

1625 North Market Blvd. Suite S-200 Sacramento, CA 95834 (916) 574-7830 TDD (800) 326-2297 Fax (916) 574-8625 www.bbs.ca.gov

#### BOARD MEETING NOTICE March 1-3, 2017

Department of Consumer Affairs First Floor Hearing Room 1625 North Market Boulevard Sacramento, CA 95834

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to technical difficulties or limitations on resources. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.

#### AGENDA Wednesday, March 1, 2017 8:30 a.m.

### **FULL BOARD OPEN SESSION** - Call to Order and Establishment of Quorum

- I. Petition for Early Termination of Probation for Traci Bianchi Templin, LMFT 96632
- II. Petition for Early Termination of Probation for Theresa Fenander, LCSW 25391
- III. Petition for Early Termination of Probation for Jami Feroozan, IMF 69435
- IV. Petition for Early Termination of Probation for Lyle Keller, LCSW 21795
- V. Petition for Early Termination of Probation for Melisa Zartaroglu, IMF 81663
- VI. Public Comment for Items not on the Agenda
- VII. Suggestions for Future Agenda Items



Governor Edmund G. Brown Jr.

State of California

Business, Consumer Services and Housing Agency

> Department of Consumer Affairs

#### FULL BOARD CLOSED SESSION

VIII. Pursuant to Section 11126(c)(3) of the Government Code, the Board will meet in Closed Session for discussion and to take action on disciplinary matters, including the above Petitions. The Board will also, pursuant to Section 11126(a)(1) of the Government Code, meet in Closed Session to evaluate the performance of the Executive Officer.

#### FULL BOARD RECONVENE TO OPEN SESSION

IX. Adjournment

#### AGENDA Thursday, March 2, 2017 8:30 a.m.

FULL BOARD OPEN SESSION - Call to Order and Establishment of Quorum

- X. Petition for Modification of Probation for Jake Meyers, LMFT 88845
- XI. Petition for Reinstatement of License for Carrie Banks, LCSW 23418
- XII. Petition for Reinstatement of Registration for Kimberly Baker, ASW 16409
- XIII. Petition for Reinstatement of Registration for Shirin Banai, IMF 63596
- XIV. Petition for Reinstatement of Registration for Kojo McCallum, ASW 21901
- XV. Public Comment for Items not on the Agenda
- XVI. Suggestion for Future Agenda Items

#### FULL BOARD CLOSED SESSION

XVII. Pursuant to Section 11126(c)(3) of the Government Code, the Board will meet in Closed Session for discussion and to take action on disciplinary matters, including the above Petitions

#### FULL BOARD RECONVENE TO OPEN SESSION

XVIII. Adjournment

#### AGENDA Friday, March 3, 2017 8:30 a.m.

- XIX. Call to Order and Establishment of Quorum
- XX. Introductions\*
- XXI. Consent Calendar
  - a. Approval of the August 18-19, 2016 Board Meeting Minutes
  - b. Approval of the November 2-4, 2016 Board Meeting Minutes
- XXII. Chair Report
  - a. Announcement of Revisions to the Policy and Advocacy Committee Membership
  - b. Board Member Activities
  - c. Recognition of Board of Behaviors Sciences' Staff Members for Years of Service
- XXIII. Executive Officer's Report
  - a. Budget Report
  - b. Operations Report
  - c. Personnel Report
  - d. Strategic Plan Update
- XXIV. Update on Review of AMFTRB National Examination and NBCC National Clinical Mental Health Counselor Examination
- XXV. Update on the Board's Customer Satisfaction Survey
- XXVI. Policy and Advocacy Committee Recommendations
  - a. Discussion and Possible Action Regarding Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1823 – Unprofessional Conduct; 1845 - Unprofessional Conduct; 1858 - Unprofessional Conduct; 1881 – Unprofessional Conduct; and 1886.40 - Amount of Fines
  - Discussion and Possible Action Regarding Proposed Rulemaking to Amend California Code of Regulations, Title 16, Section 1888 and Uniform Standards Related to Substance Abuse and Disciplinary Guidelines
  - c. Discussion and Possible Action Regarding Proposed Rulemaking to Amend California Code of Regulations, Title 16, Sections 1804 – Filing of Addresses; 1805 – Applications; 1820.7 – Confirmation of Qualifications to Treat Couples and Families; and 1856 - Experience Equivalent to Three (3) Years Full-Time Experience as Credentialed School Psychologist
  - Discussion and Possible Action Regarding Proposed Rulemaking to Amend California Code of Regulations, Title 16, Section 1820.5 – Exemptions for Working with Couples or Families

- e. Discussion and Possible Action Regarding Assembly Bill 93 (Medina) Healing Arts: Marriage and Family Therapists, Clinical Social Workers, Professional Clinical Counselors: Required Experience and Supervision
- f. Discussion and Possible Action Regarding Proposed Board Policy to Remove Board Newsletters from the Board Website
- XXVII. Discussion and Possible Action Regarding Revisions to English as a Second Language Rulemaking Proposal: Additional Examination Time: Add Title 16, CCR 1805.2
- XXVIII. Discussion and Possible Action Regarding the Proposal to add Coursework in Parent Alienation to the Educational Requirements for Licensure
- XXIX. Discussion and Possible Action Regarding an Alternative Option to License Surrender in Disciplinary Cases Involving Neuro-Cognitive Degenerative Disorders
- XXX. Status on Board Sponsored Legislation
  - Assembly Bill 93 (Medina) Healing Arts: Marriage and Family Therapists, Clinical Social Workers, Professional Clinical Counselors: Required Experience and Supervision
  - b. Board 2017 Omnibus Bill Proposed Technical and Non-Substantive Amendments to Business and Professions Code Sections 801, 801.1, 802, 4980.09, 4999.12.5, 4980.44, 4984.7, 4999.32, 4999.42, 4999.53, 4999.62, 4999.63, 4999.120, 4984.4, 4984.7, 4996.3, 4996.6, 4999.32, 4999.33, 4999.60, 4999.61, 4984.9, 4992.8, 4989.46, 4999.18, 4980.72, 4996.17, 4999.53; Evidence Code Section 1010(f)(o); and Penal Code Section 11165.7(a)(25)and (a)(40).
- XXXI. Status of Board Rulemaking Proposals
  - a. English as a Second Language: Additional Examination Time: Add Title 16. California Code of Regulations Section 1805.2
- XXXII. Suggestions For Future Agenda Items
- XXXIII. Public Comment for Items Not on the Agenda
- XXXIV. Adjournment

\*Introductions are voluntary for members of the public.

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Times and order of items are approximate and subject to change. Action may be taken on any item listed on the Agenda.

This agenda as well as Board meeting minutes can be found on the Board of Behavioral Sciences website at <u>www.bbs.ca.gov</u>.

NOTICE: The meeting is accessible to persons with disabilities. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Christina Kitamura at (916) 574-7835 or send a written request to Board of Behavioral Sciences, 1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.



Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To:Board MembersDate:February 16, 2017From:Christina Kitamura<br/>Administrative AnalystTelephone:(916) 574-7830

#### Subject: Approval of Board Meeting Minutes

Draft minutes from the August 18-19, 2016 Board Meeting and the November 2-4, 2016 Board Meeting will be provided at the meeting.

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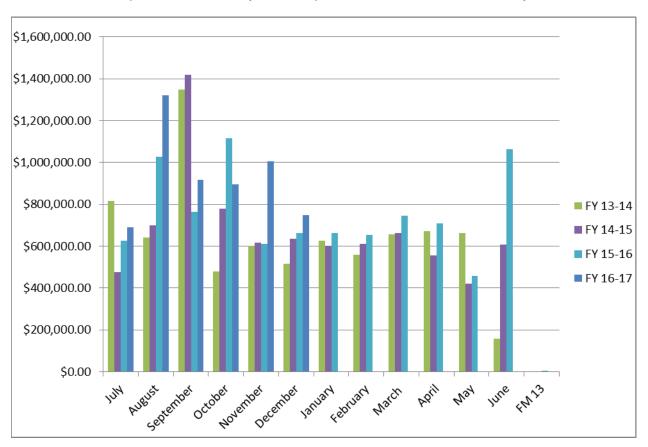
#### 2016/2017 Budget

The Board's budget for Fiscal Year (FY) 2016/2017 is \$12,377,000. FY 2016/2017 expenditures received as of December 31, 2016 total \$5,438,702 or 44% of the Board's budget. The chart below provides a breakdown of expense categories and percentages.

Expense Category	Amount	Percentage
Personnel	\$2,249,012	18%
OE&E	\$2,330,505	19%
Enforcement	\$772,993	6%
Minor Equipment Includes LPCC exp	\$86,192	1%
Total Expenses	\$5,438,702	44%

As of December 31, 2016, the Board had collected \$ 5,578,191 in total revenue.

Month	FY 13-14	FY 14-15	FY 15-16	FY 16-17
July	\$817,394.34	\$475,567.98	\$627,284.68	\$691,292.92
August	\$641,178.70	\$698,635.93	\$1,026,917.57	\$1,321,577.19
September	\$1,349,479.66	\$1,419,736.29	\$764,549.24	\$916,505.75
October	\$480,531.87	\$779,134.95	\$1,114,396.16	\$896,007.33
November	\$600,316.56	\$617,891.41	\$610,736.93	\$1,004,896.40
December	\$516,264.24	\$635,199.34	\$662,114.82	\$747,911.33
January	\$625,528.05	\$601,512.09	\$662,285.92	
February	\$559,755.55	\$612,208.93	\$652,365.63	
March	\$655,619.38	\$662,167.83	\$746,672.27	
April	\$670,839.44	\$554,415.62	\$708,087.20	
May	\$663,732.55	\$420,330.14	\$456,671.84	
June	\$158,802.68	\$606,750.69	\$1,065,058.82	
FM 13	\$388.71	\$2,096.87	\$3,745.78	



The chart below provides a fiscal year comparison of the Board's monthly revenue.

#### **Board Fund Condition**

The Board's Fund Condition for FY 2016/2017 reflects a 4.2 month reserve.

#### **General Fund Loans**

The Board's Fund Condition report also reflects a \$6.3 million dollar loan repayment in fiscal year 2017/2018.

	BBS EXPENI	DITURE REPORT	FY 2016/17		
	FY 2015/16		F	Y 2016/2017	
		DUDGET	CURRENT		
OBJECT DESCRIPTION	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	AS OF 12/31/2016	PROJECTIONS	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	2,373,473	2,997,000	1,333,535	2,895,000	102,000
Salary & Wages (Stat Exempt)	104,976	91,000	51,303	103,365	(12,365)
Temp Help (907)(Seasonals)	86,694	0	37,649	69,100	(69,100)
Temp Help (915)(Proctors)	0	0	0	0	0
Board Memb (Per Diem)	21,700	13,000	2,400	20,000	(7,000)
Overtime	9,363	2,000	1,440	7,000	(5,000)
Totals Staff Benefits	1,390,036	1,787,000	822,685	1,614,000	173,000
Salary Savings		, ,			
TOTALS, PERSONAL SERVICES	3,986,242	4,890,000	2,249,012	4,708,465	181,535
<b>OPERATING EXP &amp; EQUIP</b>	- , ,	,,	, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	, ,	- ,
Fingerprint Reports	18,080	15,000	7,903	16,000	(1,000)
General Expense	97,365	63,000	30,606	100,000	(37,000)
Printing	112,756	27,000	<b>34,966</b>	95,000	(68,000)
Communication	13,377	19,000	4,428	10,000	9.000
Insurance	0	1.000	0	0	1,000
Postage	46,787	70,000	19,699	43,000	27,000
Travel, In State	96,831	59,000	40,850	90,000	(31,000)
Travel, Out-of-State	0	72,000	0	0	72,000
Training	2,525	27,000	1,100	4,000	23,000
Facilities Operations	226,567	228,000	417,443	535,000	(307,000)
Utilities	0	4,000	0	0	4,000
C&P Services - Interdept.	0	15,000	0	0	15,000
C&P Services-External Contracts	22,408	1,762,000	12,329	25,000	1,737,000
DEPARTMENTAL PRORATA	,	1,1 02,000	,,-	20,000	1,707,000
DP Billing (424.03)	1,575,138	1,470,000	732,000	1,470,000	0
Indirect Distribution Costs (427)	644,320	736,000	356,502	736,000	0
Public Affairs (427.34)	42,000	95,000	47,502	95,000	0
D of I Prorata (427.30)	15,730	22,000	10,500	22,000	0
Consumer Relations Division (427.3	0	6,000	3,000	6,000	0
OPP Support Services (427.01)	0	1,000	0	1,000	0
Interagency Services (OER IACs)	270,674	325,000	94,552	231,140	93,860
Consolidated Data Services (428)	262	30,000	5	100	29,900
Information Technology (431)	35,603	14,000	3,604	15,000	(1,000)
Statewide Pro Rata (438)	409,928	0	0	0	0
EXAM EXPENSES	407,720	0	0	0	0
Exam Site Rental (Four Points)	65,504	100,000	0	0	100,000
Exam She Kental (Pour Fonts) Exam Contract (PSI) (404.00)	534,955	359,000	484,203	1,000,000	(641,000)
C/P Svs - Expert Examiners (404.01)	0	45,000	0	0	45,000
C/P Svs - External Subj Matter (404.	201,553	365,000	29,314	200,000	165,000
ENFORCEMENT		,	_,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	,	
Attorney General	907,022	839,000	474,171	940,000	(101,000)
Office of Admin. Hearing	249,975	155,000	97,803	195,000	(40,000)
Court Reporters	22,125	0	2,843	20,000	(20,000)
Evidence/Witness Fees	87,303	95,000	13,677	60,000	35,000
Division of Investigation	82,608	397,000	184,500	369,000	28,000
LPCC	532,624	571,000	62,825	70,000	(70,000)
Minor Equipment (226)	<b>29,123</b>	28,000	<b>23,368</b>	<b>30,000</b>	(2,000)
Equipment, Replacement (452)	3,362	0	23,308 0	60,000	(60,000)
Equipment, Additional (472)	0 0	24,000	0	0,000	24,000
Vehicle Operations	0	24,000 19,000	0	0	19,000
TOTAL, OE&E	6,346,505	7,487,000	3,189,690	6,438,240	1,048,760
TOTAL EXPENDITURES	\$10,332,747	\$12,377,000	\$5,438,702	\$11,146,705	\$1,230,295

Reimbursements	FY 15/16 FM 13	Budget Alotment	Current as of 12/31/2016
Fingerprints	(17,155)	(24,000)	(7,091)
Other Reimbursements	(150,928)	(26,000)	(77,150)
Unscheduled Reimbursements			
Total Reimbursements	(168,083)	(50,000)	(84,241)

BLUE PRINT INDICATES THE ITEMS ARE SOMEWHAT DISCRETIONARY.

#### 0773 - Behavioral Science Analysis of Fund Condition

(Dollars in Thousands)

#### 2017-18 Governor's budget

Prior Year Adjustment Adjusted Beginning Balance       S       86       S       -       S         REVENUES AND TRANSFERS         Revenues:         125600       Other regulatory fees       \$       117       \$       59       \$         125700       Other regulatory licenses and permits       \$       3,462       \$       3,850       \$       \$         12500       Delinquent fees       \$       \$       5,642       \$       5,304       \$       \$         141200       Sales of documents       \$       -       \$ <td< th=""><th></th><th></th><th></th><th>ACTUAL 2015-16</th><th></th><th>Budget Act CY 2016-17</th><th>2</th><th>BY 017-18</th></td<>				ACTUAL 2015-16		Budget Act CY 2016-17	2	BY 017-18
Prior Year Adjustment Adjusted Beginning Balance       S       86       S       -       S         REVENUES AND TRANSFERS         Revenues:         125600       Other regulatory fees       \$       117       \$       59       \$         125700       Other regulatory licenses and permits       \$       3,462       \$       3,850       \$       \$         12500       Delinquent fees       \$       \$       5,642       \$       5,304       \$       \$         141200       Sales of documents       \$       -       \$ <td< th=""><th>BEGINNING BAL</th><th>ANCE</th><th>\$</th><th>3,958</th><th>\$</th><th>7.691</th><th>\$</th><th>4,172</th></td<>	BEGINNING BAL	ANCE	\$	3,958	\$	7.691	\$	4,172
Adjusted Beginning Balance       \$ 4,044       \$ 7,691       \$ 4,         REVENUES AND TRANSFERS         Revenues:       125700       Other regulatory fees       \$ 117       \$ 59       \$         125700       Other regulatory licenses and permits       \$ 3,462       \$ 3,850       \$ 3,         125800       Renewal fees       \$ 5,242       \$ 5,304       \$ 5,         12500       Delinquent fees       \$ 86       \$ 88       \$         141200       Sales of documents       \$ 117       \$ 5       \$         142500       Miscellaneous services to the public       \$ -       \$       \$         150500       Interest interest from Interfund loans       \$ 1,248       \$ -       \$         160100       Attorney General Proceeds of Anti-Trust       \$ -       \$ -       \$       \$         160100       Escheat of unclaimed checks and warrants       \$ 4       \$ -       \$ <td>Prior Year A</td> <td>diustment</td> <td></td> <td>2400217723140116-0220</td> <td></td> <td>-</td> <td></td> <td>-</td>	Prior Year A	diustment		2400217723140116-0220		-		-
Revenues:         125600         Other regulatory licenses and permits         \$ 117         \$ 59         \$           125700         Other regulatory licenses and permits         \$ 3,462         \$ 3,850         \$ 5,242         \$ 5,304         \$ 5,125900           125000         Delinquent fees         \$ 86         \$ 88         \$         \$           142500         Miscellaneous services to the public         \$ -         \$         \$           142500         Miscellaneous services to the public         \$ -         \$         \$           142500         Income from surplus money investments         \$ 18         \$ -         \$           160400         Sale of fixed assets         \$ -         \$ -         \$         \$           160400         Sale of fixed assets         \$ -         \$ -         \$         \$           161000         Escheat of unclaimed checks and warrants         \$ 4         \$ -         \$         \$           161000         Escheat of unclaimed relevenues         \$ 4         \$ -         \$         \$         \$         \$           70atals, Revenues         \$ 10,181         \$ 9,309         \$ 9         \$         \$         \$         \$         \$           70aburger         GF loan repayment						7,691		4,172
125600       Other regulatory licenses and permits       \$ 117       \$ 59       \$ 3,462       \$ 3,850       \$ 3,12500         125700       Delinquent fees       \$ 5,242       \$ 5,304       \$ 5,125900       Delinquent fees       \$ 5,242       \$ 5,304       \$ 5,125900         142500       Miscellaneous services to the public       \$ -       \$ -       \$ -       \$ -         142500       Miscellaneous services to the public       \$ -       -       \$ -       \$ -         142500       Income from surplus money investments       \$ 118       \$ -       \$ -       \$ -         150500       Incerest interest from Interfund loans       \$ 1,248       \$ - </td <td>REVENUES AND</td> <td>TRANSFERS</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td>	REVENUES AND	TRANSFERS						
125700       Other regulatory licenses and permits       \$ 3,462       \$ 3,850       \$ 3,         125800       Renewal fees       \$ 5,242       \$ 5,304       \$ 5,         12500       Delinquent fees       \$ 86       \$ 88       \$         14200       Sales of documents       \$ -       \$ -       \$         14200       Miscellaneous services to the public       \$ -       \$       -         14200       Income from surplus money investments       \$ 1       \$ 1.248       \$ -       \$         160100       Attorney General Proceeds of Anti-Trust       \$ -       \$ -       \$       \$         161000       Sale of fixed assets       \$ -       \$ -       \$ -       \$       \$         161000       Sale of fixed assets       \$ -       \$ -       \$       \$       \$       \$         161000       Sale of fixed assets       \$ -       \$ -       \$ -       \$ </td <td>Revenues:</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td>	Revenues:							
125700       Other regulatory licenses and permits       \$ 3,462       \$ 3,860       \$ 3,         125800       Renewal fees       \$ 5,242       \$ 5,304       \$ 5,         125900       Delinquent fees       \$ 86       \$ 88       \$         141200       Sales of documents       \$ -       \$ -       \$         141200       Miscellaneous services to the public       \$ -       \$       -         150300       Income from surplus money investments       \$ 18       \$ -       \$       \$         160400       Sale of fixed assets       \$ -       \$ -       \$       \$       \$         161000       Escheat of unclaimed checks and warrants       \$ 4       \$ -       \$ <td< td=""><td>125600</td><td>Other regulatory fees</td><td>\$</td><td>117</td><td>\$</td><td>59</td><td>\$</td><td>60</td></td<>	125600	Other regulatory fees	\$	117	\$	59	\$	60
125800       Renewal fees       \$ 5,242       \$ 5,304       \$ 5,         125900       Delinquent fees       \$ 86       \$ 88       \$         142500       Miscellaneous services to the public       \$ -       \$       \$         142500       Income from surplus money investments       \$ 18       \$ -       \$         150300       Incerne from surplus money investments       \$ 1,248       \$ -       \$         160100       Attorney General Proceeds of Anti-Trust       \$ -       \$ -       \$       \$         160400       Sale of fixed assets       \$ -       \$ -       \$	125700	Other regulatory licenses and permits	\$	3,462	\$	3,850	\$	3,751
125900       Delinquent fees       \$       866       \$       88       \$         141200       Sales of documents       \$       -       \$       -       \$         141200       Miscellaneous services to the public       \$       -       \$       -       \$         14200       Miscellaneous services to the public       \$       -       \$       -       \$         150500       Interest interest from Interfund Ioans       \$       1,248       \$       -       \$         160400       Sale of fixed assets       \$       -       \$       -       \$       -       \$         160400       Escheat of unclaimed checks and warrants       \$       4       \$       -       \$       -       \$         161400       Miscellaneous revenues       \$       \$       4       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       -       \$       - <td>125800</td> <td>Renewal fees</td> <td>\$</td> <td></td> <td></td> <td>5,304</td> <td>\$</td> <td>5,448</td>	125800	Renewal fees	\$			5,304	\$	5,448
141200       Sales of documents       \$ - \$       \$       -       \$         142500       Miscellaneous services to the public       \$ -       \$       -       \$         150300       Income from surplus money investments       \$ 18 \$ -       \$       -       \$         160100       Attorney General Proceeds of Anti-Trust       \$ -       \$       -       \$         160400       Sale of fixed assets       \$ -       \$       -       \$       -       \$         160400       Sale of fixed assets       \$ -       \$       -       \$       -       \$       -       \$       -       \$       \$       -       \$       -       \$       5       1(1600)       Escheat of unclaimed checks and warrants       \$ 4 \$ -       \$       8       \$       -       \$       \$       1(160)       \$       -       \$       \$       1(160)       \$       -       \$       \$       1(160)       \$       \$       9       309       \$       9       \$       9       \$       9       \$       9       \$       9       \$       9       \$       9       \$       9       \$       9       \$       9       \$       \$       \$	125900	Delinquent fees	\$	86		88		90
142500       Miscellaneous services to the public       \$ -         150300       Income from surplus money investments       \$ 18       \$ -         150300       Interest interest from Interfund loans       \$ 1,248       \$ -       \$         160100       Attorney General Proceeds of Anti-Trust       \$ -       \$ -       \$       \$         160400       Sale of fixed assets       \$ -       \$ -       \$	141200	Sales of documents		-		-		-
161400       Miscellaneous revenues       \$ 4       \$ 8       \$ 9,309       \$ 9,         Totals, Revenues       \$ 10,181       \$ 9,309       \$ 9,       \$ 9,         Transfers from Other Funds       \$ 00001       GF loan repayment per item 1170-011-0773 BA of 2002       \$ 3,600       \$ - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2008       \$ - \$ \$ 5 - \$ 3,       \$ 5 - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2011       \$ - \$ \$ - \$ \$ 3,       \$ 00001         Totals, Revenues and Transfers       \$ 13,781       \$ 9,309       \$ 15,         Totals, Revenues and Transfers       \$ 17,825       \$ 17,000       \$ 19,         EXPENDITURES       \$ 17,825       \$ 17,000       \$ 19,         Disbursements:       8860 Ficancial Information System for California       \$ 17       \$ 13       \$ 10,117         8800 Financial Information System for California       \$ 10,117       \$ - \$ \$ 12,327       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         FUND BALANCE       \$ 7,691       \$ 4,172       \$ 7,	142500	Miscellaneous services to the public	\$	-				
161400       Miscellaneous revenues       \$ 4       \$ 8       \$ 9,309       \$ 9,         Totals, Revenues       \$ 10,181       \$ 9,309       \$ 9,       \$ 9,         Transfers from Other Funds       \$ 00001       GF loan repayment per item 1170-011-0773 BA of 2002       \$ 3,600       \$ - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2008       \$ - \$ \$ 5 - \$ 3,       \$ 5 - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2011       \$ - \$ \$ - \$ \$ 3,       \$ 00001         Totals, Revenues and Transfers       \$ 13,781       \$ 9,309       \$ 15,         Totals, Revenues and Transfers       \$ 17,825       \$ 17,000       \$ 19,         EXPENDITURES       \$ 17,825       \$ 17,000       \$ 19,         Disbursements:       8860 Ficancial Information System for California       \$ 17       \$ 13       \$ 10,117         8800 Financial Information System for California       \$ 10,117       \$ - \$ \$ 12,327       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         FUND BALANCE       \$ 7,691       \$ 4,172       \$ 7,	150300	Income from surplus money investments	\$	18	\$	-	\$	-
161400       Miscellaneous revenues       \$ 4       \$ 8       \$ 9,309       \$ 9,         Totals, Revenues       \$ 10,181       \$ 9,309       \$ 9,       \$ 9,         Transfers from Other Funds       \$ 00001       GF loan repayment per item 1170-011-0773 BA of 2002       \$ 3,600       \$ - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2008       \$ - \$ \$ 5 - \$ 3,       \$ 5 - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2011       \$ - \$ \$ - \$ \$ 3,       \$ 00001         Totals, Revenues and Transfers       \$ 13,781       \$ 9,309       \$ 15,         Totals, Revenues and Transfers       \$ 17,825       \$ 17,000       \$ 19,         EXPENDITURES       \$ 17,825       \$ 17,000       \$ 19,         Disbursements:       8860 Ficancial Information System for California       \$ 17       \$ 13       \$ 10,117         8800 Financial Information System for California       \$ 10,117       \$ - \$ \$ 12,327       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         FUND BALANCE       \$ 7,691       \$ 4,172       \$ 7,	150500	Interest interest from Interfund loans	\$	1,248		-		-
161400       Miscellaneous revenues       \$ 4       \$ 8       \$ 9,309       \$ 9,         Totals, Revenues       \$ 10,181       \$ 9,309       \$ 9,       \$ 9,         Transfers from Other Funds       \$ 00001       GF loan repayment per item 1170-011-0773 BA of 2002       \$ 3,600       \$ - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2008       \$ - \$ \$ 5 - \$ 3,       \$ 5 - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2011       \$ - \$ \$ - \$ \$ 3,       \$ 00001         Totals, Revenues and Transfers       \$ 13,781       \$ 9,309       \$ 15,         Totals, Revenues and Transfers       \$ 17,825       \$ 17,000       \$ 19,         EXPENDITURES       \$ 17,825       \$ 17,000       \$ 19,         Disbursements:       8860 Ficancial Information System for California       \$ 17       \$ 13       \$ 10,117         8800 Financial Information System for California       \$ 10,117       \$ - \$ \$ 12,327       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         FUND BALANCE       \$ 7,691       \$ 4,172       \$ 7,	160100	Attorney General Proceeds of Anti-Trust	\$	-		-		-
161400       Miscellaneous revenues       \$ 4       \$ 8       \$ 9,309       \$ 9,         Totals, Revenues       \$ 10,181       \$ 9,309       \$ 9,       \$ 9,         Transfers from Other Funds       \$ 00001       GF loan repayment per item 1170-011-0773 BA of 2002       \$ 3,600       \$ - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2008       \$ - \$ \$ 5 - \$ 3,       \$ 5 - \$ \$ 3,         F00001       GF loan repayment per item 1110-011-0773 BA of 2011       \$ - \$ \$ - \$ \$ 3,       \$ 00001         Totals, Revenues and Transfers       \$ 13,781       \$ 9,309       \$ 15,         Totals, Revenues and Transfers       \$ 17,825       \$ 17,000       \$ 19,         EXPENDITURES       \$ 17,825       \$ 17,000       \$ 19,         Disbursements:       8860 Ficancial Information System for California       \$ 17       \$ 13       \$ 10,117         8800 Financial Information System for California       \$ 10,117       \$ - \$ \$ 12,327       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         9900 Statewide Pro Rata       \$ 10,134       \$ 12,828       \$ 11,         FUND BALANCE       \$ 7,691       \$ 4,172       \$ 7,	160400	and an and a second and a second s	\$	-		-		-
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Disbursements:8860 FSCU (State Operations)\$ -\$-\$8880 Financial Information System for California\$ 17\$ 13\$1110 Program Expenditures (State Operations)\$ 10,117\$ -\$1111 Program Expenditures (State Operations)\$ -\$ 12,327\$ 11,9900 Statewide Pro Rata\$ -\$ 488\$Total Disbursements\$ 10,134\$ 12,828\$ 11,FUND BALANCEReserve for economic uncertainties\$ 7,691\$ 4,172\$ 7,	EXPENDITURES							
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9900 Statewide Pro Rata Total Disbursements       \$ -       \$ 488       \$         FUND BALANCE Reserve for economic uncertainties       \$ 7,691       \$ 4,172       \$ 7,		and a second		-		12 327		11,238
Total Disbursements         \$ 10,134         \$ 12,828         \$ 11,           FUND BALANCE         Reserve for economic uncertainties         \$ 7,691         \$ 4,172         \$ 7,		Construction of the set of the second s	φ \$					692
Reserve for economic uncertainties\$ 7,691\$ 4,172\$ 7,				10,134	-		-	11,945
Reserve for economic uncertainties\$ 7,691\$ 4,172\$ 7,	FUND BALANCE							
Months in Reserve 7.2 4.2		economic uncertainties	\$	7,691	\$	4,172	\$	7,884
	Months in Reser	ve		7.2		4.2		7.8



