

## **TITLE 16: BOARD OF BEHAVIORAL SCIENCES**

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

Board of Behavioral Sciences  
1625 N. Market Blvd.  
El Dorado Room, Suite 220  
Sacramento, CA 95834  
April 21, 2015  
10:00am – 11:00 am

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on April 20<sup>th</sup>, 2015 or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4990.20 and 4999.48 of the Business and Professions Code (BPC), and to implement, interpret or make specific Section 4999.20 of the BPC, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations as described in this Notice.

### **INFORMATIVE DIGEST**

The LPCC profession was established by legislation in 2009 (SB 788, Chapter 619, Statutes of 2010), and the first licenses were issued in 2012. Pursuant to BPC 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. Title 16, California Code of Regulations Section 1820.5 provides 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.

Additionally, BPC section 4980.03(g) and 16 CCR section 1833.1(a)(1) permits supervision of a marriage and family therapist intern or trainee by a LPCC who has met the requirements to treat couples and families as set forth in BPC section 4999.20.

The regulatory proposal is as follows:

#### **1. Amend Section 1820.5**

- a. Clarification of exemption for pre-degree trainees and practicum experience**

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. Trainees are not permitted 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. It would provide an explicit statement confirming 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.

Policy Statement Overview: Adoption of this proposed amendment will increase clarity for those seeking licensure as an LPCC treating couples and families. It will make the law regarding counting of pre-degree hours more concise.

**b. Delete the requirement that LPCC licensees complete coursework specific to couples and families prior to gaining the supervised experience**

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

Policy Statement Overview: Adoption of this proposed amendment will make the law more equitable between LPCC interns and those already licensed as an LPCC, when they are seeking to meet the requirements to treat couples and families, by letting either group meet the requirements in whichever order they choose.

**c. Require the 500 hours of supervised experience treating couples, families or children be obtained from an “approved supervisor”**

Current statute requires the supervised experience 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. Current law is silent on whether the supervisor must meet the qualifications of an “approved supervisor” as defined in BPC section 4999.12(h).

The proposed language would require the experience be completed under an “approved supervisor” as defined in the BPC. Additionally, the proposed language would require supervisors to have sufficient education and experience to competently practice couples and family therapy in California.

Policy Statement Overview: Adoption of this proposed amendment will protect consumers by ensuring that supervisors of LPCC licensees and interns seeking to treat couples and families are qualified to do so themselves. This will ensure a greater quality of supervised experience, leading to better trained professionals.

**d. Clarify that LPCCs who do not yet meet requirements to treat families may provide collateral consultation to the family of a client**

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. 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.

Policy Statement Overview: Adoption of this proposed amendment will benefit the public by ensuring the law is clear that all LPCCS may provide collateral consultations, whether or not the LPCC is authorized to treat couples and families. Although it is the intent of the law to allow such consultations, some employers have been reluctant to hire LPCCs, citing that the law is unclear on this matter. By clarifying this, it is believed that more employers will be willing to hire LPCCs, leading to greater availability of mental health practitioners for the public.

**2. Add Section 1820.7**

**a. Require LPCCs to obtain Board approval and provide this approval to couple or family clients prior to treatment; or to a supervisee**

Currently, LPCCs are not required to obtain Board approval prior to treating couples or families. The proposed language would require LPCCs to obtain written approval to treat couples and families from the Board upon completion of the required education and experience. 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.

Policy Statement Overview: Adoption of this proposed amendment will benefit consumers by providing them a way to confirm that his or her LPCC is qualified to treat couples and families.

**b. Provide guidance on acceptable documentation of past supervised experience**

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.

Policy Statement Overview: Adoption of this proposed amendment will benefit the public by providing clear guidance regarding documentation of supervised experience. Having clear guidance will lead to a set standard of supervision, resulting in better qualified practitioners.

**3. Amend Sections 1820 and 1822**

**a. Amend the *Weekly Summary of Experience Hours* form, incorporated by reference**

Current law requires this form to be utilized when completing hours of supervised experience toward the 3,000 hours required for licensure. A category is proposed to be added to the form to allow tracking of 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.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants for LPCC licensure by allowing them a clear place to track their couples and families experience hours gained, and also by ensuring the form they use to report experience hours is consistent with the law.

