

BOARD OF BEHAVIORAL SCIENCES INITIAL STATEMENT OF REASONS

Hearing Date: April 21, 2015

**Subject Matter of Proposed Regulations:
Licensed Professional Clinical Counselors - Treatment of Couples and Families**

Section(s) Affected: Amend Sections 1820, 1820.5 and 1822 of Division 18 of Title 16 of the California Code of Regulations. Add Section 1820.7 to Division 18 of Title 16 of the California Code of Regulations.

Introduction

The Board of Behavioral Sciences (Board) licenses marriage and family therapists (LMFTs), educational psychologists (LEPs), clinical social workers (LCSWs), and professional clinical counselors (LPCCs). The LPCC profession was established by legislation in 2009 (SB 788, Chapter 619, Statutes of 2010), and the first licenses were issued in 2012. Licensure requirements include a master's degree in counseling, 3,000 hours of supervised post-degree experience, and passing licensing examinations.

Pursuant to Business and Professions Code section 4999.20, licensed LPCCs are not permitted to treat couples or families unless they have completed six semester units (or nine quarter units) of coursework related to marital and family therapy, as well as 500 hours of supervised experience treating couples, families and children. Current regulations provide limited exemptions under which a LPCC, a PCC Intern, or a pre-degree counselor trainee may treat couples and families before he or she has met the coursework and supervised experience requirements.

Problems Addressed

Current statutes and regulations simply set forth the requirements for an LPCC to treat couples and families, and provide limited exemptions. However, the law does not provide any further guidance on the matter. As the LPCC program has been implemented, the Board has received many questions from licensees, interns, supervisors and employers which the statutes and regulations do not address, including the following:

- 1) How should the specialized education and experience be documented, and how would a LPCC be certain that the courses and experience meet the requirements?
- 2) How would a consumer, employer or supervisee verify whether the practitioner meets the requirements to treat couples and families?
- 3) Must the 500 hours supervised experience treating couples, families and children be obtained from an "approved supervisor"?

- 4) Does the education and experience need to be completed in a certain order?
- 5) How would a practitioner verify past completion of supervised experience treating couples or families if documentation from the direct supervisor is no longer available?
- 6) How can an LPCC or PCC Intern who does not yet meet the requirements to treat couples and families, treat children but not the child's family?

In response, the Board's Policy and Advocacy Committee recommended a regulatory proposal that would establish a process for reviewing a practitioner's qualifications to treat couples and families, and issue proof of meeting the requirements. The proposal would also clarify requirements regarding supervised experience, coursework, and exemptions. At its meeting on March 6, 2014, the full Board approved the proposal.

Specific Changes: Purpose, Factual Basis/Rationale and Anticipated Benefits:

The changes proposed by this regulatory package are as follows.

A. AMEND SECTION 1820.5: EXEMPTIONS FOR WORKING WITH COUPLES OR FAMILIES; SUPERVISION

Proposed Change #1: Clarification of exemption regarding pre-degree trainees and practicum experience

Purpose/Rationale. Existing regulations exempt pre-degree trainees from the restriction on treating couples and families if they are gaining supervised practicum experience as part of their schooling. Current law does not allow trainees to count any pre-degree experience toward the 3,000 hours required for licensure.

The regulations currently group pre-degree trainees and post-degree interns together when describing the limited exemptions that permit treatment of couples and families by an individual who does not yet meet the coursework and experience requirements.

This change would separate the exemption specific to pre-degree trainees from post-degree interns for clarity. It would provide an explicit statement confirming that that pre-degree hours cannot be counted toward the 500 hours of experience treating couples, families and children. The exemption regarding interns is not proposed to be changed.

Anticipated Benefit: Adoption of this proposed amendment will promote a clearer understanding of the differences between requirements for interns and trainees. It would help to clear up confusion about whether trainees may treat couples and families, and if so whether they can count those hours toward the 500 hours of supervised experience.