#### **Board Statistics**

Attached for your review are the quarterly performance statistics for the second quarter of FY 2016/2017.

#### Licensing Program

Overall, application volumes decreased in the second quarter of FY 16/17.

Previously, the LMFT and LCSW examination volumes also included all law and ethics examination applications. Since the prior reporting period, the Board now has the ability to separately capture these application volumes (clinical exam and law and ethics exam). This revised reporting method accounts for the significant decrease in the LMFT and LCSW examination volumes.

The 2<sup>nd</sup> quarter numbers below do not reflect any examination applications. Examination application volumes will be reported under the Examination Unit summary.

Application Type	2 <sup>nd</sup> Quarter 10/1/16-12/31/16	1st Quarter 07/01/16- 09/30/16	Difference
MFT Intern	1213	1234	-2%
MFT Examination	552	2868*	-81%
ASW Registration	433	1100	-61%
LCSW Examination	438	2533*	-83%
LEP Examination	26	19	37%
LPCC Intern	212	342	-38%
LPCC Examination	31	41	-24%

Application Volumes

\*This total includes all clinical and law and ethics examination applications.

The chart below reflects the Board's application processing times. Currently, the Board is processing applications under 30 days.

License Type	2 <sup>nd</sup> Quarter	1 <sup>st</sup> Quarter	Difference
License Type	FY 16/17	FY 16/17	Difference
MFT Intern	17 days	14 days	+ 3 days
MFT Examination	27 days	24 day	+ 3 days
ASW Registrant	18 days	15 days	+ 3 days
LCSW Examination	26 days	24 days	+ 2 days
LEP Examination	14 days	12 days	+ 2 days
LPPC Intern	26 days	24 days	+ 2 days
LPCC Examination	24 days	19 days	+ 6 days

#### **Days to Process Application**

A total of 1,701 initial licenses were issued in the first quarter. As of January 1, 2017, the Board has 106,953 licensees and registrants. This figure includes all licenses that have been issued that are current and/or eligible to renew.

LICENSE POPULATION (As of 01/1/17)							
License Type	Active	Current In-Active	Delinquent	Total Population			
Registrants	Registrants						
MFTI	14,511	N/A	4,865	19,376			
ASW	11,542	N/A	4,313	15,855			
PCI	1,846	N/A	593	2,439			
Total Registrant	27,899	N/A	9,771	37,670			
Licensees							
LMFT	33,936	4,411	2,637	40,984			
LCSW	20,756	2,477	1,423	24,656			
LEP	1,318	455	444	2,207			
LPCC	1,312	81	43	1,436			
Total Licensee	57,322	7,424	4,547	69,283			
<b>Total Population</b>	85,221	7,424	14,318	106,953			

#### Examination Program

Examination Activity						
Exam	2 <sup>nd</sup> Quarter 10/1/16- 12/31/16	1 <sup>st</sup> Quarter 7/1/16-9/30/16	%Increase or Decrease			
CA Law & Ethics*	5,956	7,232	-18%			
LMFT Clinical*	1,363	981	39%			
ASWB	832	516	61%			
NBCC NCMHCE	30	25	20%			
LEP*	37	53	-30%			
Total	8216	8,807	-7%			
	*Daawal alaa aa la		1			

A total 8,216 examinations were administered in the second quarter.

\*Board developed examination

Nine (9) examination development workshops were conducted from October to December.

The addition of a manager dedicated to the Examination Unit has afforded the Board the opportunity to improve operational process within the unit. Below some of the positive changes underway.

#### Examination Unit Reorganization

The Examination Unit expanded to include;

- <u>Examination Unit Manager</u> Added to oversee and implement operational changes focused on improving efficiencies within the Unit
- <u>Staff Services Analyst</u> Added to oversee and coordinate exam workshops, subject matter expert (SME) recruitment and contracts, SME travel arrangements and processing of invoices
- Examination Evaluator currently being recruited

The Examination Unit's growth will improve Unit processes and overall service to the public. The Units immediate attention will focus on:

- Improved coordination of Examination Workshops
- Recruitment of Subject Matter Experts (SME)
- Providing quicker, timely invoice processing for participants in the Examination Workshops

• Providing greater customer service to our SME's and the Office of Professional Examination Services (OPES).

#### <u>Outreach</u>

The Exam Unit staff will begin regular attendance at the Exam Workshops. This will allow us to provide information to our SME's and create a partnership with OPES.

#### Subject Matter Expert Recruitment

In March, 2017, the Exam Unit will begin our SME recruitment in order to expand our pool of experts. Specific growth is needed in the area of Licensed Professional Clinical Counselors (LPCC) and Licensed Educational Psychologists (LEP). Recruitment information will be available on our website in March.

#### Examination Workshop Coordination

- Established a dedicated staff person to handle travel arrangements, process invoices and respond quickly to inquiries.
- Improve our communication with OPES and work collaboratively on workshop coordination.

#### Establish a Hotel Contract

Exam Unit staff is in the process to secure a contract for a hotel near the Office of Professional Examination Services (OPES). This will reduce the out of pocket travel expenses that require our SME's to wait for reimbursement

#### Looking Ahead

In the coming months, the Examination Unit will continue to evaluate all processes and staff duties to identify any additional area for improvement. Over the next couple of months we will be adding an additional examination evaluator and providing cross training to existing staff. This will reduce the processing time of exam applications and allow for improved responsiveness to exam candidates. The additional staff will also provide the opportunity to work on exception reports which will resolve exam issues proactively instead of waiting for the candidate to contact the Board.

#### Administration Program

The Board received 9,756 applications in the second quarter, a 22% decrease since last quarter. This figure does not include renewal applications. The chart below reflects the total renewal activity for the first quarter.

RENEWAL ACTIVITY						
	Number of Renewals	Percentage				
DCA Processed	7695	60%				
BBS Processed	452	3%				
Online Renewal	4,783	76%				
Total	12,930					

#### Enforcement Program

The Enforcement staff received 291 consumer complaints and 271 criminal convictions in the second quarter. 567 cases were closed and 49 cases were referred to the Attorney General's office for formal discipline. 20 Accusations and 5 Statement of Issues were filed this quarter. The number of final citations for the second quarter is 24. The average number of days to complete Formal Discipline was 868 days.

#### **Continuing Education Audits**

In 2016, a total of 305 licensees were audited. Of this number 26% (80 licensees) failed the audit.

License	Total number	# OF	# OF	% OF	% OF
Туре	of notices sent	PASS	FAIL	PASS	FAIL
LCSW	88	63	25	72%	28%
LEP	45	26	19	58%	42%
LMFT	114	90	24	79%	21%
LPCC	58	46	12	79%	21%
Total	305	225	80	74%	26%

2016 Audit Results (1/2016-12/2016)

The top reasons for licensees failing the continuing education audits are as follows.

- Failure to complete the required law and ethics coursework
- Failure to complete the required number of continuing education units within the renewal period
- Completing continuing education courses from unapproved providers.

Board staff did not audit licensees during the last quarter of 2016 (calendar year). Staff used this time to reconcile all outstanding audits and prepare for the 2017 audits.

Continuing education audits resumed on January 2, 2017. The Board's goal is to complete 720 audits between January and September 2017. The last quarter of 2017 will be to reconcile any outstanding audits and prepare for the 2018 audits. Below are the results for the first month's audit in 2017. Seventeen (17) responses are still in process.

License	Total number	# OF	# OF	% OF	% OF
Туре	of notices sent	PASS	FAIL	PASS	FAIL
LCSW	28	3	20	71%	11%
LEP	6	2	1	17%	33%
LMFT	35	6	21	60%	17%
LPCC	3	12	43	60%	17%
Total	72	12	43	60%	17%

#### January 2017 Audit Results

The reasons a licensee fails the Continuing Education Audit remains consistent.

- Failure to complete the required law and ethics coursework
- Failure to complete the required number of continuing education units within the renewal period
- Completing continuing education courses from unapproved providers.

All licensees who fail the Continuing Education Audit are referred to the Board's Enforcement Unit for issuance of a citation and fine.

#### **Outreach Activity**

Board staff either physically attended the following events or participated via a phone conference.

#### November 2016

- November 11, 2016 Sacramento MFT Consortium Meeting
- November 12, 2016 CAMFT Fall Symposium
- November 16, 2016 Orange County MFT Consortium Meeting
- November 17-19, 2016 ASWB Annual Delegate Meeting, San Diego, CA
- November 18, 2016 Sacramento CAMFT Chapter Celebration

#### December 2016

- December 5, 2016 Central Coast MFT Consortium Meeting
- December 8, 2016 Inland Empire MFT Consortium Meeting

#### January 2017

- January 18, 2017 Orange County MFT Consortium Meeting
- January 27, 2017 Bay Area MFT Consortium Meeting

#### February 2017

• February 25, 2017 Orange County MFT Consortium Student/Trainee/Internship Faire

The BBS 2017 Winter Newsletter was published in January 2017. The Board's 2017 Statutes and Regulations law book was posted on the Board's website in January.

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This report provides statistical information relating to various aspects of the Board's business processes. Statistics are grouped by unit.

#### CASHIERING

Applications Fo	or Licens	ure & Exa	mination										
LMFT	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	216	234	210	191	170	191							1212
Approved	199	296	236	241	245	239							1456
Process Time	19	24	28	25	27	28							25
LCSW	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	132	140	130	152	150	136							840
Approved	68	290	186	134	134	111							923
Process Time	28	21	22	21	27	29							25
LPCC	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	12	11	18	13	8	10							72
Approved	8	12	9	19	20	9							77
Process Time	17	18	23	25	24	22							22
LEP	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	8	10	6	5	10	11							50
Approved	16	8	9	8	5	8							54
Process Time	9	15	11	14	15	13							13
TOTAL	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	368	395	364	361	338	348							2174
Approved	291	606	440	402	404	367							2510
Avg. Process Time	18	20	21	21	23	23							21

Registration Ap	plicatior	1											
MFTI	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	459	432	343	298	274	121							1927
Approved	376	406	343	421	345	169							2060
Process Time	9	14	18	16	18	17							15
ASW	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	526	318	256	187	126	120							1533
Approved	541	366	328	226	181	183							1825
Process Time	13	17	16	17	19	17							17
PCI	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	106	140	96	90	72	50							554
Approved	75	100	123	109	75	77							559
Process Time	21	23	27	29	25	24							25
TOTAL	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
Received	1091	890	695	575	472	291							4014
Approved	992	872	794	756	601	429							4444
Avg. Process Time	14	18	20	21	21	19							19

#### EXAMINATION

The Board's Examination Unit processes complaints and performs other administrative functions relating to the Board's examination processes.

Examinations Administered	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
LCSW L&E	1077	1220	1046	915	835	706							5799
LMFT L&E	1138	1229	1216	1124	1046	989							6742
LPCC L&E	94	115	97	124	107	110							647
TOTAL L & E	2309	2564	2359	2163	1988	1805							13188
ASWB Clinical	147	203	166	252	336	244							1348
LMFT Clinical	450	235	296	407	630	324							2342
LCSW NCMHCE	7	10	8	7	16	7							55
LEP	23	15	15	13	15	9							90
Total Exams Administered	2936	3027	2844	2842	2985	2389							17023
Examination Workshops	3	4	2	4	4	1							18

Initial Licenses Issued	16-Jul	16-Aug	16-Sep	16-Oct	16-Nov	16-Dec	17-Jan	17-Feb	17-Mar	17-Apr	17-May	17-Jun	YTD
LMFT	192	325	28	432	297	339							1613
LCSW	134	138	201	187	222	262							1144
LEP	5	7	12	8	6	5							43
LPCC	6	6	13	8	8	10							51
TOTAL	337	476	254	635	533	533							2768

#### ENFORCEMENT

The Board's Enforcement Unit investigates consumer complaints and reviews prior and subsequent arrest reports for registrants and licensees. The pending total is a snapshot of all pending items at the close of a quarter.

Complaints (Complaint Intake*)	16- Jul	16- Aug	16- Sep	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
Received	72	121	92	113	81	97							576
Closed without Assignment for Investigation	20	34	31	35	28	24							172
Assigned for Investigation	44	94	49	74	78	44							383
Average Days to Close or Assigned for Investigation	5	6	6	6	6	6							6
Intake Pending	15	8	21	24	3	32							103
Convictions/Arrest Reports	16- Jul	16- Aug	16- Ѕер	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
Received	96	149	113	109	83	79							629
Closed / Assigned for Investigation	0	0	0	0	0	0							0
Assigned for	01	100	447	100	02	05							057

Assigned for Investigation	91	163	117	108	93	85				657
Average Days to Close	2	2	3	2	1	4				2
Intake Pending	8	2	1	4	4	1				20

Complaint Intake \* Co

Complaints Received by the Program.

INVESTIGATION**													
Desk Investigation	16- Jul	16- Aug	16- Sep	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
Assigned	132	264	176	193	169	139							1073
Closed	153	178	196	179	184	185							1075
Average Days to Close	89	86	92	73	72	89							84
Pending	413	495	477	489	498	461							
Field Investigation (Non-Sworn)	16- Jul	16- Aug	16- Sep	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
Assigned	6	1	2	13	1	1							24
Closed	2	4	9	4	3	9							31
Average Days to Close	46	141	141	161	194	141							137
Pending	29	28	21	29	27	19							
Field Investigation (Sworn)	16- Jul	16- Aug	16- Sep	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
Assigned	3	0	2	0	0	0							5
Closed	0	4	4	1	2	0							11
Average Days to Close	NA	174	286	152	398	0							202
Pending	26	22	20	19	17	17							
All Investigations	16- Jul	16- Aug	16- Sep	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
First Assignments	141	265	180	206	170	140							1102
Closed	155	186	209	184	189	194							1117
Average Days to Close	68	134	173	129	221	115							140
Pending	442	523	498	518	525	480							

#### Investigations \*\*

Complaints investigated by the program whether by desk investigation or by field investigation.

Measured by date the complaint is received to the date the complaint is closed or referred for enforcement action.

If a complaint is never referred for Field Investigation, it will be counted as 'Closed' under Desk Investigation.

If a complaint is referred for Field Investigation, it will be counted as 'Closed' under Non-Sworn or Sworn.

Enforcement Actions	16- Jul	16- Aug	16- Sep	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	YTD
AG Cases Initiated	21	13	8	12	27	10							91
AG Cases Pending	180	181	186	174	182	181							
SOIs Filed	2	1	0	1	3	1							8
Accusations Filed	11	15	4	5	6	9							50
Proposed/Default Decisions Adopted	0	1	4	3	3	2							13
Stipulations Adopted	10	4	3	9	4	12							42
Disciplinary Orders	16- Jul	16- Aug	16- Ѕер	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	
Final Orders (Proposed Decisions Adopted, Default Decisions, Stipulations)	10	5	7	14	9	23							68
Average Days to Complete***	877	686	791	734	860	1010							826
Citations	16- Jul	16- Aug	16- Ѕер	16- Oct	16- Nov	16- Dec	17- Jan	17- Feb	17- Mar	17- Apr	17- Мау	17- Jun	
Final Citations	8	21	14	1	14	9							67
Average Days to Complete****	204	35	61	379	13	80							

#### Disciplinary Orders Average Days to Complete \*\*\*

Measured by the date the complaint is received to the date the order became effective. **Citations** \*\*\*\*

Measured by the date the complaint is received to the date the citation was issued.



Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To:Board MembersDate:February 14, 2017From:Laurie Williams<br/>Human Resources LiaisonTelephone:(916) 574-7850Subject:Personnel UpdateUpdateUpdate

#### New Employees

The following individuals joined the BBS team.

- Management Services Technician (MST) Kaitlin Martin accepted a permanent full-time MST position in the Examination Unit effective October 18, 2016. In her prior position with the Board she functioned as an Examination Evaluator (Limited-Term position) in the same unit – This position will assist the current Accommodation Evaluator to process requests for examination accommodations in the Examination Unit.
- Staff Services Analyst (SSA) (Examination Unit) Julie Ruprecht was promoted to this SSA position effective December 27, 2017. This position is assigned to the Examination Unit and will perform the duties of an examination administration and development analyst. Julie recently worked as a Licensing Evaluator in the Licensing Unit.
- Staff Services Analyst (SSA) Effective January 17, 2017, Samuel Hall accepted a promotion to this SSA position in the Criminal Conviction & Probation Unit / Enforcement. This position conducts subsequent arrest investigations. Samuel transferred from his Enforcement Support position within the same unit.
- Staff Services Manager I (SSMI) Gina Bayless accepted a permanent full-time SSMI position effective January 23, 2017. This manager oversees, monitors, assigns, and maintains the daily oversight of the Examination & Cashiering Units. She transferred to the Board from the Board of Vocational Nursing and Psychiatric Technicians. Gina was a prior SSMI with the Board and functioned as one of the Enforcement Unit managers.
- Office Technician (OT) Effective February 1, 2017, Raven Trammell transferred to the Board as an OT from the Department of Social Services. This position receives and processes complaints and subsequent arrest notifications and supports the Consumer Compliant & Investigations Unit / Enforcement.

- Management Services Technician (MST) Sasha Addison accepted a promotion to this
  position effective February 1, 2017. This position will perform the duties related to LCSW
  as a Licensing Evaluator. Ms. Addison transferred from the Criminal Conviction &
  Probation Unit functioning as the Board's Fingerprint Technician.
- Management Services Technician (MST) Amber Apodaca was promoted to this MST position effective February 15, 2017. This position is assigned to the Licensing Unit and will perform the duties of an LEP Evaluator and process initial licensures. Amber recently worked as the licensing support technician within the same unit.

#### **Departures**

• Christina Hansens accepted a promotion to a Staff Services Analyst with the Department of Social Services and her last day with the Board was October 27, 2016.

#### **Vacancies**

The Board currently has four vacancies. Recruitment efforts to fill these vacancies are underway.

- Office Technician (1 position) Enforcement This position receives and completes the initial review of subsequent arrest notifications and provides clerical support to the Criminal Conviction & Probation Unit / Enforcement. The hiring manager is currently reviewing the candidate applications in order to schedule interviews for early March 2017.
- Office Technician (1 position) Enforcement This position functions as the Board's Fingerprint Technician to the Criminal Conviction & Probation Unit / Enforcement. The hiring request to refill this vacancy has been approved by DCA/Office of Human Resources and the final filing date for this vacancy is February 17, 2017.
- Management Services Technician (1 position) Examination This position is a limitedterm position that will review and approve applications for examination and/or reexamination for compliance. In addition, this position will respond to examination inquiries from licensee and registrants. The request to refill this vacancy has been approved by DCA/Office of Human Resources and the final filing date for this vacancy is February 28, 2017.
- Office Technician (OT) Licensing This position provides clerical support to the Licensing Unit and is responsible as the Licensing File Coordinator. The hiring request to refill this vacancy has been submitted to DCA/Office of Human Resources for approval and the hiring interviews will be scheduled by late March 2017.





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То:	Board Members	Date:	February 15, 2017
From:	Kim Madsen Executive Officer	Telephone:	(916) 574-7841
Subject:	Strategic Plan Update		

Attached for your review is the quarterly update of the Board's Strategic Plan.