**b. Clarify that the *Supervisory Plan* form is only required for supervision hours gained toward licensure**

Current law requires the *Supervisory Plan* form, incorporated by reference, to be completed for supervised experience gained toward licensure. It is not required for couples and families experience hours, and this proposal would provide additional clarity in this matter. The form itself is not proposed to be changed.

Policy Statement Overview: Adoption of this proposed amendment will benefit applicants by better clarifying when completion of the *Supervisory Plan* form is required.

**CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations and amendments, the Board of Behavioral Sciences has determined that these are the only regulations that deal with the subject area of LPCCs and treatment of couples and families. Therefore, the Board finds that these proposed regulations are consistent and compatible with existing state regulations.

**FORMS INCORPORATED BY REFERENCE**

The following forms have been incorporated by reference:

- Weekly Summary of Experience Hours For Professional Clinical Counselor Interns, Revised 02/15
- Supervisory Plan, Revised 03/10

**FISCAL IMPACT ESTIMATES**

**Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:**

The Board currently has approximately 1,000 licensed LPCCs. Under this proposed program, LPCCs will need to obtain approval from the Board prior to providing services to couples or families. This will require Board staff to review the qualifications of LPCC applicants to determine: (1) whether the licensee's supervised experience was gained in accordance with regulations; and, (2) whether completed coursework is sufficiently related to treatment of couples or families. The Board will also need staff to perform audits to ensure licensee compliance with the ongoing continuing education requirements.

Because the LPCC licensing program is relatively new, with a limited number of licensees, the Board will be able to absorb the additional workload at this time.

However, it remains to be seen how many individuals will seek LPCC licensure, and of those, how many will ultimately decide to meet the requirements to treat couples and families. For that reason, the Board is unable to predict the future workload resulting from these regulations. As the licensee population grows and licensees decide whether or not to pursue additional education and experience to treat couples and families, the Board may need to re-evaluate the number of staff positions needed to perform these verifications. Therefore, there may be a cost impact in the future, but as the LPCC licensing program is fairly new, the Board is unable to determine what that cost may be at this time.

The fiscal impact of these regulations is also discussed in **Attachment B** of the STD 399.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

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.

Cost Impact on Representative Private Person or Business: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action are insignificant. The law (Business and Professions Code (BPC) Section 4999.20) already mandates that LPCCs who wish to treat couples and families must meet certain education and experience requirements. It is expected that a licensee wishing to treat couples and families will incur minor mailing and administrative costs (for photocopies, etc.) in order to provide proof of meeting the education and experience requirements to the Board in compliance with these regulations.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Effect on Housing Costs: None

### **EFFECT ON SMALL BUSINESS**

These proposed regulations will impact those licensed professional clinical counselors, and any business that they own or that employs them. This could include small businesses (the Board does not license small businesses, but does license LPCCs). It will make it easier for the business to verify if the LPCC they are employing is qualified to treat couples and families. If an LPCC owning or employed by a small business chooses to complete the coursework and

experience required by BPC Section 4999.20 in order to treat couples and families, it could increase their client base.

### **RESULTS OF 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 and verification 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 the coursework and experience satisfy the requirements.

Business Reporting Requirement: This proposal creates a reporting requirement for LPCC licensees, requiring them to report their education and experience that satisfy the requirements to treat couples and families. However, the requirement is on licensees, not businesses directly. The Board does not regulate businesses, only licensees, although some licensees may be employed by a business or own their own practice. The Board finds that it is necessary for the health, safety, or welfare of the people of this state that Section 1820.7 of the proposed regulations, which requires a report, apply to licensees.

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.

## **CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be 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 action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternatives considered were as follows:

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, and there would continue to be no way for consumers and employers 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 parties. The proposed framework would also help to ensure quality of supervised experience gained by LPCCs seeking to treat couples and families.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

## **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

**TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the person designated in the Notice under Contact Person or by accessing the Board’s website, [www.bbs.ca.gov](http://www.bbs.ca.gov).

**AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

**CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Rosanne Helms  
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The backup contact person is:

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**Website Access:** Materials regarding this proposal can be found at [www.bbs.ca.gov](http://www.bbs.ca.gov).