Effective Date: This change would become effective the date this regulation package goes into effect.

Proposed Change #2: Delete the requirement that LPCC licensees must complete coursework specific to couples and families prior to gaining the supervised experience

Purpose/Rationale: Current regulations require licensed LPCCs to complete the six units of couples and families coursework before they may begin gaining the 500 hours of supervised experience. However, interns are permitted to complete the coursework and experience in any order. While taking the coursework prior to the supervised experience is ideal for anyone, it is not necessary because both interns and licensees must work under a supervisor who is competent in treating couples and families. Additionally, requiring a certain order for completion may be more challenging for some practitioners to accomplish.

The proposed change would allow licensees to complete the required coursework and supervised experience in any order, as is already permitted for interns.

Anticipated Benefit: Adoption of this proposed amendment will benefit licensed practitioners by allowing the flexibility to take coursework before, during or after the supervised experience is completed. It would provide equity with the provisions allowed for interns. The changes would benefit employers and consumers by removing a provision that could present a barrier for some individuals, leading to a larger workforce of counselors who can treat couples and families.

Effective Date: This change would become effective the date this regulation package goes into effect.

Proposed Change #3: Require the 500 hours of supervised experience treating couples, families or children be obtained from an “approved supervisor”

Purpose/Rationale: Current statute simply requires the supervised experience in treating couples or families to be gained under the supervision of either a marriage and family therapist or a LPCC who has already met the requirements to treat couples and families. The law is silent on whether the supervisor must meet the qualifications of an “approved supervisor” as defined in Business and Professions Code (BPC) section 4999.12(h) which pertains to requirements for approved supervisors.

The proposed language would require the experience be completed under an “approved supervisor” as defined in the BPC. Although the definition was designed for licensing purposes, it makes sense to require the same qualifications for supervision of couples and families experience to help ensure quality of supervision.

The approved supervisor definition would also allow supervision of couples and families experience by three additional license types: Licensed Clinical Social Workers, Clinical Psychologists, and Psychiatrists, all of which may treat couples and families within their scope of practice. Additionally, the proposed language would require supervisors to have sufficient education and experience to competently practice couples and family therapy in California.

Anticipated Benefit: The proposed amendments would provide greater protections to supervisees by helping ensure the supervisor is competent to practice couples and family therapy. Allowing additional types of licensees to supervise would increase the availability of supervisors, benefitting those attempting to gain the supervised experience, as well as employers who may have a limited pool of supervisors.

Effective Date: This change would become effective the date this regulation package goes into effect.

Proposed Change #4: Clarify that LPCCs who do not yet meet requirements to treat families may provide collateral consultation to a family of a client

Purpose/Rationale: Existing law permits all LPCCs to provide psychotherapeutic services to individuals, including children, without obtaining specialized training other than what is generally required for licensure. However, treatment of children frequently involves the child's family or legal guardian (involvement of a family may also occur when treating an adult). This has left some employers confused about whether an LPCC who does not yet meet the requirements to treat families may treat children, and if so the role of the counselor when working with the client's family.

This change would clarify that any LPCC may provide collateral consultation with a family of a client even when the LPCC does not possess the qualifications to treat couples and families. This change would help to make explicit that all LPCCs may treat children, and provide clarity that consultation (rather than therapy) with the family of the child or other individual is allowable.

Anticipated Benefit: The clarity provided by this amendment may lead to greater opportunities for licensees who are seeking employment. Adoption of this amendment would benefit employers who are unfamiliar with LPCCs as a new profession, and are considering whether to hire them for positions that involve treatment of children.

Effective Date: This change would become effective the date this regulation package goes into effect.