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Licensing Establish licensing standards to protect consumers and allow reasonable and timely access to the profession.	DUE DATE	STATUS
<b>1.1</b> Identify and implement improvements to the licensing process to decrease application processing times.	Q1 2015	<b>Completed.</b> Application processing times are now less than the parameters set forth in Regulation. All applications are processed under 45 days.
<b>1.2</b> Complete the processing of Licensed Professional Clinical Counselor grandfathered licensing application.	Q1 2014	Completed October 1, 2013
<b>1.3</b> Review the current eligibility process for Licensed Marriage and Family Therapists and Licensed Professional Clinical Counselors to identify and reduce barriers and implement process improvements.	Q4 2018	<b>Completed.</b> SB 620, the "Buckets" legislation, was signed by the Governor in September 2015.
<b>1.4</b> Explore development of uniform clinical supervision standards to ensure consistent supervision of registrants and trainees.	Q4 2015	<b>Completed</b> . AB 93 (Medina) was introduced on January 9, 2017
<b>1.5</b> Investigate the use of technology for record keeping and therapeutic services and its effects on patient safety and confidentiality and establish best practices for licensees.	Q4 2016	<b>Completed.</b> Telehealth regulations became effective July 1, 2016.
<b>1.6</b> Determine feasibility of license portability and pursue legislation if needed.	Q3 2020	Effective January 1, 2016 implemented use of national exam for LCSWs and revisions to modify the out-of-state requirements for LMFTs and LPCCs. Review of national MFT exam in 2018.

CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE February 2017							
<b>1.7</b> Establish ongoing process to evaluate requirements for all license types to promote parity between licensing programs as appropriate.	Q4 2016	Board management continues to evaluate licensure requirements for parity and identify those appropriate to revise. The proposed revisions to supervision is one recent example.					
<b>1.8</b> Evaluate the feasibility of online application submission through the Breeze system and implement if possible.	Q2 2016	The Board now has three transactions available on Breeze: renewals, address changes and replacement documents. The Board continues to explore the future use of the online capabilities.					

#### CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE February 2017

Examinations Administer fair, valid, comprehensive, and relevant licensing examinations.	DUE DATE	STATUS
<b>2.1</b> Implement recommendations made by the Exam Program Review Committee to restructure the examination process and promulgate regulations as necessary.	Q1 2016	<b>Completed</b> . Exam Restructure implemented on January 1, 2016.
<b>2.2</b> Establish a recruitment process for Subject Matter Experts to ensure a diverse pool on which to draw for examination development.	Q2 2016	Completed Spring 2015
<b>2.3</b> Create a process for evaluating the performance of Subject Matter Experts assisting with exam development.	Q4 2015	Currently OPES provides informal feedback to Examination Unit staff.

### CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE

February 2017

Enforcement Protect the health and safety of consumers through the enforcement of laws and regulations.	DUE DATE	STATUS
<b>3.1</b> Establish a recruitment process for Subject Matter Experts to ensure a diverse pool on which to draw for case evaluations.	Q4 2014	Completed Spring 2015
<b>3.2</b> Develop a training program, including uniform standards for reports and evaluations, for all enforcement Subject Matter Experts.	Q1 2015	<b>Completed.</b> Staff conducted an all-day training session on July 30, 2015. A second training session will be scheduled.
<b>3.3</b> Improve internal process to regularly consult with the Attorney General's office to advance pending disciplinary cases.	Q4 2014	<b>Completed.</b> Staff member is assigned to monitor progress of all cases referred to the AG Office.
<b>3.4</b> Establish uniform standards and templates for reports and evaluations submitted to the Board related to disciplinary matters.	Q2 2015	Committee met on January 8, 2016. Board staff developed draft documents to present to the full Board at March 2016 meeting. 2016 May Board Meeting identified additional area to address. Committee will meet to discuss outstanding areas.
<b>3.5</b> Create a process for evaluating the performance of Subject Matter Experts assisting on enforcement cases.	Q2 2015	Completed May 2015.
<b>3.6</b> Identify and implement improvements to the investigation process to decrease enforcement processing times.	Q1 2015	On an ongoing basis Board Management continues review existing processes to identify areas for improvement.

Legislation and Regulation Ensure that statutes, regulations, policies, and procedures strengthen and support the Board's mandate and mission.	DUE DATE	STATUS
<b>4.1</b> Adopt regulations to incorporate <u>Uniform Standards for</u> <u>Substance Abusing Licensees</u> to align with other healing arts boards.	Q2 2015	Completed October 1, 2015
<b>4.2</b> Modify regulations to shift oversight of continuing education providers to Approval Agencies.	Q4 2014	Completed January 1, 2015
<b>4.3</b> Pursue legislation to implement the recommendations of the Out of State Education Review Committee to ensure parity with California educational requirements.	Q4 2014	<b>Completed.</b> Legislation became effective 1/1/16.
<b>4.4</b> Pursue legislation to resolve the conflict in law that prohibits the Board's access to information necessary for investigations regarding child custody reports.	Q4 2014	<b>Completed.</b> Legislation became effective on 1/1/15.
<b>4.5</b> Review regulatory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.	Q4 2017	Committee held its first meeting on January 20, 2017. Three additional meetings were scheduled for 2017.

#### CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE February 2017

Organizational Effectiveness Build an excellent organization through proper Board governance, effective leadership, and responsible management.	DUE DATE	STATUS
<b>5.1</b> Pursue adequate staffing levels across all functional areas within the Board.	Q3 2015	<b>Completed.</b> The Board's requests for additional staffing resources since FY 14/15 have successful. Board staff will continue to evaluate its resources and submit requests for additional staff as needed.
<b>5.2</b> Evaluate internal procedures to identify areas for improvement to ensure prompt and efficient work processes.	Q1 2016	On an ongoing basis, Board management continues to evaluate internal processes to identify areas for improvement and revise as appropriate.
<b>5.3</b> Enhance Board employee recognition program to reward exceptional performance and service.	Q4 2014	Board staff is recognized for years of service at quarterly Board Meetings. Board staff is recognized in internal newsletter for outstanding customer service.
<b>5.4</b> Implement an internal training and education program for all Board staff to enhance skills and abilities for professional development.	Q3 2015	Board management meets one on one with individuals who desire further information regarding the Board and upcoming interviews.
<b>5.5</b> Establish standing Board committees that align with the Board's strategic goal areas.	Q4 2014	Board will revisit this topic in 2016.

# CALIFORNIA BOARD OF BEHAVIORAL SCIENCES – STRATEGIC PLAN UPDATE February 2017

Outreach and Education Engage stakeholders through continuous communication about the practice and regulation of the professions.	DUE DATE	STATUS
<b>6.1</b> Implement cost-effective ways to educate applicants and licensees on current requirements.	Q1 2015	BBS newsletters include information regarding current requirements. Staff attends professional association events and quarterly MFT Consortium Meetings.
<b>6.2</b> Enhance the Board's outreach program by redesigning publications and the Board's website, leveraging new technologies and exploring the use of social media.	Q3 2015	BBS newsletter is published three times a year. BBS utilizes its FACEBOOK and Twitter accounts to disseminate information in addition to its website.
<b>6.3</b> Partner with the Office of Statewide Planning Health and Development and other external stakeholder groups to encourage more diversity within the mental health professions.	Q4 2019	2016 Summer Fall BBS Newsletter included information regarding OSHPD loan repayment program. Loan information was posted on Board website.

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1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Board Members

**Date:** February 15, 2017

From: Kim Madsen Executive Officer Telephone: (916) 574-7841

Subject: Update on Review of the Association of Marriage and Family Therapy Regulatory Board (AMFTRB) National Examination and the National Board of Certified Counselor (NBCC) National Clinical Mental Health Counselor Examination

### Association of Marriage and Family Therapy Regulatory Board (AMFTRB) National Examination

#### Background

In 2011-2012, the Board engaged the services of Applied Measurement Services, LLC (AMS) to assess the AMFTRB national examination. AMS was charged with determining whether the AMFTRB national examination met prevailing standards for fair, valid, and legally defensible licensure examinations. AMS also evaluated the similarity between the AMFTRB national examination plan and the Board's examination plan.

During the August 2013 Board meeting, AMS presented their findings regarding the AMFTRB examination. AMS determined that the AMFTRB national examination met professional and technical guidelines for examination validation, but noted some technical issues. Due to the confidentiality agreement, AMS was not permitted to share some of these issues publicly. However, these issues were discussed with the Board Members during the closed session of the February 2013 Board meeting.

AMS also noted the current ratio of LMFTs in California versus the nation. At that time, California had approximately 35,000 LMFTs versus a total of 20,000 nationally. Further, at the time of AMS' assessment of the AMFTRB examination, the administration of this examination was a paper and pencil test. AMS stated that AMFTRB was exploring the possibility of transitioning to a computer-based test format. Considering the Board's current acceptable examination performance and the delay in implementing the examination restructure, AMS suggested that the Board continue to have discussions with AMFTRB to resolve the technical issues.

Board Members discussed the information presented by AMS. Considering the factors presented by AMS, Board Members were not inclined to use the national examination in California at that time. No other action was taken.

During the February 25-26, 2015 Board Meeting, the Board Members revisited the topic of evaluating the AMFTRB National Examination as the clinical examination for licensure in California. Both the Board Members and stakeholders expressed an interest in exploring the AMFTRB national examination for licensure in California. As a result, the Board directed staff to conduct an evaluation of the national exam.

### <u>Update</u>

On November 29, 2016, Board staff met with the Office of Professional Examination Services (OPES) to discuss evaluating the AMFTRB National Examination. A follow up meeting was held on January 26, 2017. During both meeting OPES staff indicated that the evaluation of this examination was possible. The evaluation of the AMFTRB National Examination will be scheduled in 2018, following the conclusion of the Board's Occupational Analysis of Marriage and Family Therapist practice. Once the evaluation is completed the results will be presented to the full board.

### National Board of Certified Counselor (NBCC) National Clinical Mental Health Counselor Examination

## **Background**

In 2010, the licensure of professional clinical counselors was added to the Board's regulatory responsibilities. To fulfill its responsibilities, the Board initiated the evaluation of the national examinations available for Licensed Professional Clinical Counselors (LPCC). The National Board of Certified Counselors (NBCC) offers several examinations for counselors. In 2010, the Board contracted with Applied Measurement Services, LLC (AMS) to evaluate the national examinations offered by NBCC. Initially, there were some issues with the examinations offered by NBCC.

During the July 2010 Board meeting, the Board directed staff to continue working with NBCC to address concerns with the national examination in an effort to continue moving forward toward California acceptance of the national exam for LPCC licensure.

At the March 2011 Licensing and Examination Committee meeting, the Committee reviewed recommendations from Office of Professional Examination Services (OPES) and AMS regarding the use of the National Clinical Mental Health Counselor Examination (NCMHCE) for LPCC licensure in California. Both OPES and AMS recommended to the Committee that the Board consider the NCMHCE, along with a Board administered law and ethic examination for licensure, if all previously noted issues were addressed by NBCC.

During the May 18-19, 2011 Board meeting, Shawn O'Brien, NBCC Vice President, Center for Credentialing and Education, presented the basic framework of the examination, statistics, and samples of how the exam looks in the computer-based testing environment.

Following Mr. O'Brien's presentation and considering public comment, the Board directed staff to enter into a contract with NBCC to use the National Clinical Mental Health Counselor

Examination (NCMHCE) for licensure in California. The Board began using this examination in 2012.

### <u>Update</u>

Although the terms of the contract with NBCC provide for a review of the NCMHCE to ensure the examination meets the requirements for practice in California, a review of the NCMHCE examination has not been conducted since the initial AMS evaluation in 2010.

During the November 29, 2016 and January 26, 2017 meeting with OPES, Board staff inquired if OPES is able to evaluate the NCMHCE examination. OPES indicated the evaluation of the NCMHCE examination will be scheduled after the conclusion of the Licensed Professional Clinical Counselor Occupational Analysis in 2017. Once the evaluation is completed the results will be presented to the full board.

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Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To:Board MembersDate:February 16, 2017From:Christina Kitamura<br/>Administrative AnalystTelephone:(916) 574-7830Subject:Customer Satisfaction Survey

The Board's Customer Satisfaction Survey will be provided at the meeting

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Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Board Members

**Date:** February 15, 2017

From: Rosanne Helms Legislative Analyst **Telephone:** (916) 574-7897

### Subject: Enforcement Regulations: Unprofessional Conduct

Staff is proposing several revisions to the Board's enforcement regulations, including regulations related to unprofessional conduct and the Board's ability to levy fines.

### **Proposed Changes**

1. Unprofessional Conduct Sections: Delete Provisions that are Already in Statute (§§ 1845 (LMFTs), 1858 (LEPs), and 1881 (LCSWs) Each of the Board's four license types has its own unprofessional conduct section, in both

statute and regulations, outlining actions that constitute unprofessional conduct. Some of the provisions in regulation duplicate provisions already in statute. Proposed amendments delete the duplicative provisions in regulation.

2. Unprofessional Conduct Sections: Certified Copies of Records (§§1823 (LPCCs), 1845, 1858, and 1881)

Each of these unprofessional conduct sections requires licensees or registrants to provide copies of records to the Board upon request for investigative purposes. Failure to do so is considered unprofessional conduct. In order to ensure the authenticity of the records, the Enforcement Unit requires certified copies from the issuing agency. However, the guidelines do not currently state that the copies must be certified. Therefore, the sections are being amended for clarity, so that this is specifically stated.

3. Unprofessional Conduct Sections: Failure to Provide Documentation Regarding Arrest and/or Conviction (§§1823, 1845, 1858, and 1881)

The unprofessional conduct sections currently state that a licensee or registrant must, upon request, provide documentation regarding his or her arrest. Failure to do so is unprofessional conduct.

The board also needs documentation regarding a conviction of a licensee or registrant, in order to determine if disciplinary action is needed for public protection purposes. Therefore, DCA Legal has recommended revising this language to state that it is

unprofessional conduct to fail to provide, upon request of the board, documentation regarding an arrest <u>and/or conviction</u>. Because certified copies are needed to ensure that the information is authentic, language that the records must be certified copies has also been included.

**4.** Violation of Confidentiality of Medical Information Act: Amount of Fines "Failure to maintain confidentiality" is listed as unprofessional conduct in statute for each of the Board's license types (BPC §§4982(m), 4989.54(q), 4992.3(n), and 4999.90(m).

The Confidentiality of Medical Information Act begins with Civil Code (CC) Section 56, and discusses how medical providers may and may not disclose confidential medical information. CC Section 56.36 discusses the amount of fines that may be levied for disclosing confidential medical information in violation of the law.

Section 1886.40 of the Board's regulations defines a "citable offense" and lists the amount of fines the Board may levy for various violations of the law. It states that the Board may assess a fine of up to \$5,000 for a violation involving unlawful or unauthorized breach of confidentiality. This amount was derived from CC Section 56.36. Therefore, DCA Legal has advised that the Confidentiality of Medical Information Act be referenced in regulation Section 1886.40, in order to establish a point of reference for where the \$5,000 maximum fine amount comes from.

In addition, many of the cited sections under "authority" and "reference" for this regulation do not relate to the section. Therefore these citations have been updated to include only relevant sections.

### **Policy and Advocacy Committee**

At its February 3, 2017 meeting, the Policy and Advocacy Committee discussed the proposed language, and recommended that the Board consider commencing the rulemaking process.

### Recommendation

Conduct an open discussion of the proposed regulations. Direct staff to make any discussed changes and any non-substantive changes to the proposed language, and to begin the rulemaking process.

### Attachments

**Attachment A:** Proposed Amendments to Enforcement Regulations: Unprofessional Conduct **Attachment B:** Civil Code Section 56.36

# ATTACHMENT A PROPOSED AMENDMENTS TO ENFORCEMENT REGULATIONS: UNPROFESSIONAL CONDUCT

## AMEND § 1823. UNPROFESSIONAL CONDUCT.

As used in Section 4999.90 of the <u>Code</u>, unprofessional conduct includes, but is not limited to:

(a) Failure to provide to the board, as authorized by law, copies of <u>requested</u> records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide <u>copies of</u> the <u>requested</u> records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the <u>requested</u> records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records. <u>Records from law</u> <u>enforcement agencies, courts, or any other government entity must be certified copies.</u>

(b) Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

(c) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(d) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest <u>and/or conviction</u> of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7. <u>Documentation provided regarding the arrest and/or conviction must be certified copies.</u>

(e) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Sections 4990.20 and 4999.48, Business and Professions Code. Reference: Sections 4990.20, 4999.48. and 4999.90, Business and Professions Code; Section 1000.4, Penal Code; and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code.

## AMEND §1845. UNPROFESSIONAL CONDUCT

As used in Section 4982 of the eCode, unprofessional conduct includes, but is not limited to:

(a) Performing or holding himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(b) Permitting a trainee or intern under his or her supervision or control to perform or permitting the trainee or intern to hold himself or herself out as competent to perform professional services beyond the trainee's or intern's level of education, training and/or experience.

(c) Failing to comply with the child abuse reporting requirements of Penal Code Section 11166.

(d) Failing to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institutions Code Section 15630.

(ea) Failure to provide to the board, as authorized by law, copies of <u>requested</u> records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide <u>copies of</u> the <u>requested</u> records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the <u>requested</u> records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records. <u>Records from law</u> <u>enforcement agencies, courts or any other government entity must be certified copies.</u>

(fb) Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

(gc) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357(b), (c), (d), (e) or 11360(b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(hd) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest and/or conviction of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7. Documentation provided regarding the arrest and/or conviction must be certified copies.

(ie) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 4980.60 and 4990.20, Business and Professions Code. Reference: Sections 4980.03, 4980.60 and 4982, Business and Professions Code; Sections 1000.4 and 11166, Penal Code, and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code, and Section 15630, Welfare and Institutions Code.

## AMEND §1858. UNPROFESSIONAL CONDUCT

As used in Section 4989.54 of the <u>Code</u>, unprofessional conduct includes, but is not limited to:

(a) Impersonates a licensee or allows another person to use his or her license.

(b) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

(eb) Failure to provide to the board, as authorized by law, copies of <u>requested</u> records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide <u>copies of</u> the <u>requested</u> records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the <u>requested</u> records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records. <u>Records from law</u> <u>enforcement agencies, courts or any other government entity must be certified copies.</u>

(dc) Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

(ed) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(fe) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest <u>and/or conviction</u> of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7. Documentation provided regarding the arrest and/or conviction must be certified copies.

(<u>gf</u>) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section 4989.18 and 4990.20, Business and Professions Code. Reference: Sections 4989.18 and 4989.54, Business and Professions Code, Section 1000.4, Penal Code, and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code.

## AMEND §1881. UNPROFESSIONAL CONDUCT

As used in Section 4992.3 of the Ceode, unprofessional conduct includes, but is not limited to:

(a) Misrepresents the type or status of license held by such person or otherwise misrepresents or permits the misrepresentation of his or her professional qualifications or affiliations.

(ba) <u>Impersonates Impersonating</u> a licensee or <u>who allows allowing</u> another person to use his or her license.

-(c) Aids or abets an unlicensed person to engage in conduct requiring a license.

(d) Intentionally or recklessly causes physical or emotional harm to a client.

(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.

(f) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of a Licensed Clinical Social Worker.

(g) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.

(hb) <u>PermitsPermitting</u> a person under his or her supervision or control to perform or <u>permitspermitting</u> such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.

(i) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.

-(j) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.

(k) Advertises in a manner which is false or misleading.

(I) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. The licensee shall limit access to such test or device to persons with professional interest who are expected to safeguard their use.

(m) Commits an act or omission which falls sufficiently below that standard of conduct of the profession as to constitute an act of gross negligence.

(n) Pays, accepts or solicits any consideration, compensation or remuneration for the referral of professional clients. All consideration, compensation or remuneration must be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for such collaboration except when disclosure of such fee is made in compliance with subparagraph (j) above.

(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.

-(p) Fails to comply with the elder and dependent adult abuse reporting requirements of Welfare and Institution Code Section 15630.

(qc) Failure to provide to the board, as authorized by law, copies of <u>requested</u> records within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee or registrant is unable to provide <u>copies of</u> the <u>requested</u> records within this time period for good cause. Good cause includes, but is not limited to, physical inability to access the <u>requested</u> records in the time allowed due to illness or travel, or inability to obtain the necessary patient release authorization, if applicable. This subsection shall not apply to a licensee or registrant who does not have access to, and control over, medical records. <u>Records from law</u> <u>enforcement agencies, courts or any other government entity must be certified copies.</u>

(rd) Failure to cooperate and participate in any board investigation pending against the licensee or registrant. This subsection shall not be construed to deprive a licensee, registrant, or a consumer of any rights or privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory rights or privileges. This subsection shall not be construed to require a licensee or registrant to cooperate with a request that would require the licensee, registrant, or a consumer to waive any constitutional or statutory rights or privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's or registrant's practice. Any exercise by a licensee or registrant of any constitutional or statutory rights or privilege shall not be used against the licensee or registrant in a regulatory or disciplinary proceeding against the licensee or registrant.

(se) Failure to report to the board within 30 days any of the following:

(1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357 (b), (c), (d), (e), or 11360 (b). A conviction includes any verdict of guilty, or plea of guilty or no contest.

(2) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(tf) Failure to provide, within 30 days of a request, documentation to the Board regarding the arrest <u>and/or conviction</u> of the licensee or registrant, except for records of convictions or arrests protected under Penal Code section 1000.4, or Health and Safety Code sections 11361.5 and 11361.7. <u>Documentation provided regarding the arrest and/or conviction must be certified copies.</u>

(ug) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Note: Authority cited: Section\_4990.20, Business and Professions Code. Reference: Sections 4990.20, 4992.3, 4992.3 and 4996.11, Business and Professions Code; Sections 1000.4 and 11166, Penal Code, and Sections 11357, 11360, 11361.5 and 11361.7, Health and Safety Code, and Section 15630, Welfare and Institution Code.

### AMEND §1886.40. AMOUNT OF FINES

(a) For purposes of this section, a "citable offense" is defined as any violation of the statutes and regulations enforced by the Board of Behavioral Sciences, including Chapters 13, 13.5, 14, and 16 of Division Two of the Business and Professions Code, and Title 16, Division 18, California Code of Regulations, and the Confidentiality of Medical Information Act (Civil Code Section 56 et seq.).

(b) The executive officer of the board may assess fines for citable offenses which shall not exceed two thousand five hundred dollars (\$2,500) for each investigation except as otherwise provided in this section. The executive officer shall not impose any duplicate fines for the same violation.

(c) The executive officer of the board may assess fines for citable offenses which shall not exceed five thousand (\$5,000) for each investigation if the violation or count includes one or more of the following circumstances:

(1) The cited person has a history of two or more prior citations for similar violations, except for citations withdrawn or dismissed after appeal.

(2) The citation involves multiple violations that demonstrate a willful disregard of the statutes or regulations.

(3) The citation is for a violation or violations involving a minor, elder or dependent adult, or a person with a physical or mental disability as defined in Section 12926 of the Government Code.

(4) The citation involves unlicensed practice.

(5) The citation involves an unlawful or unauthorized breach of confidentiality.

(6) The citation is for failure to submit fingerprints to the Department of Justice as required by the Board.

(d) The executive officer of the board may assess fines which shall not exceed five thousand dollars (\$5,000) for each violation or count if the violation or count involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

Note: Authority cited: Sections 125.9, 148, 149, 4980.60, 4989.18, and 4990.20, Business and Professions Code, and Section 56.36, Civil Code. Reference: Sections 123, 125, 125.9, 136, 141, 148, 149, 480, 702, 651, 654.2, 703, 728, 4980, 4980.02, 4980.30, 4980.43, 4980.44, 4980.45, 4980.46, 4980.48, 4982, 4982.25, 4984, 4987.7, 4987.8, 4988, 4988, 4988.1, 4989.10, 4989.12, 4989.14, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, 4989.34, 4989.54, 4992.3, 4992.36, 4996, 4996.5, 4996.7, 4996.8, 4996.9, 4996.16, 4996.18, 4996.19, 4996.22, 4996.23, 4998.2, 4998.3, 4998.4, 4998.1, 4998.5, 4999.20, 4999.24, 4999.30, 4999.32, 4999.33, 4999.42, 4999.44, 4999.45, 4999.46, 4999.54, 4999.58, 4999.60, and 4999.90, 4999.124, and 4999.128,4999.76. Business and Professions Code; Section 56.36, Civil Code; and Section 15630, Welfare and Institutions Code; and Section 12926, Government Code.

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# ATTACHMENT B CIVIL CODE SECTION 56.36

## Civil Code §56.36.

(a) A violation of the provisions of this part that results in economic loss or personal injury to a patient is punishable as a misdemeanor.

(b) In addition to any other remedies available at law, an individual may bring an action against a person or entity who has negligently released confidential information or records concerning him or her in violation of this part, for either or both of the following:

(1) Except as provided in subdivision (e), nominal damages of one thousand dollars (\$1,000). In order to recover under this paragraph, it is not necessary that the plaintiff suffered or was threatened with actual damages.

(2) The amount of actual damages, if any, sustained by the patient.

(c) (1) In addition, a person or entity that negligently discloses medical information in violation of the provisions of this part shall also be liable, irrespective of the amount of damages suffered by the patient as a result of that violation, for an administrative fine or civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation.

(2) (A) A person or entity, other than a licensed health care professional, who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable for an administrative fine or civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation.

