate Bill 786 (Committee on Business, Professions, and Economic Development) Healing Arts
- Assembly Bill 8 (Chu) Public Health: Mental Health Professionals
- Assembly Bill 544 (Brough) Professions and Vocations: Inactive License Fees and Accrued and Unpaid Renewal Fees f. Assembly Bill 613 (Low) Professions and Vocations: Regulatory Fee
- Assembly Bill 769 (Smith) Federally Qualified Health Centers and Rural Health Clinics: Licensed Professional Counselors
- Assembly Bill 1145 (Garcia) Child Abuse: Reportable Conduct
- Assembly Bill 1540 (Holden) Certification Board for Music Therapists
- Assembly Bill 1651 (Medina) LEPs: Supervision of Associates and Trainees k. Senate Bill 10 (Beall) Mental Health Services: Peer, Parent, Transition Age, and Family Support Specialist Certification
- Senate Bill 163 (Portantino) Healthcare Coverage: Pervasive Developmental Disorder or Autism
- Senate Bill 425 (Hill) Health Care Practitioners: Licensee’s File
- Senate Bill 601 (Morrell) State Agencies: Licenses: Fee Waiver
- Senate Bill 660 (Pan) Postsecondary Education: Mental Health Counselors

Update on Board Rulemaking Proposals
Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)
This proposal includes modifying the Board’s substantial relationship criteria, which helps to evaluate whether a crime or act was substantially related to the profession, as well as criteria to evaluate the rehabilitation of an individual when considering denying, suspending or revoking a license. The proposal was approved by the Department of Consumer Affairs and will be submitted for public comment on August 16, 2019. Notice will be mailed soon.

Enforcement Process
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.

This regulation package was placed on hold due to the passage of AB 2138 and remains on hold pending passage of the AB 2138 regulations.

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, nonsubstantive 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, was submitted to DCA to begin the initial review process in April 2018, and was approved in January 2019 for filing with the Office of Administrative Law (OAL). The public comment period ended on April 8, 2019, and the package was
submitted to DCA to initiate the final review process on April 30, 2019, and was submitted to OAL for final approval on July 22, 2019.

Supervision
This proposal would:

• Revise the qualifications to become supervisor;

• Require supervisors to perform a self-assessment of qualifications and submit the self-assessment to the Board;

• Set forth requirements for substitute supervisors;

• Update and strengthen supervisor training requirements;

• Strengthen supervisor responsibilities, including provisions pertaining to monitoring and evaluating supervisees;

• Strengthen requirements pertaining to documentation of supervision;

• Make supervision requirements consistent across the three licensed professions;

• Address supervision gained outside of California; and

• Address documentation when a supervisor is incapacitated or deceased.

• Set forth terms relating to registrant placement by temporary staffing agencies.

The proposal was approved by the Board at its meeting in November 2016 and was held aside while awaiting passage of AB 93 (Chapter 743, Statutes of 2018), the Board’s supervision legislation. The proposal has been submitted to DCA for review on April 18, 2019. The packet will need to go back to the BBS Board for some language tweaks and BBS Staff does not anticipate the changes to delay the process.

Ann Tran-Lien, JD, is a staff attorney and the Managing Director of Legal Affairs at CAMFT. Ann is available to answer member calls regarding legal, ethical, and licensure issues.