B. ADD SECTION 1820.7 – BOARD CONFIRMATION OF QUALIFICATIONS TO TREAT COUPLES OR FAMILIES

Proposed Change #1: Require LPCCs to obtain Board approval and provide this approval to the client prior to treating a couple or family, or to a supervisee prior to commencement of supervision

Purpose/Rationale: Currently, LPCCs are not required to obtain Board approval prior to treating couples or families. Once a practitioner determines for him or herself that the requirements have been met, the practitioner may simply begin treating couples or families. Currently, the only way the Board may determine whether a LPCC meets the requirements to treat couples or families is to either perform random audits, or to obtain documentation

when a consumer complaint is filed against the practitioner by a client who was treated as a couple or family. The lack of guidance in the law creates the following problems:

- Practitioners have to determine on their own whether their coursework and supervision has been adequate to meet the requirements
- Consumers have no way to verify if their counselor meets the qualifications to treat couples and families, other than reassurance by the therapist.
- Employers are reluctant to hire LPCCs because there is no way to verify a practitioner's credentials.
- Supervisees have no way to verify that their supervisor meets the qualifications to supervise treatment of couples and families.
- It leaves the door open to unethical behavior by LPCCs who may choose to treat couples and families without meeting the qualifications.

The proposed language would require LPCCs to submit proof of the required additional education and experience to the Board upon completion. Board staff would evaluate the documentation, and send the practitioner a letter that states he or she is now qualified to treat couples and families (or that he or she has not met the requirements and why). This would allow the Board to determine whether the requirements have been met, and to issue a verifiable proof of completion. The proposal would also require a practitioner to provide confirmation from the Board to consumers and supervisees that he or she is qualified to treat couples and families.

Anticipated Benefit: Adoption of this change will benefit practitioners by providing a review process that takes the guesswork out of determining whether their coursework and supervised experience truly meets the law's requirements. It would benefit consumers, employers and supervisees by providing verifiable proof that the counselor meets the competency requirements to treat couples and families.

Effective Date: The requirement to provide proof of Board approval to a client or supervisee would take effect January 1, 2017. This delayed implementation date provides Board staff with adequate processing time for incoming applications, and adequate time to provide a response prior to implementation of this new requirement. The other provisions would become effective on the date this regulation package goes into effect.

Proposed Change #2: Provide guidance on acceptable documentation of past supervised experience.

Purpose/Rationale: Existing law does not address the type of documentation acceptable to verify an individual's past supervised experience treating couples, families or children. This proposal sets forth guidelines for what Board staff may accept, including verification by the past supervisor or employer, and clarifies that staff may consider other documentation on a case-by-case basis. This is necessary because some LPCCs have been licensed in another state for many years, and may have difficulty verifying completion of experience specific to treating couples and families. For example, other state boards maintain records

but may not require these types of counseling hours to be specifically broken out. Additionally, sometimes a past supervisor cannot be located or is deceased.

Anticipated Benefit: Adoption of this proposed amendment will benefit licensees who completed supervised experience with couples, families and children in the past and are unable to locate the past supervisor. It may prevent them from having to repeat the supervised experience.

Effective Date: This change would be effective the date this regulation package goes into effect.

C. AMEND SECTIONS 1820 AND 1822 – SUPERVISORY PLAN AND WEEKLY SUMMARY OF EXPERIENCE HOURS

Proposed Change #1: Amend *Weekly Summary of Experience Hours* form incorporated by reference

Purpose/Rationale: The *Weekly Summary of Experience Hours* form is used by interns to track completion of supervised experience toward the 3,000 hours required for licensure. A category is proposed to be added to track experience with couples, families and children. It also makes a change to the maximum number of hours that may be obtained via telehealth from 250 to 375 hours as a result of SB 821 (Chapter 473, Statutes of 2013).

Additional technical changes have been proposed in order to make the form more consistent with the wording of existing statutes and regulations upon which the form is based (BPC section 4999.46 and Title 16, CCR section 1820).

Anticipated Benefit: Adoption of this proposed amendment will benefit interns and supervisors by providing additional guidance and clarity, helping to ensure that the intern's hours of experience are tracked and applied to correct categories. This will help reduce the possibility of having a deficient application for licensure in the future. Fewer deficiencies will streamline the process, and may decrease processing times.