(B) A licensed health care professional who knowingly and willfully obtains, discloses, or uses medical information in violation of this part shall be liable on a first violation for an administrative fine or civil penalty not to exceed two thousand five hundred dollars (\$2,500) per violation, on a second violation for an administrative fine or civil penalty not to exceed ten thousand dollars (\$10,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation. This subdivision shall not be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for a violation of this part.

(3) (A) A person or entity, other than a licensed health care professional, who knowingly or willfully obtains or uses medical information in violation of this part for the purpose of financial gain shall be liable for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation and shall also be subject to disgorgement of any proceeds or other consideration obtained as a result of the violation.

(B) A licensed health care professional who knowingly and willfully obtains, discloses, or uses medical information in violation of this part for financial gain shall be liable on a first violation for an administrative fine or civil penalty not to exceed five thousand dollars (\$5,000) per violation, on a second violation for an administrative fine or civil penalty not to exceed twenty-five thousand dollars (\$25,000) per violation, or on a third and subsequent violation for an administrative fine or civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation and shall also be subject to

disgorgement of any proceeds or other consideration obtained as a result of the violation. This subdivision shall not be construed to limit the liability of a health care service plan, a contractor, or a provider of health care that is not a licensed health care professional for any violation of this part.

(4) This subdivision shall not be construed as authorizing an administrative fine or civil penalty under both paragraphs (2) and (3) for the same violation.

(5) A person or entity who is not permitted to receive medical information pursuant to this part and who knowingly and willfully obtains, discloses, or uses medical information without written authorization from the patient shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) per violation.

(d) In assessing the amount of an administrative fine or civil penalty pursuant to subdivision (c), the State Department of Public Health, licensing agency, or certifying board or court shall consider any of the relevant circumstances presented by any of the parties to the case including, but not limited to, the following:

(1) Whether the defendant has made a reasonable, good faith attempt to comply with this part.

(2) The nature and seriousness of the misconduct.

(3) The harm to the patient, enrollee, or subscriber.

(4) The number of violations.

(5) The persistence of the misconduct.

(6) The length of time over which the misconduct occurred.

(7) The willfulness of the defendant's misconduct.

(8) The defendant's assets, liabilities, and net worth.

(e) (1) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2013, in which the defendant establishes the affirmative defense in paragraph (2), the court shall award any actual damages and reasonable attorney's fees and costs, but shall not award nominal damages for a violation of this part.

(2) The defendant is entitled to an affirmative defense if all of the following are established, subject to the equitable considerations in paragraph (3):

(A) The defendant is a covered entity or business associate, as defined in Section 160.103 of Title 45 of the Code of Federal Regulations, in effect as of January 1, 2012.

(B) The defendant has complied with any obligations to notify all persons entitled to receive notice regarding the release of the information or records.

(C) The release of confidential information or records was solely to another covered entity or business associate.

(D) The release of confidential information or records was not an incident of medical identity theft. For purposes of this subparagraph, "medical identity theft" means the use of an individual's personal information, as defined in Section 1798.80, without the

individual's knowledge or consent, to obtain medical goods or services, or to submit false claims for medical services.

(E) The defendant took appropriate preventive actions to protect the confidential information or records against release consistent with the defendant's obligations under this part or other applicable state law and the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) (HIPAA) and all HIPAA Administrative Simplification Regulations in effect on January 1, 2012, contained in Parts 160, 162, and 164 of Title 45 of the Code of Federal Regulations, and Part 2 of Title 42 of the Code of Federal Regulations, and Part 2 of the following:

(i) Developing and implementing security policies and procedures.

(ii) Designating a security official who is responsible for developing and implementing its security policies and procedures, including educating and training the workforce.

(iii) Encrypting the information or records, and protecting against the release or use of the encryption key and passwords, or transmitting the information or records in a manner designed to provide equal or greater protections against improper disclosures.

(F) The defendant took reasonable and appropriate corrective action after the release of the confidential information or records, and the covered entity or business associate that received the confidential information or records destroyed or returned the confidential information or records in the most expedient time possible and without unreasonable delay, consistent with any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. A court may consider this subparagraph to be established if the defendant shows in detail that the covered entity or business associate could not destroy or return the confidential information or records because of the technology utilized.

(G) The covered entity or business associate that received the confidential information or records, or any of its agents, independent contractors, or employees, regardless of the scope of the employee's employment, did not retain, use, or release the information or records.

(H) After the release of the confidential information or records, the defendant took reasonable and appropriate action to prevent a future similar release of confidential information or records.

(I) The defendant has not previously established an affirmative defense pursuant to this subdivision, or the court determines, in its discretion, that application of the affirmative defense is compelling and consistent with the purposes of this section to promote reasonable conduct in light of all the facts.

(3) (A) In determining whether the affirmative defense may be established pursuant to paragraph (2), the court shall consider the equity of the situation, including, but not limited to, (i) whether the defendant has previously violated this part, regardless of whether an action has previously been brought, and (ii) the nature of the prior violation.

(B) To the extent the court allows discovery to determine whether there has been any other violation of this part that the court will consider in balancing the equities, the defendant shall not provide any medical information, as defined in Section 56.05. The

court, in its discretion, may enter a protective order prohibiting the further use of any personal information, as defined in Section 1798.80, about the individual whose medical information may have been disclosed in a prior violation.

(4) In an action under this subdivision in which the defendant establishes the affirmative defense pursuant to paragraph (2), a plaintiff shall be entitled to recover reasonable attorney's fees and costs without regard to an award of actual or nominal damages or the imposition of administrative fines or civil penalties.

(5) In an action brought by an individual pursuant to subdivision (b) on or after January 1, 2013, in which the defendant establishes the affirmative defense pursuant to paragraph (2), a defendant shall not be liable for more than one judgment on the merits under this subdivision for releases of confidential information or records arising out of the same event, transaction, or occurrence.

(f) (1) The civil penalty pursuant to subdivision (c) shall be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by any of the following:

(A) The Attorney General.

(B) A district attorney.

(C) A county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance.

(D) A city attorney of a city.

(E) A city attorney of a city and county having a population in excess of 750,000, with the consent of the district attorney.

(F) A city prosecutor in a city having a full-time city prosecutor or, with the consent of the district attorney, by a city attorney in a city and county.

(G) The State Public Health Officer, or his or her designee, may recommend that a person described in subparagraphs (A) to (F), inclusive, bring a civil action under this section.

(2) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in paragraph (3), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered and one-half to the treasurer of the county in which the judgment was entered.

(3) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered.

(4) This section shall not be construed as authorizing both an administrative fine and civil penalty for the same violation.

(5) Imposition of a fine or penalty provided for in this section shall not preclude imposition of other sanctions or remedies authorized by law.

(6) Administrative fines or penalties issued pursuant to Section 1280.15 of the Health and Safety Code shall offset any other administrative fine or civil penalty imposed under this section for the same violation.

(g) For purposes of this section, "knowing" and "willful" shall have the same meanings as in Section 7 of the Penal Code.

(h) A person who discloses protected medical information in accordance with the provisions of this part is not subject to the penalty provisions of this part.

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Legislative Analyst

To:Board MembersDate:February 15, 2017From:Rosanne HelmsTelephone:(916) 574-7897

# Subject: Enforcement Regulations: Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

Staff is proposing several revisions to the Board's Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015), (Uniform Standards/Guidelines) which are incorporated by reference into California Code of Regulations (CCR) Title 16, Section 1888.

#### **Proposed Changes**

# (\*\*Note – Page number references for proposed changes are referring to the page number in the bottom left-hand corner of the Uniform Standards/Guidelines document.\*\*)

#### 1. Amendment to CCR §1888: References to Disciplinary Guidelines

This section refers to the "Disciplinary Guidelines" as listed in the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" document, which is incorporated by reference in this section. However, DCA Legal has noted that there is not an actual section in the document identified as "Disciplinary Guidelines." There is a section called "Penalty Guidelines," which lists minimum and maximum penalties for every violation category. Therefore, language referencing sections of this document have been revised for clarity. There are now references to "Uniform Standards Related to Substance Abuse," and references to "Penalty Guidelines."

# 2. Amendment to CCR §1888 and Uniform Standards: Violations Involving Abuse of Drugs and/or Alcohol

As written, this section states that every violation that involves the <u>use</u> of drugs and/or alcohol must comply with the Uniform Standards Related to Substance Abuse. At the time this was written, it was believed that this is what the statutes establishing the Uniform Standards required.

However, the Attorney General's Office has since issued a formal opinion (AG Opinion No. 13-02). This opinion found that boards must use the Uniform Standards in all cases which they apply, and that boards may establish a regulation defining a "substance abusing licensee" for purpose of determining who is subject to the Uniform Standards, as long as the regulation is consistent with Business and Professions Code Section 315. DCA Legal has since concurred that a board may use discretion in imposing the Uniform Standards based on whether a licensee is found to be a substance abusing licensee. Based on these new determinations, DCA Legal has recommended Section 1888 be amended to clarify that if a violation involves the <u>abuse</u> of drugs and/or alcohol, then the violation is presumed to be a substance abuse violation. If the licensee does not rebut the presumption, then the Uniform Standards apply.

A paragraph clarifying the process of determining substance abuse has also been added to Section I of the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines." (Pg. 4)

#### 3. Penalty Guideline Reference Changes (Pgs. 14-27)

Some of the statute and regulation section references in the Penalty Guidelines needed to be updated as a result of the amendments outlined in this document, or based on recent changes to statute or regulation.

#### 4. Penalty Guidelines: Suspension as a Minimum Term (Pgs. 15-24)

Several of the violations in the Penalty Guidelines list suspension of a certain number of days (which is defined depending on the violation) as a minimum penalty. At times, the Board does not believe suspension is appropriate, especially if the licensee or registrant is not being required to undergo a clinical diagnostic evaluation. However, if suspension is listed as a minimum penalty, the Board must suspend regardless of the circumstances.

To allow the Board more discretion, all instances of suspensions being included as a minimum penalty have been moved to the "if warranted" condition within that minimum penalty.

# 5. Penalty Guidelines: Impaired Ability to Function Safely Due to Mental/Physical Illness (Pg. 17)

This proposed amendment makes a minor, technical change to clarify that the code section reference for LEPs is in the Business and Professions Code.

#### 6. Penalty Guidelines: Gross Negligence/Incompetence (Pg. 20)

This portion of the penalty guidelines provides minimum and maximum penalties for gross negligence and incompetence.

A minor, technical change has been made to the statute reference to Business and Professions Code (BPC) section 4992.3 (LCSW statute). Right now, only 4992.3(d) is referenced (incompetence). Section 4992.3(e) should be referenced as well (gross negligence).

# 7. Add to Penalty Guidelines: Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18 (Pg. 26)

SB 1172 (Lieu, Chapter 835, Statutes of 2012) made it unprofessional conduct to engage in any sexual orientation change efforts with a patient under the age of 18. This violation is not included in the Penalty Guidelines yet.

This proposed amendment would add minimum and maximum penalties for engaging in sexual orientation change efforts with a minor, to the Penalty Guidelines. Staff chose to use the same minimum and maximum penalties used for the unprofessional conduct violation of *"Intentionally / Recklessly Causing Physical or Emotional Harm to Client."* The Committee may wish to discuss if the penalties chosen are appropriate.

# 8. Add to Penalty Guidelines: Consumer Protection Enforcement Initiative Unprofessional Conduct Provisions (Pg. 27)

The Board added five unprofessional conduct provisions via regulation for each license type based on direction from the Department of Consumer Affairs' Consumer Protection Enforcement Initiative (CPEI). These provisions, which became effective July 1, 2013, pertain to Board investigations, and include such violations as failing to provide records or arrest documentation, or failure to cooperate in a Board investigation. These new violations are not included in the Penalty Guidelines yet.

This proposed amendment would add minimum and maximum penalties for each of these five new unprofessional conduct provisions to the Penalty Guidelines. Staff used a selection of the minimum and maximum penalties used for the unprofessional conduct violations of *"General Unprofessional Conduct"* and *"Violations of the Chapter or Regulations by Licensees or Registrants"* as a guide. The Committee may wish to discuss if the penalties chosen are appropriate.

#### 9. Amendment to Part III: Model Disciplinary Orders (Pg. 29)

At its February 3, 2017 meeting, the Policy and Advocacy Committee requested that a public reprimand be added as a disciplinary option for violations that are not severe enough to warrant probation and do not compromise public protection.

This option was added to Part III of the Uniform Standards/Disciplinary Guidelines, under the "Model Disciplinary Orders" section. This section discusses the terms and conditions of probation available to the Board for various violations.

# 10. Amendment to Optional Term and Condition of Probation: Clinical Diagnostic Evaluation (Pg. 30)

This amendment clarifies that if a clinical diagnostic evaluation is required, the Board shall be responsible for appointing the evaluator. Currently, it is not clear whether the probationer or the Board must select the evaluator. The Board already is required to select the evaluator when a psychological evaluation is ordered; this proposed amendment makes the selection consistent with that process.

Minor amendments have also been made to state the <u>evaluator</u> must submit the written evaluation to the Board within 10 days.

This term has also been moved from being term #4 to being term #2. It is a more commonly used term than the "Psychological/Psychiatric Evaluation," and therefore the Enforcement Unit believed that placing it higher in the list was appropriate.

#### 11. Amendment to Optional Term and Condition of Probation: Psychotherapy (Pg. 31)

Clarifications were made to the language and the timeframe for a Respondent choose a therapist was increased from 15 days to 30 days. The 30 day timeframe is consistent with the timeframe to respond to other types of disciplinary requirements.

If the psychotherapist finds Respondent is not safe to practice, the timeframe that the therapist has to notify the Board has been reduced from 3 working days down to 1 working day, in order to ensure consumer protection.

#### 12. Amendment to Optional Term and Condition of Probation: Supervised Practice (Pg. 32)

Currently, if a probationer is required to have supervised practice, the supervisor must be currently licensed and in the probationer's same field, but there are no other qualifications specified. An amendment has been made to state that the supervisor must meet the same requirements as supervisors of registrants who are gaining supervised experience, as defined in statute.

In addition, currently, if a probationer under supervision learns that his or her supervisor is no longer available to supervise, he or she has 15 days to report this information to the Board. The Enforcement Unit has requested an amendment reducing this reporting timeframe to 3 days.

# 13. Amendment to Optional Term and Condition of Probation: Education (Pg. 33) and Law and Ethics Course (Pg. 36)

Language has been amended to specify that required educational coursework must be taken either from an approved educational institution, or through a course approved by the Board. Language specifying the course must be taken at a graduate level offering a qualifying degree has been removed, because these institutions often won't accept individuals who are not seeking a degree.

At the August 19, 2016 Board meeting, the Board indicated that in some cases, requiring a probationer to take and pass the California Law and Ethics examination may be more meaningful than requiring a law and ethics course. There are currently three violations for which taking a law and ethics course is listed as a minimum penalty:

- General Unprofessional Conduct;
- Commission of a Dishonest, Corrupt, or Fraudulent Act; and
- Paying, Accepting, or Soliciting a fee for Referrals

The Penalty Guidelines for these three terms has been amended to state that if warranted, the minimum penalty can be either taking a law and ethics course or taking and passing the licensure examination(s). (pgs. 20, 22, 25) This gives the Board the discretion to determine which penalty would be most helpful in a particular case.

# 14. Amendment to Optional Term and Condition of Probation: Take and Pass Licensure Examinations (Pg. 33)

At its August 19, 2016 meeting, the Board directed staff to add taking and passing the California law and ethics examination as an optional term and condition of probation.

Currently, the Guidelines include optional term #7, "Take and Pass Licensure Examinations." Upon review of the term, staff believes that as written, this term could be interpreted to mean that the probationer must take the California Law and Ethics exam, the clinical exam, both of these exams, or the LEP exam (as applicable). However, it is not completely clear if all licensing exams must be taken, or if only one may be prescribed.

Splitting the term into two terms, one for the California law and ethics exam, and one for the clinical exam, could be problematic because the language would then no longer recognize the LEP exam. It would also require the Board to determine which specific exams (if any) are appropriate for each of the penalty categories, when that may be best decided by the Board on a case-by-case basis.

Instead, staff has amended the existing language to clarify that the Board may prescribe a probationer to take one or both of the required licensing exams, as it deems appropriate.

# 15. New Optional Term and Condition of Probation: Attend Dependency Support Program (Pg. 33)

This amendment adds a new optional term of probation requiring, if the Board so chooses, the probationer to attend a dependency support program. Alcoholics Anonymous is an example of such a program. The Board sometimes requires this as a term of probation, even though it is currently not included in the list of "Optional Terms and Conditions of Probation".

The proposed language for the new term was developed by the Attorney General's office with the assistance of Board staff.

Attending a dependency support program has also been added as an "if warranted" minimum term in the Penalty Guidelines for violations involving substance abuse.

#### 16. New Optional Term and Condition of Probation: Relapse Prevention Program (Pg. 34)

This proposed amendment adds a new optional term of probation requiring, if the Board so chooses, the probationer to enter a relapse prevention program. This type of program is typically attended after completion of rehabilitation and monitoring program, in order to help prevent the attendee from relapsing. The Board sometimes requires this as a term of probation, even though it is currently not included in the list of "Optional Terms and Conditions of Probation".

The proposed language for the new term was developed by the Attorney General's office with the assistance of Board staff.

Attending a relapse prevention program has also been added as an "if warranted" minimum term in the Penalty Guidelines for violations involving substance abuse.

#### 17. Amendment to Optional Term and Condition of Probation: Monitor Billing System (Pg. 36)

An amendment states that failure to pay for billing system monitoring in a timely fashion is a violation of probation. This mirrors language that is already in the "Monitor Billing System Audit" term of probation.

# Amendment to Standard Term and Condition of Probation: Failure to Practice – Tolling (Pg. 39)

This term of probation currently states that if the probationer does not practice for a total of two years, his or her license or registration will be automatically cancelled.

In a 2006 case involving the Medical Board, a court ruled that this term violated the Constitutional right to due process if there was not a hearing. Therefore, this sentence must be removed. DCA Legal has proposed it be replaced with the following sentence:

"Absent good cause, the failure to practice for a total of two years shall be a violation of probation."

#### 19. Amendment to Standard Term and Condition of Probation: Reimbursement of Probation Program (Pg. 41)

The amount the Board charges for reimbursement of probation is \$1,200 per year. This is an amount that was established by the Board several years ago, and applies to all probationers uniformly. It assumes an average staff monitoring cost of \$100 per month per probationer. Because this is a standard cost that is not subject to change or negotiation, staff proposes including the rate of \$1,200 per year, instead of leaving the standard language blank and having the amount filled in later.

### 20. Amendment to Standard Term and Condition of Probation: Cost Recovery (Pg. 41)

A technical amendment has been made. Instead of requiring that a cost recovery payment plan tailored to each probationer be incorporated into the text of this term, this amendment proposes including a statement that the respondent shall make payments pursuant to a payment plan outlined by the Board. This allows the payment plan to be provided as a separate document.

In addition, an amendment has been made to let a probationer know that he or she may make an electronic payment online via the Board's website instead of via check or money order. This option is a new feature of the Board's Breeze database system, and was not previously available.

#### 21. Recommended Language for License Surrenders (Pg. 42)

Section IV, "Board Policies and Guidelines," contains recommended language for the Attorney General and the Board's enforcement staff to use for license surrenders.

Most of this language, starting with the third paragraph, is labeled "Contingency" language, which designates that the license surrender is subject to the Board's approval. The remaining paragraphs under the header are not "contingency" and are incorrectly labeled as such.

The term used by the Attorney General's office for the remaining paragraphs is "Order." Therefore, these paragraphs have been correctly labeled "Order" so that staff and the Attorney General's office can more easily find and use this language.

#### 22. Recommended Language for Applicants and Registrants (Pg. 43)

Business and Professions Code (BPC) Section 23.7 states that the use of the term "license", when used in the Business and Professions Code, also includes the term "registration" within its meaning. In other words, when the law uses the term "license", that reference includes both license holders and those who hold a registration.

This fact is confusing to many registrants. When they read their terms and conditions of probation and come across the term "license", they often do not realize that it also applies to them. To clarify, the proposed amendment provides recommended language for inclusion in the Disciplinary Orders for applicants for registration and registrants, explaining that the use of the term "license" also includes "registration."

#### 23. Reinstatement/Reduction of Penalty Hearings (Pg. 44)

Section IV contains factors for the Board to consider when determining whether to reinstate a license or registration or whether to reduce a penalty. Several factors are listed. However, BPC Section 4990.30 also lists different factors for the Board to consider, which are not included here.

For consistency, the factors listed in Section 4990.30 have been added to the list, in order to be consistent with the law.

An errant reference to BPC Section 4982.2, which no longer exists, has also been corrected.

# 24. Prior Relationship with Probation-Required Supervisor, Evaluator, or Therapist (Pgs. 5, 6, 7, 31, 32)

As a term or condition of probation licensee or registrant may be required to see a therapist, have a clinical diagnostic evaluation, undergo supervised practice, or attend a chemical dependency support or recovery group.

The Guidelines currently prohibit a personal, professional, or business relationship with one's supervisor, clinical diagnostic evaluator, therapist, or with the meeting facilitator of a chemical dependency support or recovery group.

The Enforcement Unit has had several instances of probationers wanting to utilize a therapist whom they have already seen for therapy for one of these roles. This is counter to the intent of the law, that there is no "personal" or "professional" relationship. However, several probationers have argued that a personal or professional relationship is not the same as a therapeutic relationship. In order to clarify the intent of the law, a "therapeutic" relationship has been added to the list of prohibited relationships for each of these roles.

#### 25. Other Minor Technical or Clarifying Changes

Staff made other minor technical or clarifying changes as needed. Notable areas where such changes were made are as follows:

- Minor clarifications were made to language in the section discussing major and minor violations (Pg. 8).
- Drug testing frequency: minor clarifying changes were made to the language about exceptions to the drug testing schedule if the licensee has demonstrated previous testing (Pg. 11).
- Optional Terms: Supervised Practice (Pgs. 32/33) and Physical Evaluation (Pgs. 35/36) minor clarifying changes were made.
- Optional Term: Rehabilitation Program (Pg. 34) This optional term of probation has been renamed "Rehabilitation and Monitoring Program."
- Standard Term: Violation of Probation (Pg. 40) minor clarifying changes were made to describe the methods the Board may use to impose discipline (by filing an accusation, petition to revoke probation, or statement of issues).
- Capitalization of Certain Terms in the Guidelines The terms "Respondent," "Order," and "Decision," have been capitalized, where appropriate, in the Guidelines, in order to be consistent with the way these terms are capitalized in official court documents.
- Other minor technical changes including capitalization, grammar, and spacing corrections, as needed.

#### Policy and Advocacy Committee

The Policy and Advocacy Committee discussed the proposed language at its February 3, 2017 meeting. At that meeting, the Committee directed staff to make some changes, and to bring to the Board for consideration as a regulatory proposal.

#### Recommendation

Conduct an open discussion of the proposed regulations. Direct staff to make any discussed changes and any non-substantive changes to the proposed language and to commence the rulemaking process.

#### Attachments

Attachment A: CCR § 1888 and Proposed Amendments to Enforcement Regulations: Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

# ATTACHMENT A PROPOSED AMENDMENTS TO ENFORCEMENT REGULATIONS: UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

### CALIFORNIA CODE OF REGULATIONS (CCR) TITLE 16, §1888. UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

(a) In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board of Behavioral Sciences shall consider the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines" [Rev. October 2015OAL TO INSERT EFFECTIVE DATE] (Guidelines/Disciplinary Guidelines) which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; the Uniform Standards Related to Substance Abuse apply to cases of substance abuse. Part I, Uniform Standards Related to Substance Abuse, applies to cases of substance abuse. Part II, Penalty Guidelines, applies to all disciplinary matters. Deviation from the Penalty Guidelines, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems. Deviation from the DisciplinaryPenalty Guidelines, including the standard terms of probation, is appropriate where the Board terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating – for example: the presence of mitigating – for example: the presence of mitigating probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating or aggravating factors; the age of the case; evidentiary problems.

(b) Notwithstanding subsection (a), if the conduct found to be a violation involves <u>abuse of</u> drugs and/or alcohol, the violation is <u>presumed to be</u> a substance abuse violation for purposes of Section 315 of the Code. If the licensee or registrant does not rebut <u>the presumption</u> that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse shall apply without deviation.

(c) Nothing in this section shall prohibit the Board from imposing additional terms or conditions of probation in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, 4980.60 and 4990.20, Business and Professions Code; and Section 11400.20, Government Code. Reference: Sections 315, 315.2, 315.4, 480, <u>495</u>, 4982, 4989.54, 4992.3, and 4999.90, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

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State of California

**Department of Consumer Affairs** 

**Board of Behavioral Sciences** 

# UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

Revised: October 2015 (OAL to Insert Effective Date)

Additional copies of this document may be obtained by contacting the Board at its office in Sacramento, California, or from its web site at www.bbs.ca.gov.

# INTRODUCTION

The Board of Behavioral Sciences (hereinafter "the Board") is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following uniform standards related to substance abuse and recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of four parts:

I. Uniform Standards Related to Substance Abuse – for those licensees and registrants with a violation related to alcohol and/or a controlled substance, or whose license or registration is on probation due to a substance abuse violation;

II. Penalty Guidelines - an identification of the types of violations and range of penalties for which discipline may be imposed;

III. Model Disciplinary Orders - language for proposed terms and conditions of probation; and

IV. Board Policies and Guidelines – for various enforcement actions.

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

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# I. Uniform Standards Related to Substance Abuse

# Uniform Standards For Licensees Or Registrants Whose License Or Registration Is On Probation Due To A Substance Abuse Violation

Whether the Board's Uniform Standards Related to Substance Abuse apply depends on whether the licensee or registrant is found to be a substance abusing licensee. If the conduct found to be a violation involves the abuse of drugs and/or alcohol, the violation is presumed to be a substance abuse violation. If the licensee or registrant does rebut the presumptive finding that the violation is a substance abuse violation, then the Uniform Standards Related to Substance Abuse do not have to be used. Conversely, if the licensee or registrant does not rebut the presumption, then the Uniform Standards Related to Substance Abuse must be used, without deviation. The Board may order a licensee or registrant to undergo a psychological evaluation or clinical diagnostic evaluation by an evaluator approved by the Board to determine whether he or she has a substance abuse problem.

The following standards shall apply in all cases in which a license or registration is placed on probation due, in part, to a substance abuse violation, unless the licensee or registrant rebuts that the violation is a substance abuse violation.

## **Clinical Diagnostic Evaluations**

Whenever a licensee or registrant is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health care professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

The following practice restrictions apply to each licensee or registrant who undergoes a clinical diagnostic evaluation:

- 1. The Board shall suspend the license or registration during the clinical diagnostic evaluation pending the results of the clinical diagnostic evaluation and review by the Board.
- 2. While awaiting the results of a clinical diagnostic evaluation, the licensee or registrant shall be randomly drug tested at least two (2) times per week.

## **Clinical Diagnostic Evaluation Report**

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee or registrant has a substance abuse problem, whether the licensee or registrant is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice, restrictions, or other recommendations related to the licensee or registrant's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, business<u>, or professional, or therapeutic</u> relationship with the licensee or registrant. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee or registrant is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluations, a final written report shall be provided to the Board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 calendar days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee or registrant is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee or registrant based on the application of the following criteria:

- 1. License or registration type;
- 2. Licensee or registrant's history;
- 3. Documented length of sobriety;
- 4. Scope and pattern of substance abuse;
- 5. Treatment history;
- 6. Medical history;
- 7. Current medical condition;
- 8. Nature, duration and severity of substance abuse problem; and
- 9. Whether the licensee or registrant is a threat to himself or herself or others.

No licensee or registrant shall be returned to practice until he or she has at least 30 calendar days of negative drug tests.

When determining if the licensee or registrant should be required to participate in inpatient, outpatient, or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license or registration type, licensee or registrant's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee or registrant is a threat to himself or herself or others.

#### **Supervisor Requirements**

If the Board determines that a supervisor is necessary for a particular licensee or registrant, the supervisor must meet the following requirements to be considered for approval by the Board:

- The supervisor shall not have a current or former financial, personal, business, or professional, or therapeutic relationship with the licensee or registrant, or other relationship that could reasonably be expected to compromise the ability of the supervisor to render impartial and unbiased reports to the Board. If it is impractical for anyone but the licensee or registrant's employer to serve as the supervisor, this requirement may be waived by the Board; however, under no circumstances shall a licensee or registrant's supervisor be an employee or supervisee of the licensee or registrant.
- 2. The supervisor's license scope of practice shall include the scope of practice of the licensee or registrant who is being monitored or be another health care professional if no supervisor with like scope of practice is available.
- 3. The supervisor shall be a current California licensed practitioner and have an active unrestricted license, with no disciplinary action within the last five (5) years.
- 4. The supervisor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee or registrant's disciplinary order and agrees to monitor the licensee or registrant as set forth by the Board.

The supervisor must adhere to the following required methods of monitoring the licensee or registrant:

- 1. Have a face-to-face contact with the licensee or registrant in the work environment on as frequent a basis as determined by the Board, but at least once per week.
- 2. Interview other staff in the office regarding the licensee or registrant's behavior, if applicable.
- 3. Review the licensee or registrant's work attendance.

Reporting by the supervisor to the Board shall be as follows:

- Any suspected substance abuse must be orally reported to the Board and the licensee or registrant's employer within one (1) business day of occurrence. If the occurrence is not during the Board's normal business hours, the oral report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.
- 2. The supervisor shall complete and submit a written report directly to the Board monthly or as directed by the Board. The report shall include:
  - a. the licensee or registrant's name;
  - b. license or registration number;
  - c. supervisor's name and signature;
  - d. supervisor's license number;
  - e. worksite location(s);

- f. dates licensee or registrant had face-to-face contact with supervisor;
- g. worksite staff interviewed, if applicable;
- h. attendance report;
- i. any change in behavior and/or personal habits; and
- j. any indicators that can lead to suspected substance abuse.

The licensee or registrant shall complete the required consent forms and sign an agreement with the supervisor and the Board to allow the Board to communicate with the supervisor.

### **Chemical Dependency Support or Recovery Group Meetings**

If the Board requires a licensee or registrant to participate in chemical dependency support or recovery group meetings, the Board shall take the following into consideration when determining the frequency of required group meeting attendance:

- 1. the licensee or registrant's history;
- 2. the documented length of sobriety;
- 3. the recommendation of the clinical diagnostic evaluator;
- 4. the scope and pattern of substance abuse;
- 5. the licensee or registrant's treatment history; and
- 6. the nature, duration, and severity of substance abuse.

The group meeting facilitator of a chemical dependency support or recovery group that a Board licensee or registrant is required to participate in must meet the following requirements:

- 1. Have a minimum of three (3) years experience in the treatment and rehabilitation of substance abuse;
- 2. Be licensed or certified by the state or other nationally certified organizations to provide substance abuse recovery services;
- 3. Does not have a financial, personal, business, or professional, or therapeutic relationship with the licensee or registrant within the last year;
- 4. Must provide the Board a signed document showing the licensee or registrant's name, the group name, the date and location of the meeting, the licensee or registrant's attendance, and the licensee or registrant's level of participation and progress.
- 5. Must report to the Board any unexcused absence of a Board licensee or registrant being required to participate within 24 hours.

## **Major and Minor Violations**

Major violations include, but are not limited to, the following:

- 1. Failure to complete any Board-ordered program;
- 2. Failure to undergo a required clinical diagnostic evaluation;
- 3. Committing more than one minor violations of probation conditions and terms;
- 4. Treating a patient while under the influence of drugs or alcohol;
- 5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code, or other state or federal law;
- 6. Failure to report for drug and alcohol testing when ordered;
- 7. Testing positive for alcohol and/or a controlled substance;
- 8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

If a licensee or registrant commits a major violation, the Board shall automatically suspend the license or registration and refer the matter for disciplinary action or other action as determined by the Board.

The consequences for a major violation include, but are not limited to, the following:

- 1. License or registration shall be suspended;
- 2. Licensee or registrant must undergo a new clinical diagnostic evaluation;
- 3. Licensee or registrant must test negative for at least one month of continuous drug testing before being allowed to resume practice;
- 4. Contract or agreement previously made with the Board shall be terminated; and
- 5. Licensee or registrant shall be referred for disciplinary action, such as suspension, revocation, or other action determined appropriate by the Board.

Minor violations include, but are not limited to, the following:

- 1. Failure to submit required documentation in a timely manner;
- 2. Unexcused attendanceabsence at required meetings;
- 3. Failure to contact cooperate with a supervisor and/or monitor as required;
- 4. Any other violations that do not present an immediate threat to the licensee or registrant or to the public.

If a licensee or registrant commits a minor violation, the Board shall determine what action is appropriate. The consequences for a minor violation include, but are not limited to, the following:

- 1. Removal from practice;
- 2. Practice limitations;
- 3. Required supervision;
- 4. Increased documentation;
- 5. Issuance of citation and fine or a warning notice;
- 6. Required re-evaluation and/or testing.

## Positive Test for Alcohol and/or a Controlled Substance

If a licensee or registrant tests positive for alcohol and/or a controlled substance, the Board shall do the following:

- Automatically suspend the license or registration;
- Immediately contact the licensee or registrant and inform him or her that his or her license or registration has been suspended and he or she may not practice until the suspension is lifted; and
- Immediately notify the licensee or registrant's employer that the license or registration has been automatically suspended, and that he or she may not practice until the suspension is lifted.

The Board should do the following, as applicable, to determine whether a positive test for alcohol and/or a controlled substance is evidence of prohibited use:

- Consult the specimen collector and the laboratory;
- Communicate with the licensee or registrant and/or treating physician; and
- Communicate with any treatment provider, including a group facilitator.

The Board shall immediately lift the suspension if the positive drug test is not found to be evidence of prohibited use.

## **Drug Testing Standards**

The drug testing standards below shall apply to each licensee or registrant subject to drug testing. At its discretion, the Board may use other testing methods in place of, or to supplement, drug and alcohol testing, if appropriate.

- 1. Drug testing may be required on any day, including weekends and holidays.
- 2. Except as directed, the scheduling of drug tests shall be done on a random basis, preferably by a computer program.
- 3. Licensees or registrants shall be required to make daily contact as directed to determine if drug testing is required.
- 4. Licensees or registrants shall be drug tested on the date of notification as directed by the Board.
- 5. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
- 6. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.

- 7. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
- 8. Collection of specimens shall be observed.
- 9. Prior to vacation or absence, alternative drug testing location(s) must be approved by the Board.
- 10. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The Board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

Nothing herein shall limit the Board's authority to reduce or eliminate the standards specified herein pursuant to a petition for reinstatement or reduction of penalty filed pursuant to Government Code Section 11522 or statutes applicable to the Board that contain different provisions for reinstatement or reduction of penalty.

## **Drug Testing Frequency Schedule**

The Board may order a licensee or registrant to drug test at any time. In addition, each licensee or registrant shall be tested randomly according to the following drug testing frequency schedule:

Level	Year of Probation	Minimum Range Number of Random Tests
	Year 1	52-104 per year
	Years 2 through 5	36-104 per year
	After Year 5	Once per month*

\*If no positive drug tests in the previous 5 consecutive years.

The Board may increase the number of random tests required at its discretion. If the Board suspects or finds that a licensee or registrant has violated the prescribed testing program, or finds that a licensee or registrant has committed a major violation, it may re-establish the testing cycle by placing that licensee or registrant at the beginning of Level I. This is in addition to any other disciplinary action.

## **Drug Testing Frequency Schedule Exceptions**

The Board may make exceptions to the prescribed drug testing frequency schedule for the following reasons:

1. Licensee or Registrant Demonstrates Previous Testing and Sobriety

The licensee or registrant can demonstrate participation in a treatment or monitoring program which requires random testing, prior to being subject to testing by the Board. In such a case, the Board may give consideration to the previous testing by altering the testing frequency schedule so that it is equivalent to the standard to the one prescribed above.

### 2. Violations Outside of Employment

A licensee or registrant whose license or registration is placed on probation for a single conviction or incident, or two convictions or incidents, spanning greater than seven years from each other, where alcohol or drugs were a contributing factor, may bypass Level I and participate in Level II of the testing frequency schedule if the violations did not occur at work or on the way to or from work.

#### 3. Not Employed in Health Care Field

The Board may reduce testing frequency to a minimum of twelve (12) times per year if the licensee or registrant is not practicing or working in any health care field. If reduced testing frequency is established for this reason, and the licensee or registrant returns to practice, the licensee or registrant shall notify and obtain approval from the Board. The licensee or registrant shall then be subject to Level I testing frequency for at least 60 days. If the licensee or registrant had not previously met the Level I frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant had previously met the Level I frequency standard, the licensee or registrant shall be subject to Level I testing after completing Level I testing for at least 60 days.

4. Tolling

The Board may postpone all testing for any person whose probation is placed in a tolling status if the overall length of the probationary period is also tolled. The licensee or registrant shall notify the Board upon his or her return to <u>Californiapractice</u> and shall be subject to testing as provided in the testing frequency standard. If the licensee or registrant returns to practice and has not previously met the Level I testing frequency standard, the licensee or registrant shall be subject to completing a full year at Level I of the testing frequency schedule. If the licensee or registrant has previously met the Level I testing frequency standard, then Level I shall be in effect.

5. Substance Use Disorder Not Diagnosed

If a licensee or registrant is not diagnosed with a current substance use disorder, a lesser period of monitoring and toxicology screening may be adopted by the Board. This period may not be less than 24 times per year.

## Criteria to Petition to Return to Practice

In order to petition to return to full time practice, a licensee or registrant shall have demonstrated all of the following:

- 1. Sustained compliance with his or her current recovery program;
- 2. The ability to practice safely as evidenced by current work site reports, evaluations, and any other information related to his or her substance abuse;
- 3. Must have at least six (6) months of negative drug screening reports and two (2) positive supervisor reports; and
- 4. Complete compliance with the other terms and conditions of his or her program.

## Criteria to Petition for Reinstatement to Unrestricted License or Registration

In order to petition for reinstatement to a full and unrestricted license or registration, a licensee or registrant shall meet all of the following criteria:

- 1. Demonstrated sustained compliance with the terms of the disciplinary order (if applicable);
- Demonstrated successful completion of a rehabilitation <u>and monitoring</u> program (if required);
- 3. Demonstration of a consistent and sustained participation in activities that promote and support his or her recovery, including, but not limited to, ongoing support meetings, therapy, counseling, relapse prevention plan, and community activities;
- 4. Demonstrated ability to practice safely; and
- 5. Continuous sobriety for at least three (3) to five (5) years.

# **II. Penalty Guidelines**

The following is an attempt to provide information regarding violations of statutes and regulations under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter "Model Disciplinary Orders." Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. Except as provided in the Uniform Standards Related to Substance aAbuse, the Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

Statutes and Regulations Business and Professions Code: (B&P)	Violation Category	Minimum Penalty	Maximum Penalty
Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)			
LMFT: -B&P § 4982.26(k) LCSW: B&P § 4992.33 LEP: B&P § 4989.58 LPCC: B&P § 4999.90(k) GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> <li>The law requires revocation/denial of license or registration.</li> </ul>
LMFT: -B&P § 4982(aa)(1) LCSW: B&P § 4992.3(y)(1) LEP: B&P § 4989.54(y)(1) LPCC: B&P § 4999.90(z)(1)	Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure. <b>or</b> Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.	Revocation / Denial of license or registration     Cost recovery. The Board considers this reprehensible offense to warrant revocation/denial.	Revocation / Denial of license or registration     Cost recovery. The Board considers this reprehensible offense to warrant revocation/denial.

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC)	Violation Category	Minimum Penalty	Maximum Penalty
Welfare and Institutions Code: (WI)           LMFT:         -B&P § 4982.3(l), 4982.26           LCSW:         -B&P § 4992.3(l), 4992.33           CCR § 1881(f)           LEP         B&P § 4989.58	Sexual Misconduct (Anything other than as defined in B&P Section 729)	<ul> <li>Revocation stayed</li> <li>120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>Take and pass licensure examinationssexamination(s) as a condition precedent to resumption of practice</li> <li>7 years probation</li> <li>Standard terms and conditions</li> <li>Psychological/psychiatric evaluation as a condition precedent to resumption of practice</li> <li>Supervised practice</li> <li>Psychological/psychiatric evaluation as a condition precedent to resumption of practice</li> <li>Supervised practice</li> <li>Psychotherapy</li> <li>Education</li> <li>Take and pass licensure examination(s)</li> <li>Reimbursement of probation program And if warranted;:         <ul> <li>120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation</li> <li>e finter and complete a rehabilitation and monitoring program approved by the Board;</li> <li>Attend dependency support program</li> <li>Attend relapse prevention program</li> <li>Gubatian from controlled substances/use of alcohol;</li> <li>e Submit to drug and alcohol testing;</li> <li>rReimbursement of probation program</li> </ul> </li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> <li>(See B&amp;P 4982.26, 4989.58_4992.33)</li> <li>The Board considers this reprehensible offense to warrant revocation/denial.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
LMFT:         -B&P § 4982(k)           LCSW:         B&P § 4992.3(l)           -CCR § 1881(f)           LEP:         B&P § 4989.54(n)           LPCC:         B&P § 4999.90(k)           GP:         B&P § 480	Commission of an Act Punishable as a Sexually Related Crime	<ul> <li>Revocation stayed</li> <li>120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>Psychotherapy</li> <li>5 years probation; standard terms and conditions</li> <li>Psychological/psychiatric evaluation as a condition precedent to the resumption of practice</li> <li>Supervised practice</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> <li>And if warranted;:         <ul> <li>fRestricted practice;</li> <li>120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation</li> </ul> </li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>

Statutes and Regulations Business and Professions Code: (B&P)	Violation Category	Minimum Penalty	Maximum Penalty
Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)			
LMFT:         -B&P § 4982(c),           _4982.1           LCSW:         B&P § 4992.3(c),           _4992.35           LEP:         B&P § 4999.90(c)           GP:         B&P § 480, 820	Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency	<ul> <li>Revocation stayed</li> <li>60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation</li> <li>5 years probation; standard terms and conditions</li> <li>Supervised practice</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs. In addition:</li> <li>MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy.</li> <li>PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice</li> <li>CHEMICAL DEPENDENCY Random drug and alcohol testing, psychological/psychiatric /clinical diagnostic evaluation; supervised practice; therapy; rehabilitation and monitoring program; abstain from controlled substances/use of alcohol; and if warranted: attend dependency support program; attend relapse prevention program; restricted practice.</li> <li>If warranted:</li> <li>If warranted:</li> <li>60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>

Statutes and Regulations Business and Professions Code: (B&P)	Violation Category	Minimum Penalty	Maximum Penalty
Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)			
LMFT:         -B&P § 4992.3(c), 4992.35           LEP:         _B&P § 4999.3(c), 4999.35           LEP:         _B&P § 4999.90(c)           GP:         B&P § 480	Chemical Dependency / Use of Drugs With Client While Performing Services	<ul> <li>Revocation stayed</li> <li>120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and to implement any recommendations from that evaluation</li> <li>Random drug and alcohol testing</li> <li>5 years probation</li> <li>Standard terms and conditions</li> <li>Psychological/psychiatric/clinical diagnostic evaluation</li> <li>Supervised practice</li> <li>Education</li> <li>Supervised practice</li> <li>Education</li> <li>Rehabilitation and monitoring program</li> <li>Abstain from controlled substances/use of alcohol</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> <li>And if warranted-<u>r;</u> <ul> <li>pPsychotherapy;</li> <li>rfRestricted practice</li> <li>Attend dependency support program</li> <li>Attend relapse prevention program</li> <li>g120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric clinical diagnostic evaluation and such additional time as may be necessary to obtain and review</li> </ul></li></ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR)	Violation Category	Minimum Penalty	Maximum Penalty
General Provisions: (GP)         Penal Code: (PC)         Welfare and Institutions Code: (WI)         LMFT:       -B&P § 4982.3(j)         CCR § 1881(d)         LEP:       B&P § 4999.30(i)         -GP:       B&P § 4999.90(i)         -GP:       B&P § 480	Intentionally / Recklessly Causing Physical or Emotional Harm to Client	<ul> <li>Revocation stayed</li> <li>90-120 days actual suspension</li> <li>5 years probation</li> <li>Standard terms and conditions</li> <li>Supervised practice</li> <li>Education</li> <li>Take and pass licensure examinations(s)</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> <li>And if warranted, 90-120 days actual suspension; psychological/psychiatric evaluation; psychotherapy, restricted practice.</li> </ul>	<ul> <li>Revocation / Denial of license or registration application</li> <li>Cost recovery</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
LMFT:       —B&P § 4982(d)         LCSW:       B&P § 4992.3(d) and (e)         CCR § 1881(m)         LEP:       B&P § 4989.54(k)         LPCC:       -B&P § 4999.90(d)         GP:       B&P § 480	Gross Negligence / Incompetence	<ul> <li>Revocation stayed</li> <li><u>60-90 days actual suspension</u>; 5 years probation</li> <li>Standard terms and conditions; supervised practice</li> <li>Education</li> <li>Take and pass licensure examinations(s)</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs;</li> <li>And if warranted: <u>60-90 days actual</u> suspension; psychological/psychiatric evaluation; psychological/psychiatric evaluation; psychotherapy; rehabilitation and monitoring program; dependency support program; relapse prevention program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>
LMFT: -B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4989.54 CCR § 1858 LPCC: B&P § 4999.90 <u>CCR § 1823</u> GP: B&P § 125.6 480, 821	General Unprofessional Conduct	<ul> <li>Revocation stayed</li> <li>60-90 days actual suspension</li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Supervised practice</li> <li>Education</li> <li>Cost recovery; reimbursement of probation program</li> <li>And if warranted: 60-90 days actual suspension; psychological/psychiatric evaluation; psychotherapy; rehabilitation and monitoring program; dependency support program, relapse prevention program; abstain from controlled substances/use of alcohol, submit to drug and alcohol testing; restricted practice, take and pass licensure examination(s); law and ethics course.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>

<b>Statutes and Regulations</b> Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
Leven and manufacturity code. (w) LMFT: B&P § 4980.40(e), 4982(a) LCSW: B&P § 4992.3(a), 4996.2(d), 4996.18(b) LEP: -B&P § 4989.20(a)(3), 4989.54(a) LPCC: B&P § 4999.90(a) GP: B&P § 480, 490, 493	Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant	<ul> <li>Revocation stayed</li> <li>60 days actual suspension</li> <li>5 years probation</li> <li>Standard terms and conditions</li> <li>Supervised practice</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs And if warranted: 60 days actual suspension.</li> <li>(Costs and conditions of probation depend on the nature of the criminal offense).</li> <li>CRIMES AGAINST PEOPLE: Add: Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation and monitoring program; restricted practice; suspension.</li> <li>DRUGS AND ALCOHOL: Add: Random drug and alcohol testing, psychological/psychiatric/clinical diagnostic evaluation; psychotherapy; supervised practice, rehabilitation and monitoring program; abstain from controlled substances/use of alcohol, and if warranted: dependency support program; relapse prevention program; restricted practice.</li> <li>FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure examsexamination(s); rehabilitation_and monitoring program; restricted practice.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP)	Violation Category	Minimum Penalty	Maximum Penalty
General Provisions: (GP)         Penal Code: (PC)         Welfare and Institutions Code: (WI)         LMFT:       —B&P § 4982(j)         LCSW:       B&P § 4992.3(k)         CCR. § 1881(e)         LEP:       B&P § 4989.54(g)         LPCC:       -B&P § 4999.90(j)         GP:       B&P § 480, 650, 810	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	<ul> <li>Revocation stayed</li> <li>30-60 days actual suspension</li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Law and othics course</li> <li>Reimbursement of probation program costs</li> <li>And if warranted-: 30-60 days actual suspension; psychological/psychiatric evaluation; supervised practice; psychotherapy;</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>
$ \begin{array}{llllllllllllllllllllllllllllllllllll$	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	<ul> <li>take and pass licensure examsexamination(s); law and ethics course; restricted practice.</li> <li>Revocation stayed</li> <li>-30-60 days actual suspension</li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs And if warranted, 30-60 days actual suspension; psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure examsexamination(s); restricted practice.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>
LMFT: -B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4989.54(h), 4989.54(i) LPCC: B&P § 4990.38 GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	<ul> <li>Determine the appropriate penalty by comparing the violation under the other state with California law.</li> <li>And if warranted: take and pass licensure examinations(s) as a condition precedent to practice; reimbursement of probation program costs.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC)	Violation Category	Minimum Penalty	Maximum Penalty
Welfare and Institutions Code: (WI)         LMFT:       —B&P § 4982(b)         LCSW:       B&P § 4992.3(b),         -B&P § 4992.7         LEP:       -B&P § 4989.54(b)         LPCC:       B&P § 4999.90 (b)         GP:       B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	<ul> <li>Revocation / Denial of license or registration application;</li> <li>Cost recovery.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>
LMFT:B&P § 4980, 4982(f)	Misrepresentation of License / Qualifications	<ul> <li>Revocation stayed</li> <li>60 days actual suspension</li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> <li>And if warranted: 60 days actual suspension; take and pass licensure examinations(s).</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery.</li> </ul>
LMFT:       -B&P § 4982(q), 4982(ab)         LCSW:       B&P § 4992.3(r), 4992.3(z)         CCR § 1881(l)         LEP:       B&P § 4989.54(s), 4989.54(z)         LPCC:       -B&P § 4999.90(q), 4999.90(aa)         GP:       B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	<ul> <li>Revocation stayed</li> <li>5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>
LMFT:B&P § 4982(g) LCSW: B&P § 4992.3(h), _4992.7 CCR § 1881(b)(a) LEP: CCR § 1858(a) LPCC: B&P § 4999.90(g) GP: B&P § 119, 480	Impersonating Licensee / Allowing Impersonation	<ul> <li>Revocation stayed</li> <li>60-90 days actual suspension</li> <li>5 years probation</li> <li>Supervised practice</li> <li>Standard terms and conditions</li> <li>Psychological/psychiatric evaluation</li> <li>Psychotherapy</li> <li>Cost recovery</li> <li>Reimbursement of probation costs</li> <li>And if warranted: 60-90 days actual suspension</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>