Effective Date: This change would become effective the date this regulation package goes into effect.

Proposed Change #2: Clarify that the *Supervisory Plan* form is only required for supervision hours gained toward licensure

Purpose/Rationale: This amendment would clarify that the *Supervisory Plan* form, incorporated by reference, is only required for supervised experience gained toward licensure, and that it is not required for couples and families experience hours.

Anticipated Benefit: Adoption of this proposed amendment will provide clarity to staff, supervisors and interns regarding the required use of the form, lessening possible confusion.

Effective Date: This change would become effective the date this regulation package goes into effect.

Underlying Data

None.

Economic Impact Assessment/Analysis

The Board has made an initial determination that the proposed regulatory action would not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based on the following facts:

- **Analysis of creation/elimination of jobs:** This regulatory proposal will not create or eliminate any jobs.
- **Analysis of creation/elimination of businesses:** No businesses will be created or eliminated as a result of this proposal.
- **Analysis of expansion of business:** This proposal is not expected to lead to the expansion of new businesses within California.
- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** These regulations will benefit consumers by providing a Board review process that takes the guesswork out of determining whether an LPCC's coursework and experience meets the requirements to treat couples and families. It would benefit consumers, employers and supervisees by providing verifiable proof from the Board that the counselor meets competency requirements to treat couples and families.

Some employers have been hesitant to hire LPCCs because it is difficult to verify whether they meet the requirements to treat couples and families. By providing a verification method, employers may be more willing to hire LPCCs, leading to greater access to mental health care for the public.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and it will not eliminate any jobs or occupations. This proposal does not impact multiple industries.

Occupations/Businesses Impacted: This proposed regulation will impact those licensed professional clinical counselors (and any business that they own or that employs them to practice professional clinical counseling) if they choose to complete the coursework and experience that is required by BPC Section 4999.20 in order to treat couples and families. It

will make it easier for a consumer and for an employer to verify whether an LPCC is qualified to treat couples and families. It is not possible for the Board to estimate the number of businesses impacted, as this regulation will only affect LPCCs who wish to be allowed to treat couples and families. Choosing to do this is voluntary.

Reporting Requirements: The law (BPC Section 4999.20) mandates that LPCCs who wish to treat couples and families must complete additional coursework and supervised experience. This regulatory proposal requires these licensees to submit documentation to the Board that prove that their coursework and experience satisfy the requirements.

Comparable Federal Regulations: None

Benefits: The benefits of this proposal cannot be quantified, but consumers, employers, and supervisees would benefit by being able to obtain verifiable written proof that an LPCC meets the education and experience requirements to treat couples and families.

Business Impact

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The decision of an LPCC to pursue the ability to treat couples and families is voluntary, and may benefit the licensee’s practice or business if he or she chooses to pursue this option.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment.

This regulation mandates the use of specific technologies or equipment. Such mandates or prescriptive standards are required for the following reasons:

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the BBS would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not adopt the regulations. This alternative was rejected because it leaves a number of questions left unanswered by current law. Confusion due to a lack of clarity in the law among stakeholders would continue. Lack of action may reduce the number of practitioners available to treat couples and families, and lead to fewer supervisors. It would leave practitioners left to guess on their own whether they have met the requirements to

treat couples and families, and there would continue to be no way for consumers, employers, etc. to verify qualifications. Through a committee process in which stakeholders had significant input, the solutions presented in this proposal were formulated, and have been determined to be the best method of providing consumer protection.

2. Adopt the regulations. The Board determined that this alternative is the most feasible because it creates a system whereby consumer protection is increased by ensuring that an LPCC's qualifications to treat couples and families have been adequately met. It provides a method for verification of qualifications for interested stakeholders. The proposed framework would also help to ensure quality of supervised experience.