Statutes and Regulations	Violation Category	Minimum Penalty	Maximum Penalty
Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)			
LMFT: -B&P § 4982(h) LCSW: B&P § 4992.3(i) CCR § 1881(c) LEP: B&P § 4989.54 (t) LPCC: B&P § 4999.90(h) GP: B&P § 125, 480	Aiding and Abetting Unlicensed / Unregistered Activity	<ul> <li>Revocation stayed</li> <li><u>30-90 days actual suspension</u></li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs And if warranted: <u>30-90 days actual suspension</u>; supervised practice.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>
LMFT: -B&P § 4982(m) LCSW: B&P § 4992.3(n) CCR § 1881(i) LEP: B&P § 4989.54 (q) LPCC: B&P § 4999.90(m) GP: B&P § 480	Failure to Maintain Confidentiality	<ul> <li>Revocation stayed</li> <li>60-90 days actual suspension</li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Take and pass licensure examsexamination(s)</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> <li>And if warranted: 60-90 days actual suspension</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>
LMFT: -B&P § 728 LCSW: B&P § 728 LPCC: -B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	<ul> <li>Revocation stayed</li> <li>1-3 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>
LMFT: -B&P § 4982(r), 4982(t), 4982(u) CCR § 1833.1 <del>, 1845(b)</del> LCSW: B&P § 4992.3(s) LEP: B&P § 4989.54(ab) <del>, CCR §</del> 1858(b) LPCC: B&P § 4999.90(r) 4999.90(t), 4999.90(u)	Improper Supervision of Trainee / Intern / Associate / Supervisee	<ul> <li>Revocation stayed</li> <li>30-90 days actual suspension</li> <li>2 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs And if warranted: <u>30-90 days actual</u> <u>suspension</u>; supervised practice.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>

Statutes and Regulations	Violation Category	Minimum Penalty	Maximum Penalty
Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)			
LMFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(f), 4992.3(s) LEP: B&P § 4989.54(f) LPCC: B&P § 4999.90(e)	Violations of the Chapter or Regulations by Licensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	<ul> <li>Revocation stayed</li> <li>Registration on probation until exams are passed and license issued</li> <li>License issued on probation for one year</li> <li>Rejection of all illegally acquired hours</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs.</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>
LMFT: -B&P § 4982(o) LCSW: B&P § 4992.3(p) <del>CCR § 1881(n)</del> LEP: -B&P § 4989.54(p) LPCC: B&P § 4999.90 (o) GP: B&P § 650	Pay, Accept, Solicit Fee for Referrals	<ul> <li>Revocation stayed</li> <li>3-5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> <li>Law and Ethics course</li> <li>And if warranted: take and pass licensure examination(s); law and ethics course</li> </ul>	<ul> <li>Revocation / Denial of license or registration</li> <li>Cost recovery</li> </ul>
LMFT: -B&P § 4982(n) LCSW: B&P § 4992.3(o) <del>CCR § 1881(j)</del> LEP: -B&P § 4989.54(o) LPCC: B&P § 4999.90 (n)	Failure to Disclose Fees in Advance	<ul> <li>Revocation stayed</li> <li>1 year probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program</li> </ul>	<ul> <li>Revocation stayed</li> <li>30 days actual suspension</li> <li>2 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program</li> </ul>
LMFT:       B&P § 4980.46,4982(p)         LCSW:       B&P § 4992.3(q)         CCR § 1881(k)         LEP:       B&P § 4989.54(e)         LPCC:       _B&P § 4999.90(p)         GP:       B&P § 480, 651, 17500	False / Misleading / Deceptive / Improper Advertising	<ul> <li>Revocation stayed</li> <li>1 year probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program</li> </ul>	<ul> <li>Revocation stayed</li> <li>30-60 days actual suspension</li> <li>5 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> </ul>

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
LMFT: -B&P § 4982(v) LCSW: B&P § 4992.3(t) LEP: B&P § 4989.54(j) LPCC: -B&P § 4999.90(v)	Failure to Keep Records Consistent with Sound Clinical Judgment	<ul> <li>Revocation stayed</li> <li>1 year probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program</li> </ul>	<ul> <li>Revocation stayed</li> <li>30 days actual suspension</li> <li>1-3 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> </ul>
LMFT: _B&P § 4982(y) LCSW: B&P § 4992.3(w) LEP: _B&P § 4989.54(x) LPCC: B&P § 4999.90(ad)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	<ul> <li>Revocation stayed</li> <li>1 year probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> </ul>	<ul> <li>Revocation stayed</li> <li>30 days actual suspension</li> <li>1-3 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> </ul>
LMFT: B&P § 4982(z) LCSW: _B&P § 4992.3(x) LEP:B&P § 4989.54(d) LPCC: _B&P § 4999.90(ac)	Failure To Comply With Section 2290.5 ( Telehealth)	<ul> <li>Revocation stayed</li> <li>1 year probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery;</li> <li>Reimbursement of probation program costs.</li> </ul>	<ul> <li>Revocation stayed</li> <li>30 days actual suspension</li> <li>1-3 years probation</li> <li>Standard terms and conditions</li> <li>Education</li> <li>Cost recovery</li> <li>Reimbursement of probation program costs</li> </ul>
LMFT:         B&P §§ 865.1, 865.2           LCSW:         B&P §§ 865.1, 865.2           LEP:         B&P §§ 865.1, 865.2           LPCC:         B&P §§ 865.1, 865.2           GP:         B&P §§ 865.1, 865.2	Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18	<ul> <li><u>Revocation stayed</u></li> <li><u>5 years probation</u></li> <li><u>Standard terms and conditions</u></li> <li><u>Supervised practice</u></li> <li><u>Education</u></li> <li><u>Take and pass licensure examination(s)</u></li> <li><u>Cost recovery</u></li> <li><u>Reimbursement of probation program costs</u></li> <li><u>And if warranted: 90-120 days actual suspension;</u> psychological/psychiatric evaluation; psychotherapy; restricted practice.</li> </ul>	<ul> <li><u>Revocation / Denial of license or</u> <u>registration application</u></li> <li><u>Cost recovery</u></li> </ul>

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
LMFT:         CCR § 1845(a)           LCSW:         CCR § 1881(c)           LEP:         CCR § 1858(b)           LPCC:         CCR § 1823 (a)	Failure to Provide Records to the Board within 15 Days of Receipt	<ul> <li><u>Revocation stayed</u></li> <li><u>3-5 years probation</u></li> <li><u>Standard terms and conditions</u></li> <li><u>Education</u></li> <li><u>Cost recovery</u></li> <li><u>Reimbursement of probation program costs.</u> And if warranted: 60-90 days actual suspension</li> </ul>	<ul> <li><u>Revocation / Denial of license or</u> registration</li> <li><u>Cost recovery</u></li> </ul>
LMFT:         CCR § 1845(b)           LCSW:         CCR § 1881(d)           LEP:         CCR § 1858(c)           LPCC:         CCR § 1823(b)	Failure to Cooperate and Participate in a Pending Board Investigation	Revocation stayed <u>3-5 years probation</u> <u>Standard terms and conditions</u> <u>Education</u> <u>Cost recovery</u> <u>Reimbursement of probation program costs.</u> And if warranted: 60-90 days actual suspension	<ul> <li><u>Revocation / Denial of license or</u> registration</li> <li><u>Cost recovery</u></li> </ul>
LMFT:         CCR § 1845(c)           LCSW:         CCR § 1881(e)           LEP:         CCR § 1858(d)           LPCC:         CCR § 1823(c)	Failure to Report to the Board within         30 Days:         • A Felony or Misdemeanor         Conviction, or;         • Any Disciplinary Action         Taken by Another Licensing         Entity or Government         Authority	Revocation stayed <u>3-5 years probation</u> <u>Standard terms and conditions</u> <u>Education</u> <u>Cost recovery</u> <u>Reimbursement of probation program costs.</u> And if warranted: 60-90 days actual suspension	<ul> <li><u>Revocation / Denial of license or</u> <u>registration</u></li> <li><u>Cost recovery</u></li> </ul>
LMFT:         CCR § 1845(d)           LCSW:         CCR § 1881(f)           LEP:         CCR § 1858(e)           LPCC:         CCR § 1823(d)	Failure to Provide the Board with Arrest Documentation within 30 Days of Request	<ul> <li><u>Revocation stayed</u></li> <li><u>3-5 years probation</u></li> <li><u>Standard terms and conditions</u></li> <li><u>Education</u></li> <li><u>Cost recovery</u></li> <li><u>Reimbursement of probation program costs.</u> And if warranted: 60-90 days actual suspension</li> </ul>	<ul> <li><u>Revocation / Denial of license or</u> registration</li> <li><u>Cost recovery</u></li> </ul>
LMFT:         CCR § 1845(e)           LCSW:         CCR § 1881(g)           LEP:         CCR § 1858(f)           LPCC:         CCR § 1823(e)	Failure to Comply with a Court Order Mandating Release of Records to the Board	<ul> <li><u>Revocation stayed</u></li> <li><u>3-5 years probation</u></li> <li><u>Standard terms and conditions</u></li> <li><u>Education</u></li> <li><u>Cost recovery</u></li> <li><u>Reimbursement of probation program costs.</u></li> <li>And if warranted: 60-90 days actual suspension</li> </ul>	<ul> <li><u>Revocation / Denial of license or</u> registration</li> <li><u>Cost recovery</u></li> </ul>

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# III. Model Disciplinary Orders

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms** and **Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

If a violation does not compromise consumer protection and is not severe enough to warrant probation, the Board, as it deems appropriate, may choose to issue a public reprimand pursuant to Business and Professions Code section 495.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-1618) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17-3219-34).

# **Optional Terms and Conditions of Probation**

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

- 1. Actual <u>Suspension</u>
- 2. Clinical Diagnostic Evaluation
- 2.3. Psychological / Psychiatric eEvaluation
- 3.4. Psychotherapy
- 4. Clinical Diagnostic Evaluation
- 5. Supervised Practice
- 6. Education
- 7. Take and Pass ILicensure examinationsExamination(s)
- 8. Attend Dependency Support Program
- 9. Relapse Prevention Program
- 8.10. Rehabilitation and Monitoring Program
- 9.11. Abstain from Controlled Substances/Submit to Random Drug and Alcohol Testing
- 10.12. Abstain from Use of Alcohol /Submit to Random Drug and Alcohol Testing
- 11.13. Restricted Practice
- 12.14. Restitution
- 13.15. Physical Evaluation
- 14.16. Monitor Billing System
- 15.17. Monitor Billing System Audit
- 16.18. Law and Ethics Course

## 1. Actual Suspension

A. Commencing from the effective date of this dDecision, respondent shall be suspended from the practice of \_\_\_\_\_\_ for a period of \_\_\_\_\_ days.

OR

B. Commencing from the effective date of this dDecision, respondent shall be suspended from the practice of \_\_\_\_\_\_ for a period of \_\_\_\_\_ days, and such additional time as may be necessary to obtain and review the clinical diagnostic, psychological or psychiatric evaluation, to implement any

recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition #\_\_\_\_ (Take and pass licensure examinations(s)).

Respondent shall be responsible for informing <u>his or herRespondent's</u> employer of the Board's <u>dD</u>ecision, and the reasons for the length of suspension. Respondent shall submit documentation and/or evidence demonstrating satisfactory compliance with this condition. Prior to the lifting of the actual suspension of the license, the Board shall receive pertinent documentation confirming that <u>FR</u>espondent is safe to return to practice under specific terms and conditions as determined by the Board.

# 2. Clinical Diagnostic Evaluation

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation by an evaluator as appointed by the Board. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her<u>Respondent's</u> license or registration shall be automatically suspended for a minimum of one month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the The evaluator shall to submit to the Board a written clinical diagnostic evaluation report to the Board within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license or registration shall remain suspended until the Board determines that he or sheRespondent is able to safely practice either full-time or part-time and has had at least one month of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

# 2.3. Psychological / Psychiatric Evaluation

Within 90 days of the effective date of this  $\underline{dD}$  ecision, and on a periodic basis thereafter as may be required by the Board or its designee,  $\underline{rR}$  espondent shall complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by  $\underline{rR}$  espondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding FRespondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the  $\Theta$  rder, and the evaluator finds the need for supervised practice, then the following term shall be added to the d pisciplinary  $\Theta$  rder. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), r espondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the

FRespondent's practice will be supervised.

If  $f_{R}$  espondent is determined to be unable to practice independently and safely, upon notification,  $f_{R}$  espondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the  $f_{R}$  espondent of its determination that  $f_{R}$  espondent may resume practice.

(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).

## 3.4. Psychotherapy

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Within <u>4530</u> days of the effective date of this <u>dDecision</u>, <u>rRespondent shall submit to the Board or its designee for its prior approval the name and qualifications of <u>one or morea</u> therapists of <u>rRespondent's choice</u>. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, <u>therapeutic</u>, or personal relationship with <u>rRespondent</u>, and shall not be the <u>rRespondent's supervisor</u>. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by <u>rRespondent</u>.</u>

Respondent may, after receiving the Board's written permission, receive therapy via videoconferencing if <u>FR</u>espondent's good faith attempts to secure face-to-face counseling are unsuccessful due to the unavailability of qualified mental health care professionals in the area. The Board may require that <u>FR</u>espondent provide written documentation of <u>his or her Respondent's good</u> faith attempts to secure <u>face-to-face</u> counseling-<u>via videoconferencing</u>.

Respondent shall provide the therapist with a copy of the Board's <u>eD</u>ecision no later than the first counseling session. Upon approval by the Board, <u>rRespondent</u> shall undergo and continue treatment until the Board-<u>or its designee</u> determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly, written reports to the Board concerning FRespondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that rRespondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3)one (1) working days. Upon notification by the Board, rRespondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that rRespondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified rRespondent that he/shepractice may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).

### 4. Clinical Diagnostic Evaluation

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license or registration shall be automatically suspended for a minimum of one month pending the results of a clinical diagnostic evaluation. During such time, the Respondent shall submit to random drug testing at least two (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license or registration shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least one month of negative drug test results. Respondent shall comply with any restrictions or recommendations made by the Board as a result of the clinical diagnostic evaluation.

### 5. Supervised Practice

Within 30 days of the effective date of this dDecision, rRespondent shall submit to the Board or its designee, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in <math>rRespondent's field of practice, and shall meet the requirements to qualify as a supervisor specified in statute. whe The supervisor shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of rRespondent's performance. The supervisor shall be independent, with no prior business, professional, therapeutic, or personal relationship with  $rRespondent_{T}$  and shall not be Respondent's clinical experience supervisor.

If <u>FR</u>espondent is unable to secure a supervisor in <u>his or herRespondent's</u> field of practice due to the unavailability of mental health care professionals in the area, then the Board may consider the following options for satisfying this probationary term:

(1) Permitting the respondent to receive supervision via videoconferencing; or,

(2) Permitting respondent to secure a supervisor not in the respondent's field of practice.

(1) Permitting Respondent to secure a supervisor not in the Respondent's field of practice; or

(2) Permitting the Respondent to receive supervision via videoconferencing.

The forgoing options shall be considered and exhausted by the Board in the order listed above. The Board may require that rRespondent to provide written documentation of his or herRespondent's good faith attempts to secure face-to-face supervision, supervision via videoconferencing or to locate a mental health professional that is licensed in the rRespondent's field of practice.

Respondent shall complete any required consent forms and sign an agreement with the supervisor and the Board regarding the Respondent and the supervisor's requirements and reporting responsibilities. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to fRespondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.

If the supervisor is no longer available, rRespondent shall notify the Board within 153 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by rRespondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. The supervisor shall not be the rRespondent's therapist.

[Optional - Respondent shall not practice until he/she has notified by the Board that the Respondent's supervisor has been approved.received notification that the Board has approved rRespondent's supervisor.]

## 6. Education

Respondent shall take and successfully complete the equivalency of \_\_\_\_\_ semester units in each of the following areas \_\_\_\_\_\_. All course work shall be taken at the graduate level at an accredited oran approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor or through a courses approved by the Board. Classroom attendance must be specifically specifically required. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the  $\underline{dD}$  ecision.  $\underline{fR}$  espondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the  $\underline{fR}$  espondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, -security of records, billing and reporting requirements.)

## 7. Take and Pass Licensure ExaminationsExamination(s)

Respondent shall take and pass <u>one or more of</u> the licensure <u>exam(s)examination(s)</u> currently required of new applicants for the license possessed by <u>FR</u>espondent, <u>as deemed appropriate by the Board</u>. Respondent shall not practice until such time as <u>FR</u>espondent has taken and passed <u>thesethe</u> examinations(s) <u>prescribed by the Board</u>. Respondent shall pay the <u>establishedrequired</u> examination fees. If <u>FR</u>espondent has not taken and passed the <u>prescribed</u> examination(s) within twelve months from the effective date of this <u>dD</u>ecision, <u>FR</u>espondent shall be considered to be in violation of probation.

## 8. Attend Dependency Support Program

## 9. Relapse Prevention Program

Within fifteen (15) days from the effective date of the Decision, Respondent shall submit to the Board or its designee for prior approval the name of one or more program(s) for relapse prevention. Respondent shall enter a relapse prevention program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. The Respondent shall take all necessary steps to ensure that the relapse prevention program submits quarterly written reports to the Board addressing the Respondent's treatment and progress in the program.

<u>Components of the treatment contract shall be relevant to the violation and to the Respondent's</u> <u>current status in recovery or rehabilitation. The components may include, but are not limited to:</u> <u>restrictions on practice and work setting, random biological fluid testing, abstention from drugs and</u> <u>alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or</u> <u>groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate relapse</u> <u>prevention program(s). All costs of participating in the program(s) shall be borne by the Respondent.</u>

## 8.10. Rehabilitation and Monitoring Program

Within fifteen (15) days from the effective date of the dDecision, <u>rRespondent shall submit to the</u> Board or its designee for prior approval the name of one or more rehabilitation <u>and monitoring</u> program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the <u>bB</u>oard's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant. The <u>rRespondent shall take all necessary steps to ensure that the rehabilitation</u> program submits quarterly written reports to the Board addressing the <u>rRespondent's treatment and progress in the program</u>.

Components of the treatment contract shall be relevant to the violation and to the rRespondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random drug and alcohol testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the rRespondent.

## 9-11. Abstain from Controlled Substances / Submit to Drug and Alcohol Testing

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to random and directed drug and alcohol testing, at rRespondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the Respondent, the Respondent's current employer, and the <u>Respondent's</u> supervisor, if any, and shall be a violation of probation. If the Respondent tests positive for a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if he or she<u>Respondent</u> must submit to drug testing. Respondent shall submit his or herto the drug test on the same day that he or she is notified that a test is required a required test notification is received. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

If the Respondent tests positive for a controlled substance, Respondent's license or registration shall be automatically suspended.

### 40.12. Abstain from Use of Alcohol / Submit to Drug and Alcohol Testing

Respondent shall completely abstain from the intake of alcohol during the period of probation.

Respondent shall immediately submit to random and directed drug and alcohol testing, at FRespondent's cost, upon request by the Board or its designee. The Respondent shall be subject to a minimum number of random tests per year for the duration of the probationary term, as prescribed in the Uniform Standards Related to Substance Abuse listed herein. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the -Respondent, the Respondent's current employer, and to the <u>Respondent's</u> supervisor, if any, and shall be a violation of probation.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended. Respondent shall make daily contact as directed by the Board to determine if <u>he or sheRepsondent</u> must submit to drug testing. Respondent shall submit <u>his or herto the</u> drug test on the same day <u>that he or she is notified that a test is requireda</u> required test notification is received. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

If the Respondent tests positive for alcohol and/or a controlled substance, Respondent's license or registration shall be automatically suspended.

## **11.13.** Restricted Practice

Respondent's practice shall be limited to \_\_\_\_\_\_. Within 30 days from the effective date of the dDecision, rRespondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice.

#### 12.14. Restitution

Within 90 days of the effective date of this dDecision, rRespondent shall provide proof to the Board or its designee of restitution in the amount of \$\_\_\_\_\_ paid to \_\_\_\_\_.

#### **13.15.** Physical Evaluation

Within 90 days of the effective date of this dDecision, and on a periodic basis thereafter as may be required by the Board or its designee, rRespondent shall complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by rRespondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding FRespondent's judgment and ability to function independently and safely as a therapist and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, <u>FR</u>espondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan <u>prepared</u> by the medical provider by which the <u>FR</u>espondent's physical treatment will be provided.

If  $\underline{rR}$  espondent is determined to be unable to practice independently and safely, upon notification,  $\underline{rR}$  espondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the  $\underline{rR}$  espondent of its determination that  $\underline{rR}$  espondent may resume practice.

## 14.16. Monitor Billing System

Within fifteen (15) days from the effective date of the dDecision, rRespondent shall submit to the Board or its designee for prior approval the name of one or more independent billing systems which monitor and document the dates and times of client visits. Respondent shall obtain the services of the independent billing system monitoring program within fifteen (15) days after notification of the Board's approval of such program. –Clients are to sign documentation stating the dates and time of services rendered by rRespondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning rRespondent's cooperation with this system. The cost of the service shall be borne by rRespondent. Failure to pay for the monitoring in a timely fashion shall constitute a violation of probation.

# **<u>15.17.</u>** Monitor Billing System Audit

Within 60 days of the effective date of this dD ecision, rR espondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit rR espondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by rR espondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

## 16.18. Law and Ethics Course

Respondent shall take and successfully complete the equivalency of two semester units in law and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, clinical social worker, educational psychologist, professional clinical counselor as defined in Sections 4980.40, 4996.18, 4999.32 or 4999.33 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations or through a courses approved by the Board. Classroom attendance must be specifically required. Within 90 days of the effective date of this Decision, rRespondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the

<u>FR</u>espondent. Units obtained for an approved course in law and ethics shall not be used for continuing education-\_units required for renewal of licensure.

(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)

## **Standard Terms and Conditions of Probation**

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

- 17.19. Obey All Laws
- 18.20. File Quarterly Reports
- <u>19.21.</u> Comply with Probation Program
- 20.22. Interviews with the Board
- 21.23. Failure to Practice Tolling
- 22.24. Change of Place of Employment or Place of Residence
- 23.25. Supervision of Unlicensed Persons
- 24.26. Notification to Clients
- 25.27. Notification to Employer
- 26.28. Violation of Probation
- 27.29. Maintain Valid License
- 28.30. License Surrender
- 29.31. Instruction of Coursework Qualifying for Continuing Education
- 30.32. Notification to Referral Services
- 31.33. Reimbursement of Probation Program
- 32.34. Cost Recovery

## Specific Language for Standard Terms and Conditions of Probation

(To be included in all Decisions)

#### 17.19. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the FRespondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, FRespondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the dDecision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

#### **18.20.** File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether <u>he/sheRespondent</u> has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice <u>FR</u>espondent shall continue to submit quarterly reports under penalty of perjury.

#### **19.21.** Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the <u>FR</u>espondent's compliance with the program.

#### 20.22. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

## 21.23. Failure to Practice - Tolling

In the event FRespondent stops practicing in California, FRespondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Non-practice is defined as any period of time exceeding thirty calendar days in which FRespondent is not engaging in any activities defined in Sections 4980.02, 4989.14, 4996.9, or 4999.20 of the Business and Professions Code. Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term and will relieve FRespondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; File Quarterly Reports; Comply With Probation Program; Maintain Valid License/Registration; and Cost Recovery. Respondent's license/registration shall be automatically cancelled if respondent's period of non-practice total two years. Absent good cause, the failure to practice for a total of two years shall be a violation of probation.

## 22.24. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

#### 23.25. Supervision of Unlicensed Persons

While on probation, FRespondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

## 24.26. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).

## 25.27. Notification to Employer

Respondent shall provide each of his or her<u>Respondent's</u> current or future employers, when performing services that fall within the scope of practice of his or her<u>Respondent's</u> license, a copy of

this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the <u>FR</u>espondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

The Respondent shall provide to the Board with the names, physical addresses, and telephone numbers of all employers, supervisors, and contractors.

Respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor regarding the <u>licensee or registrant'sRespondent's</u> work status, performance, and monitoring.

## 26.28. Violation of Probation

If  $r\underline{R}$ espondent violates the conditions of <u>his/her</u> probation, the Board, after giving  $r\underline{R}$ espondent notice and the opportunity to be heard, may <u>seek to</u> set aside the stay order and impose the discipline (revocation/suspension) of  $r\underline{R}$ espondent 's license [or registration] provided in the  $d\underline{D}$ ecision by filing an accusation, petition to revoke probation, or statement of issues.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against <u>FR</u>espondent's license [or registration] or application for licensure, or <u>the if the Board has requested the</u> Attorney General's office <u>has been requested</u> to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this <u>dD</u>ecision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the <u>Bb</u>oard. Upon successful completion of probation, <u>FR</u>espondent's license [or registration] shall be fully restored.

#### 27.29. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should  $\frac{1}{R}$  espondent's license, by operation of law or otherwise, expire, upon renewal  $\frac{1}{R}$  espondent's license shall be subject to any and all terms of this probation not previously satisfied.

#### 28.30. License Surrender

Following the effective date of this dDecision, if rRespondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, rRespondent may voluntarily request the voluntary surrender of his/her Respondent's license to the Board. The Board reserves the right to evaluate the rRespondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, rRespondent shall within 30 calendar days deliver rRespondent's license and certificate and if applicable wall certificate to the Board or its designee and rRespondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, rRespondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of fRespondent's license shall be considered to be a disciplinary action and shall become a part of fRespondent's license history with the Board. Respondent may not petition

the Board for reinstatement of the surrendered license. Should <u>FR</u>espondent at any time after voluntary surrender ever reapply to the Board for licensure, <u>FR</u>espondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

## 29.31. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

## 30.32. Notification to Referral Services

Respondent shall immediately send a copy of this dD ecision to all referral services registered with the Board in which FR espondent is a participant. While on probation, FR espondent shall send a copy of this dD ecision to all referral services registered with the Board that FR espondent seeks to join.

## 31.33. Reimbursement of Probation Program

Respondent shall reimburse the Board for the costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be <u>1,200</u> per year.

## 32.34. Cost Recovery

Respondent shall pay the Board \$\_\_\_\_\_\_\_ as and for the reasonable costs of the investigation and prosecution of Case No. \_\_\_\_\_\_\_. Respondent shall make such payments as follows: [Outline payment schedule.]Respondent shall make payments pursuant to a payment plan outlined by the Board. Respondent shall make the check or money order payable to the Board of Behavioral Sciences and shall indicate on the check or money order that it is the following: cost recovery payment for "Cost Recovery: Case No. \_\_\_\_\_\_". In lieu of a check or money order, Respondent may make an electronic payment online via the Board's website. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, rRespondent shall be considered to be in violation of probation. A period of non-practice by rRespondent shall not relieve rRespondent of his or herRespondent's obligation to reimburse the Board for its costs.

Cost recovery must be completed six months prior to the termination of probation. A payment plan authorized by the Board may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

## IV. BOARD POLICIES AND GUIDELINES

## Accusations

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the <u>Aaccusation</u>.

#### Statement of Issues

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

## **Stipulated Settlements**

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The <u>FR</u>espondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation <u>or</u> <u>Statement of Issues</u>. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

#### **Recommended Language for License Surrenders**

"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending <u>Aa</u>ccusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its  $\frac{dD}{D}$  ecision and  $\frac{dD}{D}$  rder."

#### Contingency

## **Contingency**

"This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter."

## <u>Order</u>

<u>"Respondent fully understands that when the Board adopts the license surrender of FRespondent's license,</u> FRespondent will no longer be permitted to practice as a <u>in California</u>. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a

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disciplinary action and shall become a part of rRespondent-'s license history with the Board.

The <u>FR</u>espondent further agrees that with the adoption by the Board of his or her license surrender, <u>FR</u>espondent may not petition the Board for reinstatement of the surrendered license.

Respondent may reapply to the Board for licensure three years from the date of surrender and must meet all current requirements for licensure including, but not limited, to filing a current application, meeting all current educational and experience requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a \_\_\_\_\_\_ or should he or she ever apply for any other registration or <u>licenselicensure</u> issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No.\_\_\_\_\_ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

## Recommended Language for Applicant Registration Applicants

IT IS HEREBY ORDERED THAT Respondent \_\_\_\_\_\_ be issued a Registration as a \_\_\_\_\_\_ Said Registration shall be revoked. The revocation will be stayed and Respondent placed on \_\_\_\_\_years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is -granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

For purposes of this Order, and consistent with Business and Professions Code section 23.7, all references to the word "license" contained in any term or condition shall also be interpreted as meaning "registration."

## **Recommended Language for Registrants**

IT IS HEREBY ORDERED THAT \_\_\_\_\_\_ Registration Number \_\_\_\_\_\_ issued to Respondent \_\_\_\_\_\_ is revoked. The revocation will be stayed and FRespondent placed on \_\_\_\_\_years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is -granted a subsequent registration, becomes licensed, or is granted another registration or license regulated by the Board during the probationary period.

For purposes of this Order, and consistent with Business and Professions Code section 23.7, all references to the word "license" contained in any term or condition shall also be interpreted as meaning "registration."

## **Recommended Language for Licensees**

IT IS HEREBY ORDERED THAT\_\_\_\_\_ License Number \_\_\_\_\_ issued to Respondent \_\_\_\_\_ is revoked. The revocation will be stayed and  $\frac{1}{R}$  espondent placed on \_\_\_\_\_ years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if  $\frac{1}{R}$  espondent is granted another registration or license regulated by the Board.

## **Proposed Decisions**

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the <u>C</u>eode in the Determination of Issues.

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- C. Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of <u>Ffact</u> if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-4618) followed by the Standard Terms and Conditions (47-3219-34) as they may pertain to the particular case. If the <u>rR</u>espondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a <u>D</u>default <u>D</u>decision to revoke licensure or deny application.

## **Reinstatement / Reduction of Penalty Hearings**

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider, pursuant to Section 1814, the following criteria of rehabilitation:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the acts or crimes giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
- (8) Evidence, if any, of rehabilitation submitted by the licensee.

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code Section 4982.24990.30, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, educational psychology, or professional clinical counselor within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local,

or Federal agency or court;

- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;
- F. All activities of the petitioner since the disciplinary action was taken;
- G. The petitioner's activities during the time his or her license or registration was in good standing;
- H. The petitioner's general reputation for truth;
- I. The petitioner's professional ability;

F.J. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.





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То:	Board Members	Date:	February 15, 2017
From:	Christy Berger Regulatory Analyst	Telephone:	(916) 574-7817
Subject:	Proposed Rulemaking: Fi	ling of Addresses; Applications;	Confirmation of

Subject: Proposed Rulemaking: Filing of Addresses; Applications; Confirmation of Qualifications to Treat Couples and Families; and Experience as Credentialed School Psychologist

Staff has identified a number of changes necessary to Title 16, Division 18, California Code of Regulations (CCR) pertaining to the following:

- Submission of applicant and licensee addresses of record, telephone numbers and email addresses
- Requiring signature under penalty of perjury on certain applications and forms
- The types of information collected on various applications and forms, and the documentation and verifications that must accompany those forms. Much of this portion of the proposal is simply codifying current practice, and should be formalized in regulation as recommended by the Board's legal counsel.

The specific changes, and the reasons for the proposed changes are as follows (see **Attachment A** for proposed language):

## A. <u>Amendments to Section 1804 – Applicant and Licensee Contact Information:</u>

## 1. 1804(a): Reporting of Addresses:

The proposed changes to section 1804(a) would clarify the regulation pertaining to maintaining a public mailing address with the Board as follows:

• Remove "professional corporation" as the Board discontinued registration of corporations in 2000<sup>1</sup>.

<sup>&</sup>lt;sup>1</sup> AB 1677, Ch. 657, Stats. 1999

- Clarify that a residential address is not required.
- Clarify that each licensee's and registrant's address of record will be disclosed to the public<sup>2</sup>.
- Clarify that applicants must provide an address of record, but it will not be made public until a license or registration is issued.
- <u>Disallow the use of an address in "care of" or "c/o" another person</u>. Allowing a "c/o" requires adding another person's or business' name to the individual's license or registration certificate, and also to the licensee's online record. Not only is this potentially misleading to the public, but would result in that person/business name being associated with the licensee's or registrant's public record.

## 2. 1804(b),(c),(d): Reporting of Telephone Numbers and Email Addresses:

These amendments would:

- State that telephone numbers and email addresses are confidential information.
- <u>Codify the Board's current practice of requiring an applicant's telephone number and email address on applications for licensure or registration</u>. This information is necessary to facilitate communications when processing an application and when notifying of eligibility to take an examination.
- <u>Newly require all current licensees and registrants to provide the Board with a</u> <u>telephone number and email address, if they have one.</u> This information is necessary in order to facilitate communications with licensees and registrants. This requirement would be phased in to minimize workload impact to staff, and is expected to be absorbable.
- <u>Require Board notification of changes to a telephone number or email address within</u> <u>30 calendar days in writing</u>, consistent with current law for mailing addresses.

## B. Amendments to Section 1805 - Applications:

The proposed changes would do all of the following:

- <u>1805(b)</u>: Specify the documentation required to be submitted with an application for registration or licensure, in order to codify current practice. See **Attachments B and C** for example registration and licensing application packets and instructions. Required documentation includes:
  - <u>A passport-acceptable photograph</u> taken within the past 60 days, which will help establish an applicant's identity, and serve as a reference for the Board's

<sup>&</sup>lt;sup>2</sup> Per the requirements of Business and Professions Code section 27(a)

Enforcement unit in cases where there is suspicion of impersonation, or where there is possible misrepresentation in an online advertisement.

- Documentation verifying completion of various educational requirements, such as official transcripts in an envelope sealed by the school.
- Certification of any out-of-state health care practitioner-related license or registration held. The certification includes information about any disciplinary action or complaints pending.
- 2. <u>1805(c)</u>: Specify the documentation required to be submitted with an application for licensure in order to codify current practice, and to clarify that those who previously applied for a registration are not required to resubmit specified documentation if still on file. Required documentation includes:
  - Verification of supervised experience which includes contact information for the supervisor and employer (See **Attachment D** for an example).
  - Verification of passing a national clinical examination, if required.
  - A signed examination security agreement (See Attachment E).
- <u>1805(d) & (e)</u>: Specify the documentation required to be submitted with an application expedite request for a veteran (**Attachment F**) or military spouse/domestic partner (**Attachment G**). Application expedites for these applicants is mandated by Business and Professions Code (BPC) sections 115.4 and 115.5, respectively.
- 4. <u>1805(h): Allow the Board to use discretion in accepting other documentation that</u> <u>establishes the applicant's qualifications</u>. This will give staff some flexibility when an applicant is unable to furnish a document specifically required by the proposed regulation.

## C. <u>Amendments to Section 1820.7 – LPCC Confirmation of Qualifications to Assess or</u> <u>Treat Couples and Families</u>

The proposed changes would do all of the following (see **Attachment H** for the application and instructions):

- Clarify that confirmation of qualifications is necessary not just to treat, but also to <u>assess</u> couples and families, consistent with the wording of section 4999.20 of the BPC.
- Change "intern" to "associate" in accordance with SB 1478 (Chapter 489, Statutes of 2016).
- <u>1820.7(c)</u>: Codify the Board's current practice of requiring official sealed transcripts, and course descriptions or syllabi when necessary, in order to demonstrate compliance with the educational requirements.

- <u>1820.7(d)</u>: Clarify the specific information that must be included on the required documentation of experience with couples, families or children, such as the employer's name and phone number and total number of hours completed.
- <u>1820.7(e):</u> Minor technical changes.

## D. <u>Amendments to Section 1856 – LEP Experience Requirements</u>

LEP applicants are required to have a total of three (3) years of experience to qualify for licensure:

- Two (2) years of full-time (or the equivalent) experience as a credentialed school psychologist; AND
- One (1) additional year of full-time experience as a credentialed school psychologist under the direction of an LEP or licensed psychologist OR
- One (1) year of supervised professional experience in an accredited school psychology program.

The proposed changes would codify the Board's current practice pertaining to verification of required experience, and specifies the information that must be included in the verifications, such as the name of the school or school district where the experience took place, the name and title of the verifying employee, etc. (see **Attachments I and J**).

## E. Signatures under Penalty of Perjury

The proposed changes would require signatures on certain forms and applications to be made under penalty of perjury. The penalty for perjury is very serious, so instituting such a requirement was carefully weighed in each instance to determine whether truly necessary. <u>Penal Code section 118 sets forth the potential penalty for perjury as a felony conviction with imprisonment for up to four (4) years, and could include court fines.</u>

The Board's recourse against its own applicants, registrants and licensees who submit false, fraudulent or deceitful information on an application or form, or who knowingly misrepresent information or knowingly omit a material fact on an application or form, is as stated below:

- <u>Applicants:</u> The Board may either (1) deny the application (refuse to issue the registration or license), or (2) issue the license or registration, and then take disciplinary action or issue a citation and fine.
- <u>Licensees and Registrants:</u> Disciplinary action may be taken on the registration or license, or a citation and fine may be issued.

## The following are proposed to require signature under penalty of perjury:

• Applicant's signature on licensure and registration applications (See **Attachments B & C** for example application forms).

<u>Rationale:</u> The applicant must respond to questions pertaining to convictions, discipline and substance abuse. In addition, signature under penalty of perjury on applications is required by 10 out of 10 other DCA health boards surveyed by staff.

• Supervisor's signature on verification of experience forms (See Attachment D for an example experience verification form).

<u>Rationale:</u> The Board has recourse against its own licensees for providing false, fraudulent or deceitful information. However, some supervisors are licensed as a psychologist or as a physician, and the Board has no jurisdiction in these instances.

- A school district employee verifying LEP experience (See Attachments H & I).
   <u>Rationale:</u> The Board has no jurisdiction over school district employees.
- Licensee and registrant signatures on renewal applications (See Attachment K). <u>Rationale:</u> Licensees and registrants must report any convictions or discipline.
- Applicant's signature on license "reactivation" applications (See Attachments L & M).
   <u>Rationale:</u> Licensees and registrants must report any convictions or discipline.

## **Recommendation**

Conduct an open discussion regarding the Policy and Advocacy Committee's recommended language; direct staff to make any discussed changes, and any non-substantive changes, and pursue as a regulatory proposal.

## ATTACHMENTS:

Attachment A: Proposed Language
Attachment B: Example Registration Application and Instructions – LMFT Intern
Attachment C: Example Licensing Application and Instructions – LPCC Licensure
Attachment D: Example Experience Verification form - LPCC
Attachment E: Examination Security Agreement
Attachment F: Military Veteran Expedite Request
Attachment G: Military Spouse/Partner Expedite Request
Attachment H: LPCC Request for Confirmation of Qualifications to Assess and Treat Couples and Families and Instructions
Attachment I: LEP Verification of Experience as a Credentialed School Psychologist
Attachment J: LEP Verification of Supervised Experience
Attachment K: License Renewal Application
Attachment L: Request to Restore Inactive License to Active Status
Attachment M: Request to Restore Retired License to Active Status

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## Attachment A

BOARD OF BEHAVIORAL SCIENCES

## DRAFT LANGUAGE:

## Applicant, Registrant, and Licensee Contact Information and

## Application Requirements and Documentation

## §1804. FILING OF ADDRESSES APPLICANT AND LICENSEE CONTACT INFORMATION

Each person or professional corporation regulated by the board shall maintain a current mailing address with the board and shall notify the board within thirty (30) days concerning any change of address giving both the old and new addresses.

(a) Address of record. Every applicant, registrant and licensee shall provide a current address of record to the board, which will be used for all communications with the board. The address of record of a registrant or licensee will be disclosed to the public. As such, an applicant's address of record will be public once the applicant is issued a license or registration.

(1) A residential address is not required. A business address or post office box may be provided instead.

(2) Addresses denoting "in care of" or "c/o" shall not be accepted.

(b) Telephone number and email address. Every applicant, registrant and licensee shall provide a current telephone number and email address to the board. Telephone numbers and email addresses are confidential information and shall not be made available to the public. This subdivision only requires the current telephone number and email address to be reported, and does not require the applicant to obtain a telephone number or email address.

(c) Every applicant, registrant and licensee shall report any change to the address of record, telephone number or e-mail address to the board no later than thirty (30) calendar days after the change has occurred. The report of change shall be in writing, and shall include the effective date of the change. "In writing" shall include electronic methods of communication.

(d) Individuals who have been issued a registration or license, or who have an application pending for licensure or registration prior to the effective date of this section, are not immediately required to provide a telephone number or e-mail address to the board. The telephone number or e-mail address shall be provided with the registrant's or licensee's forthcoming renewal application, or with the registrant's request for initial license issuance, whichever occurs first.

Note: Authority Cited: Sections 4980.60<del>, 4990.11</del> and 4990.20, Business and Professions Code. Reference: Sections <u>136</u>, 4980.07,4980.30, 4980.40, 4980.44, 4984, 4984.01, <u>4989.20</u>, 4989.32, 4989.36, 4990.08, and 4990.12, <u>4992</u>, 4996.2, 4996.6, 4996.18, <u>4996.28</u>, 4999.42, 4999.50, 4999.100, 4999.102, and 4999.104, Business and Professions Code.

## § 1805. APPLICATIONS

(a) Applications submitted to the board for registration or licensure shall be on a form prescribed by the board and shall be signed under penalty of perjury.

(b) Applicants for registration or licensure shall submit all of the following documents. An applicant for licensure who has previously been issued a registration by the Board shall not be required to resubmit documentation that was previously submitted with his or her application for registration if the documentation is still on file.

(1) A passport-acceptable photograph of the applicant's head and shoulders taken within the 60 days immediately preceding the date of filing the application. The applicant's full face must be visible in the photograph.

(2) Official transcripts that demonstrate compliance with educational requirements in an envelope that has been sealed by the school.

(3) The original degree evaluation, if the applicant's degree was obtained outside of the United States, in an envelope that has been sealed by the evaluating agency.

(4) Certificates of completion or transcripts, for coursework taken from a continuing education provider.

(5) Course syllabi shall be required when necessary to determine compliance with course content requirements.

(6) For LMFT or LPCC applicants, a degree program certification in an envelope that has been sealed by the school. This certification shall include the applicant's date of birth, degree enrollment and award date, a statement that the applicant was provided with the notification required by sections 4980.38 or 4999.40 of the Code, as applicable, the name of the institution's accrediting body or approval agency, and the coursework completed by the applicant. The certification shall be signed by the school's chief academic officer or by an individual designated by the chief academic officer.

(7) For applicants who hold an out-of-state health care practitioner license or registration, a certification from each state in which he or she holds or has held a registration or license, in an envelope that has been sealed by that state agency. The certification shall include the applicant's date of birth, any disciplinary action or complaints pending, and a summary of any completed supervised experience. The

certification shall include the printed name and title of the individual signing the form, and the licensing agency's name and telephone number. "Health care practitioner" is defined as any of the healing arts licenses listed pursuant to Division 2 of the Code.

(c) Applicants for LMFT, LCSW or LPCC licensure, and applicants for LEP examination eligibility, shall submit all of the following:

(1) Documentation of completed supervised experience, which demonstrates compliance with Chapter 13, 13.5, 14 or 16 of the Code and with regulations, as applicable. Such documentation shall include the supervisor's telephone number, and the address and telephone number of the applicant's employer or the address and telephone number of the applicant's volunteer work setting, as applicable. The supervisor shall sign the documentation of completed experience under penalty of perjury.

(2) If the applicant has passed a national clinical examination specified as acceptable in regulation, an official verification from the national entity that administered the clinical examination in an envelope that has been sealed by that national entity.

(3) A statement signed by the applicant wherein he or she agrees to not subvert or to attempt to subvert the licensing examination or the administration of an examination as specified in section 123 of the Code.

(d) Military veterans requesting an application expedite request per section 115.4 of the Code shall submit a signed request attached to the top of the application that he or she is requesting to be expedited, along with a copy of the applicant's DD Form 214, "Certificate of Release or Discharge from Active Duty" issued by the United States Department of Defense.

(e) A spouse or domestic partner of an active duty member of the military submitting an application expedite request per section 115.5 of the Code, shall submit a signed request attached to the top of the application that he or she is requesting to be expedited, along with all of the following:

(1) Evidence that the applicant is married to, in a domestic partnership with, or in another type of legal union with an active duty member of the military.

(2) Evidence that the applicant's spouse or partner has been assigned to a duty station in California under official active duty military orders.

(3) Evidence that the applicant holds a current license or registration in another state, district or territory of the United States in the profession for which the applicant seeks licensure or registration from the Board.

(f) Applicants shall sign a request for renewal of a license or registration under penalty of perjury.

(g) Applicants requesting a license status change from "retired" to "active," or from "inactive" to "active" shall sign the request under penalty of perjury and shall certify that the applicant did not engage in any activity for which an active license was required while the license was inactive or retired.

(h) When an applicant is unable to furnish any of the documents required by this section due to circumstances beyond his or her control, the board may accept other documentation that establishes the applicant's qualifications deemed equivalent by the board on a case-by-case basis.

Note: Authority Cited: Sections 4980.60 and 4990.20 (a), Business and Professions Code. Reference: Sections 4980.30, 4980.40, 4980.44, <del>4980.50, <u>4984, 4984.01,</u></del> 4989.20, <u>4989.32, 4989.36,</u> 4992, 4<del>992.1,</del> 4996.2, <u>4996.6,</u> 4996.18, <u>4996.28,</u> 4999.42, 4999.50, and 4999.53, <u>4999.100, 4999.102, and 4999.104,</u> Business and Professions Code.

## LPCC

## §1820.7 CONFIRMATION OF QUALIFICATIONS TO <u>ASSESS OR</u> TREAT COUPLES OR <u>AND</u> FAMILIES

(a) Effective January 1, 2017, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to assess or treat couples and families, and shall provide a copy of this written confirmation to the clients prior to commencement of couple or family assessment or treatment.

(b) Effective January 1, 2017, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to <u>assess or</u> treat couples and families, and shall provide a copy of this written confirmation to the supervisees listed below prior to commencement of supervision:

(1) A marriage and family therapist intern associate or trainee.

(2) A licensed professional clinical counselor or professional clinical counselor intern <u>associate</u> gaining supervised experience to comply with section 4999.20(a)(3).

(c) Licensed professional clinical counselors applying for written confirmation from the Board shall submit official transcripts, demonstrating that the licensee has met the training and educational requirements required to assess or treat couples and families, in an envelope that has been sealed by the school. Licensees shall also submit course descriptions or course syllabi if course titles do not indicate course content.

(d) Licensed professional clinical counselors applying for written confirmation from the Board shall submit documentation demonstrating compliance with section

4999.20(a)(3)(B) of the Code. Such documentation shall include the employer's name and telephone number, the dates during which the applicant completed his or her supervised experience, and the total number of experience hours completed.

(c)(e) The board shall accept any of the following as documentation of the supervised experience with couples, families or children required by section 4999.20(a)(3)(B) of the Code to treat couples and families:

(1) Hours of experience verified by a qualified supervisor.

(2) Hours of experience and supervisor's license information verified by the employer if the former supervisor is no longer available.

(3) The board may consider oOther documentation deemed equivalent by the board on a case-by-case basis.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4990.20, 4999.20, 4999.32 and 4999.33, Business and Professions Code.

## <u>LEP</u>

## §1856. EXPERIENCE <u>REQUIREMENTS</u> EQUIVALENT TO THREE (3) YEARS FULL-TIME EXPERIENCE AS CREDENTIALED SCHOOL PSYCHOLOGIST

(a) Experience gained in accordance with section 4989.20(a)(5) of the Code shall comply with the following:

(a)(1) No more than one year of experience will be granted for any 12 month period.

(b)(2) Part time experience may be accumulated provided that the experience is obtained within six (6) calendar years.

(3) Applicants shall submit documentation of completed experience verified by an employee of the school or school district where the experience was gained. Such documentation shall be signed by the verifying employee under penalty of perjury, and shall include the school or school district's name, telephone number and title of the verifying employee, the start and end dates of the applicant's experience, and whether the applicant's experience was gained on a full-time or part-time basis.

(c)(4) Experience as a credentialed school psychologist employed by a parochial or private school may, at the board's discretion, be deemed equivalent to experience as a credentialed school psychologist in the public schools.

(b) Documentation of supervised experience gained in accordance with section 4989.20(a)(6) of the Code shall comply with one of the following:

(1) One year of supervised professional experience in an accredited school psychology program shall be verified by an employee of the school or school district where the experience was gained and shall be signed by the verifying employee under penalty of perjury. The verification shall include the school or school district's name, telephone number and title of the verifying employee, the dates of the applicant's experience, and the applicant's course numbers and course titles associated with the supervised experience.

(2) One year of full-time, or the equivalent to full-time, experience as a credentialed school psychologist obtained under the direction of either a licensed educational psychologist or licensed psychologist shall be verified by the supervisor of the applicant and signed under penalty of perjury. The verification shall include the supervisor's telephone number, license type, license number, date of license issuance, and the state or jurisdiction that issued the license. The verification shall also include the name and location of the school or school district where the experience was gained, the start and end dates of the applicant's experience, and whether the experience was gained on a full-time or part-time basis.

Note: Authority cited: Section 4990.20(a), Business and Professions Code. Reference: Section 4982.20 4989.20, Business and Professions Code.

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## ATTACHMENT B



## MARRIAGE AND FAMILY THERAPIST INTERN REGISTRATION

## **IN-STATE APPLICATION** FOR USE BY APPLICANTS WITH A CALIFORNIA DEGREE

Dear In-State Applicant:

Thank you for your interest in becoming a Marriage and Family Therapist Intern. Included in this packet are the following forms and documents:

- 1. Application Instructions
- 2. Important Information for Applicants
- 3. In-State Application for Registration as a Marriage and Family Therapist Intern
- 4. In-State Degree Program Certification Form A
- 5. In-State Degree Program Certification Form B
- 6. Important Live Scan Information and Instructions
- 7. Request for Live Scan Service Form

Note: Do <u>not</u> submit your pre-degree hours of experience with this application. You will submit your hours <u>after</u> ALL experience has been completed.

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## APPLICATION INSTRUCTIONS

## MARRIAGE AND FAMILY THERAPIST **INTERN REGISTRATION**

## **IN-STATE APPLICANTS**

Submit a completed application to:

Board of Behavioral Sciences 1625 North Market Blvd., Suite S200 Sacramento, CA 95834

Carefully read the following instructions to ensure an accurate and complete application package and that all required original documents are furnished to the Board. All items are mandatory unless otherwise indicated. Any omission may result in the application being deficient or delayed.

**NOTE:** If you are applying for a subsequent (2<sup>nd</sup> or 3<sup>rd</sup>) Intern registration, use the Subsequent MFT Intern Registration application.



## A. APPLICATION

- Complete all sections of the application in ink.
- The application must have your original signature.
- You must use your legal name. Your "legal name" is the name • established legally by your birth certificate, marriage or domestic partnership certificate, or divorce decree (for example).
- Email Address: Though providing your email address is optional, the Board strongly recommends submission to facilitate communication.

## **B. PHOTOGRAPH**

Should measure approximately 2" X 2" and be taken within 60 days of the filing of this application. The photograph must be of passport quality of your head and shoulders only. Attach the photograph to the application in the space provided.

## C. FEE

Submit a \$75.00 check or money order made payable to the Behavioral Sciences Fund. The fee is NOT REFUNDABLE.

## D. FINGERPRINTS

The Board requires a Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) criminal history background check on all applicants.

**If you currently reside in California:** Download the *Request for Live Scan Service Applicant Submission form* (Form BCII 8016) from our web site. The information on this form must match the information you provide on your application. The second copy of this form, with box 6 completed, must be submitted with your application.

DO NOT COMPLETE FINGERPRINTS MORE THAN 60 DAYS PRIOR TO SUBMITTING YOUR APPLICATION. Fingerprint results without an application on file will <u>only</u> be held for 6 months.

If you currently reside out of state: You must use the "hard card" fingerprint method unless you can access a California Live Scan Service operator. To request fingerprint hard cards, send an email to <u>BBS.Fingerprint@dca.ca.gov</u> with "Fingerprint Hard Cards" in the subject line and we will mail them to you.

DO NOT SUBMIT YOUR FINGERPRINTS TO THE BOARD UNTIL YOU HAVE SUBMITTED YOUR APPLICATION – we are unable to process them until your application is received. **The DOJ processing time for hard card fingerprints is a minimum of 8 to 12 weeks.** To avoid processing delays and additional costs that result from invalid fingerprint cards, the Board recommends fingerprints be taken at a law enforcement agency in the state of residence.

## **E. VERIFICATION OF EDUCATION**

1) TRANSCRIPTS:

Provide official transcript(s) verifying your master's or doctoral degree with degree title and date of conferral posted. TRANSCRIPTS MUST BE IN AN ENVELOPE SEALED BY THE EDUCATIONAL INSTITUTION.

## 2) DEGREE PROGRAM CERTIFICATION:

Provide one of the following *Degree Program Certification* forms, completed and signed by your school's Chief Academic Officer or authorized designee IN AN ENVELOPE SEALED BY THE EDUCATIONAL INSTITUTION as described below.

- FORM A Have your school complete the *In-State Degree Program Certification, Form A* if you began graduate study BEFORE August 1, 2012, AND completed that study on or before December 31, 2018 (and your degree program does not meet the new "2012" requirements stipulated in Business and Professions Code (BPC) section 4980.36).
- **FORM B** Have your school complete the *In-State Degree Program Certification, <u>Form B</u> if either of the following apply to you:* 
  - > You began graduate study on or after August 1, 2012 OR
  - You began graduate study before August 1, 2012, AND you graduated from a degree program that meets the requirements of BPC section 4980.36

## F. BACKGROUND QUESTIONS (A - D)

If you answered YES to application questions A, B, C or D, complete the <u>Background Statement</u>, available on the Board's website. Please be aware that your processing time will be delayed and will also be dependent on your providing all information required by the Board.

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## **MARRIAGE AND FAMILY THERAPIST**

## **IN-STATE INTERN REGISTRATION APPLICATION**

For applicants with a California degree ONLY

Make check payable to - Behavioral Sciences Fund					For Office Use Only: Cashiering No.
Type or print clearly in ink	T			L	
1. Legal Name* Last		First			Middle
2. If you have ever been know					
dates of use below (attach a	dditional names an	d dates	s):		ATTACH A
Full Name	Dat	es of U	se (to/from)		PHOTOGRAPH TAKEN
	Det		an (ta/fram)		WITHIN 60 DAYS
Full Name		Dates of Use (to/from)			OF FILING
3. Address of Record** Number and Street					THIS APPLICATION
					(Head and
City		te	Zip Cod	е	Shoulders Only)
4. Business Telephone		5. Residence Telephone			
6. E-Mail Address (OPTIONAL) 7. Birth Date: mm/dd/y			/dd/yyyy	/	
8. SSN or ITIN*** 9. Qu	alifying Degree Tit	ng Degree Title 10. Name		lame of	School

Yes, Currently 11. Have you ever served in the United States Armed Forces or the California National Guard? (OPTIONAL) Yes, Previously

No 🗌

Applicant Name:	Last	First	Middle

12. Have you ever applied for or been issued a license, registration or Yes No certificate to practice marriage and family therapy or any other healing art in California or any other state?

*If YES,* provide the information requested below (continue on an additional sheet if needed):

State	Type of License, Registration or Certificate	Approximate Date of Application	License, Registration or Certificate Number	Date Issued	Status

## **BACKGROUND QUESTIONS**

A. Have you been convicted of, pled guilty to, or pled nolo contendere to any misdemeanor or felony in the United States, its territories, or a foreign country? Convictions dismissed under sections 1203.4, 1203.4a, or 1203.41 of the Penal Code (or equivalent non-California law) must be disclosed. If you have obtained a dismissal of such a conviction, submit a certified copy of the court order.

DO NOT INCLUDE:

- Convictions prior to your 18<sup>th</sup> birthday, unless you were charged as an adult;
- Charges dismissed under section 1000.3 of the Penal Code;
- Convictions under sections 11357(b), (c), (d), (e) or section 11360(b) of the Health and Safety Code which are two (2) years or older;
- Traffic violations for which a fine of \$500 or less was imposed; or

Yes No 🗌

If YES, you must complete Part A of the <u>Background Statement</u> form, available on the Board's website.

You must disclose convictions even if previously reported to the Board. However, it is not necessary for you to resubmit documentation previously on file. Instead, provide a written statement indicating that you believe the information is already on file.

Infractions

Applicant Name: Last	First		Middle
<ul> <li>B. Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?</li> <li>DO NOT INCLUDE:</li> <li>Traffic violations for which a fine of \$500 or less was imposed; or</li> <li>Infractions</li> </ul>		of the Back	No  must complete Part B ground Statement form, the Board's website.
C. Have you ever been denied a professional license ("license" includes registrations, certificates, or other means to engage in practice) OR had a professional license privilege suspended, revoked, or otherwise disciplined, OR voluntarily surrendered any such license in California or any other state or territory of the United States, or by any other governmental agency or a foreign country?		of the <u>Back</u> available of Disclosure previously f However, it to resubmit previously of written state	No must complete Part C ground Statement form, in the Board's website. is required even if reported to the Board. is not necessary for you documentation on file. Instead, provide a ement indicating that you information is already
D. Does your current use of chemical subst impair or limit your ability to interact safe while engaging in the practice of marriag therapy?	ely with the public	the <u>Backgro</u>	No N/A must complete Part D of <u>ound Statement</u> form, h the Board's website.

NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application. The board has the right to refuse to issue any registration or license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant secures the license or registration by fraud, deceit, or misrepresentation.

Signature of Applicant:	Date:
-------------------------	-------

\* You must use your legal name. Your "legal name" is the name established legally by your birth certificate, marriage or domestic partnership certificate, or divorce decree (for example).

\*\* The address you enter on this application is public information and will be placed on the Internet pursuant to Business and Professions Code section 27. All correspondence from the Board will be sent to this address. If you do not want your home or work address available to the public, use an alternate mailing address such as a post office box.

\*\*\* Disclosure of your tax identification number is mandatory. You may provide either your Social Security Number, Federal Employer Identification Number, or Individual Taxpayer Identification Number, as applicable. This number must match the number you provide on your fingerprint forms. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c) (2) (c)) authorizes collection of these tax identification numbers. Your tax identification number will not be deemed a public record and shall not be open to the public. Your tax identification number will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your tax identification number, your application for initial or renewal license will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.



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## ATTACHMENT C

## LICENSED PROFESSIONAL CLINICAL COUNSELOR

## IN-STATE APPLICATION FOR LICENSURE AND EXAMINATION

Please note:

- →This application is for individuals who need their hours of supervised experience to be evaluated in order to qualify for the National Clinical Mental Health Counselor (NCMHCE) Examination.
- →Your hours of experience must be gained within the six (6) years prior to the postmark date of this application
- →This application can be submitted before you pass the LPCC Law and Ethics Examination

Dear In-State Applicant:

Thank you for your interest in becoming a California Licensed Professional Clinical Counselor (LPCC). Included in this packet are the following forms and documents:

- 1. Application Instructions
- 2. Important Information for Applicants
- 3. In-State Application for LPCC Licensure and Examination
- 4. In-State Experience Verification form, Option 1\*
- 5. In-State Experience Verification form, Option 2\*
- 6. Examination Security Agreement

## BOARD OF BEHAVIORAL SCIENCES

\*If you have out-of-state hours, submit an <u>Out-of-State Experience Verification</u> form



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## APPLICATION INSTRUCTIONS LICENSED PROFESSIONAL CLINICAL COUNSELOR <u>IN-STATE</u> APPLICATION FOR LICENSURE AND EXAMINATION

Submit a completed application to:

Board of Behavioral Sciences 1625 North Market Blvd., Suite S200 Sacramento, CA 95834

Carefully read the following instructions to ensure an accurate and complete application package and that all required original documents are furnished to the Board. *All items are mandatory.* Any omission may result in the application being deficient or delayed.

## A. APPLICATION

- Complete all sections of the application in ink.
- The application must have your original signature.
- You must use your legal name. Your "legal name" is the name established legally by your birth certificate, marriage or domestic partnership certificate, or divorce decree (for example).
- <u>Name Change</u>: If you have registered with the Board previously and have changed your legal name without notifying the Board, submit a <u>Notification of Name Change</u> form with your application packet along with the required documentation.
- <u>Email Address</u>: Though providing your email address is optional, the Board strongly recommends submission to facilitate communication.

## **B. PHOTOGRAPH**

Should measure approximately 2" X 2" and be taken within 60 days of the filing of this application. Photograph must be of passport quality of your head and shoulders <u>only</u>. Attach the photograph to the application in the space provided.

## C. FEE

Submit a \$180.00 check or money order made payable to the Behavioral Sciences Fund. This is an application fee for evaluating your experience and is NOT REFUNDABLE.

## D. EXAMINATION SECURITY AGREEMENT

The *Examination Security Agreement* must be completed and signed in ink. Failure to complete this agreement will delay your eligibility to take the examination.

## **E. VERIFICATION OF EXPERIENCE**

Supervised experience must total at least two (2) years (104 supervised weeks) and 3,000 hours, obtained within the six (6) years immediately preceding the date on which your *Application for Licensure and Examination* is received by the Board. You must comply with all of the following:

1. EXPERIENCE VERIFICATION FORMS: Each supervisor must complete an *In-State Experience Verification* form in order to verify your hours of experience. Applicants must fully qualify under Option 1 OR Option 2. There is no "mixing and matching" between the two options when calculating hours.

Older form versions that have already been signed will continue to be accepted for either option. Use separate forms for each supervisor and each employer, as follows:

- Use the "OPTION 1" form if you wish to submit hours under the new streamlined method/categories. The Board will accept all versions of the *Experience Verification* forms under this method.
- Use the "OPTION 2" form if you wish to submit hours under the pre-existing method (multiple categories). All hours must be recorded on any version of the *Experience Verification* form that contains multiple categories.

"Weekly Summary" forms CANNOT be accepted in place of the *Experience Verification* form. Do not submit unless specifically requested by the Board.

- 2. WORKSHOPS, SEMINARS, TRAINING AND CONFERENCES: If you completed any of these activities as part of your supervised experience, the hours must be included on the *Experience Verification* form. Do not submit proof of completion.
- 3. W-2 FORMS: If you were employed, you must submit copies of your W-2s for each year you are claiming and for each employer. If W-2s are not available for the current year, attach a copy of a current pay stub. If your W-2 does not match the name of your employer listed on the *Experience Verification* form, an explanation is required.
- 4. VOLUNTEER LETTER: If you volunteered, a letter from the employer is required indicating your voluntary status during the dates reported on your *Experience Verification* form. A sample letter is available on the Board's <u>website</u>.

- 5. SUPERVISOR RESPONSIBILITY STATEMENT: Submit the original *Supervisor Responsibility Statement* signed by each of your supervisors.
- 6. SUPERVISORY PLAN: Submit the original *Supervisory Plan* signed by each of your supervisors.

## F. BACKGROUND QUESTIONS (A - D)

If you answered YES to application questions A, B, C or D, complete the *Background Statement*, available on the Board's website. Please be aware that your processing time will be delayed and will also be dependent on your providing all information required by the Board.



**Board of Behavioral Sciences** 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## LICENSED PROFESSIONAL CLINICAL COUNSELOR **IN-STATE APPLICATION** FOR LICENSURE AND EXAMINATION

For applicants with a California degree and who hold a PCI registration

## \$180 FEE MUST ACCOMPANY THIS FORM

Make check payable to - Behavioral Sciences Fund

For Office Use Only: P1, PA

Cashiering No:

QM: 1-S

Type or print clearly in ink						
1. Legal Name* Last	1. Legal Name* Last First			Middle		
2 If you have ever been know	n by another	name.	list th	e full na	ame(s) and	
2. If you have ever been known by another name, list the full name(s) and dates of use below (attach additional names and dates):					ATTACH A	
Full Name				Jse (to/	from)	PHOTOGRAPH TAKEN
Full Name		Data		Jse (to/	(rom)	WITHIN 60 DAYS
		Date	5010		ioni)	OF FILING
3. Address of Public Record** Number and Street					THIS APPLICATION	
						(Head and
City		Stat	State Zip Code		p Code	, , , , , , , , , , , , , , , , , , ,
			-			Shoulders Only)
4 Dusiness Telephone				:	- Talanhana	
4. Business Telephone			5. Ke	esiaenc	e Telephone	
6. E-Mail Address (OPTIONAL	_)				7. Birth Date:	: mm/dd/yyyy
8. SSN or ITIN*** 9. Qualifying Degree Ti		ee Titl	е		10. Name of School	
11. Enter your Professional Cl	inical Counse	elor Inte	ern re	gistratio	on number: P	

Applicant Name: Last			First		Middle		
12. Have you ever served in the United States Armed Forces Yes, Currently No No or the California National Guard? <b>(OPTIONAL)</b> Yes, Previously							
certi	e you ever applied for or be ficate to practice profession ng art in California or any c	al clinical counse	-	Yes [	No 🗌		
	<b>ES,</b> provide the information tional sheet if needed):	requested below	(continue on an				
State	Type of License, Registration or Certificate	Approximate Application Date	License, Registration or Certificate Number	Date Issued	Status		

14. Under which method are you requesting your supervised	Option 1 (New Method)
experience hours be evaluated?	

Note: You must fully qualify under either Option 1 or Option 2. There is no "mixing and matching between the two options. See application instructions for more information. Option 2 (Pre-existing Method)

<ul> <li>BACKGROUND QUESTIONS</li> <li>A. Have you been convicted of, pled guilty to, or pled nolo contendere to any misdemeanor or felony in the United States, its territories, or a foreign country? Convictions dismissed under sections 1203.4, 1203.4a, or 1203.41 of the Penal Code (or equivalent non-California law) must be disclosed. If you have obtained a dismissal of such a conviction, submit a certified copy of the court order.</li> <li>DO NOT INCLUDE:</li> <li>Convictions prior to your 18<sup>th</sup> birthday, unless you were charged as an adult;</li> <li>Charges dismissed under section 1000.3 of the Penal Code;</li> <li>Convictions under sections 11357(b), (c), (d), (e) or section 11360(b) of the Health and Safety Code which are two (2) years or older;</li> <li>Traffic violations for which a fine of \$500 or less was imposed; or</li> <li>Infractions</li> </ul>	Yes No I If YES, you must complete Part A of the <u>Background Statement</u> form, available on the Board's website. You must disclose convictions even if previously reported to the Board. However, it is not necessary for you to resubmit documentation previously on file. Instead, provide a written statement indicating that you believe the information is already on file.
<ul> <li>B. Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?</li> <li>DO NOT INCLUDE:</li> </ul>	Yes No No I If YES, you must complete Part B of the <u>Background Statement</u> form, available on the Board's website.
<ul> <li>Traffic violations for which a fine of \$500 or less was imposed; or</li> </ul>	

First

Middle

• Infractions

Applicant Name:

Last

Applicant Name:	Last	First	Middle

C. Have you ever been denied a professional license ("license" includes registrations, certificates, or other means to engage in practice) OR had a professional license privilege suspended, revoked, or otherwise disciplined, OR voluntarily surrendered any such license in California or any other state or territory of the United States, or by any other governmental agency or a foreign country?	Yes No I If YES, you must complete Part C of the <u>Background Statement</u> form, available on the Board's website. Disclosure is required even if previously reported to the Board. However, it is not necessary for you to resubmit documentation previously on file. Instead, provide a written statement indicating that you believe the information is already on file.	
D. Does your current use of chemical substances in any way	Yes No N/A	
impair or limit your ability to interact safely with the public	If YES, you must complete Part D of	
while engaging in the practice of professional clinical	the <u>Background Statement</u> form,	
counseling?	available on the Board's website.	

NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application. The board has the right to refuse to issue any registration or license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant secures the license or registration by fraud, deceit, or misrepresentation.

Signat	ure of Applicant:	Date:	
- <u>-</u>			

\* You must use your legal name. Your "legal name" is the name established legally by your birth certificate, marriage or domestic partnership certificate, or divorce decree (for example).

\*\* The address you enter on this application is public information and will be placed on the Internet pursuant to Business and Professions Code section 27. All correspondence from the Board will be mailed to this address. If you do not want your home or work address available to the public, use an alternate mailing address such as a post office box.

\*\*\* Disclosure of your tax identification number is mandatory. You may provide either your Social Security Number, Federal Employer Identification Number, or Individual Taxpayer Identification Number, as applicable. This number must match the number you provide on your fingerprint forms. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c) (2) (c)) authorizes collection of these tax identification numbers. Your tax identification number will not be deemed a public record and shall not be open to the public. Your tax identification number will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your tax identification number, your application for initial or renewal license will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.

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# STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING ACTICACHMENT D



Board of Behavioral Sciences 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## LICENSED PROFESSIONAL CLINICAL COUNSELOR <u>IN-STATE</u> EXPERIENCE VERIFICATION OPTION 1 – NEW STREAMLINED METHOD

This form is to be completed by the applicant's California supervisor and submitted by the applicant with his or her *Application for Licensure and Examination*. All information on this form is subject to verification.

- Use this "Option 1" form to report hours under the NEW streamlined method
- Use separate forms for each supervisor and each employment setting
- Ensure that the form is complete and correct prior to signing. Have the supervisor initial any changes.
- Do not submit your Weekly Summary forms unless specifically requested by the Board

#### **APPLICANT NAME:**

Last	First	Middle	Intern Number
			PCI

Dates of experience being claimed:	From:	То:	
	mm/dd/yyyy	mm/dd/yyyy	

#### SUPERVISOR INFORMATION:

Supervisor's Na	Telephone		
License Type	License Number	State	Date First Licensed

• <u>Physicians:</u> Were you certified in Psychiatry by the American Board of Psychiatry and Neurology during the entire period of supervision?

No Yes: Date Board Certified: \_\_\_\_\_ Certification Number: \_\_\_\_\_

• <u>LPCCs:</u> If the applicant is reporting experience with couples or families, did you meet the qualifications to treat couples and families, as specified in California law?

N/A □ No □ Yes: Date you met the qualifications: \_\_\_\_\_

#### **APPLICANT'S EMPLOYER INFORMATION:**

Name of Applicant's Employer			Busine	ss Phone <u>*</u>
Address:	Number and Street	City	State	Zip Code

Applicant:	Last	First	Middle

#### APPLICANT'S EMPLOYER INFORMATION (continued):

1.	Was this experience gained in a setting that lawfully and regularly provides mental health counseling or psychotherapy?	Yes	🗌 No
2.	Was this experience gained in a private practice setting?	🗌 Yes	🗌 No
3.	Was this experience gained in a hospital or community mental health setting? (Minimum 150 hours required overall)	🗌 Yes	🗌 No
4.	Was this experience gained in a setting that provided oversight to ensure that the applicant's work meets the experience and supervision requirements and is within the scope of practice?	Yes	🗌 No
5.	Was the applicant receiving pay? If YES, attach a copy of the applicant's W-2 statement for each year experience is claimed. If a W-2 has not yet issued for this year, attach a copy of the current paystub. If applicant volunteered, submit a letter from the employer verifying volunteer status for these dates.	🗌 Yes	🗌 No

## **EXPERIENCE INFORMATION:**

Г

1. How many weeks of supervised experience are being claimed?	weeks				
2. Hours of Experience:		Logged Hours			
a. Total Direct Counseling Experience (Minimum 1,750 hours overall)					
Of the above hours, how many were gained while working with Couples, Families or Children?					
b. Total Non-Clinical Experience (Maximum 1,250 hours overall)					
<ul> <li>Of the above hours, how many were Face-to-Face Supervision?</li> </ul>	Hours Per Week	Logged Hours			
o Individual					
<ul> <li>Group (group contained no more than 8 persons)</li> </ul>					
<ul> <li>Group (group contained no more than 8 persons)</li> <li>NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of the application. The Board may take disciplinary action on a licensee who helps an applicant obtain a license by fraud, deceit or misrepresentation. All information on this form is subject to verification.</li> </ul>					

Signature of Supervisor:

Date: \_\_\_\_\_

ORIGINAL SIGNATURE REQUIRED

# STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUS A TGENCHMENT E



Board of Behavioral Sciences 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## **EXAMINATION SECURITY AGREEMENT**

California statutes authorize state agencies to maintain the security of their licensing examinations. Section 123 of the Business and Professions Code states:

# *"It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination..."*

Conduct that subverts or attempts to subvert a licensing examination includes:

- Removal of examination materials from the examination room;
- Unauthorized reproduction of any and all portions of a licensing examination;
- Acquisition of examination materials before, during, or after the examination;
- Preparation or instruction of applicants for the examination with the aid of examination material;
- Paying or using professional examination takers to reconstruct any portions of a licensing examination;
- Buying, selling, or receiving future, current, or previously administered examination materials;
- Communicating with other candidates during the examination or permitting one's answers to be copied by another candidate;
- Impersonating another candidate or having another person take the examination on one's behalf.

A person found guilty of any of these acts is liable for damages sustained by the agency administering the examination in an amount not to exceed \$10,000, plus the costs of litigation. In addition, a board may deny, suspend, revoke, or otherwise restrict the license of an applicant or a licensee who has violated the above.

COMPLETE THIS SECTION
-----------------------

I have read and fully understand the above requirements and hereby certify that I am the person named below who applied for licensure with the Board of Behavioral Sciences.

License Application Type:	: LCSW 📋	MFT 📋	LEP 📋	
Candidate's Name:				
(print)	Last		First	Middle
Date of Birth:		-		
Candidate's Signature:			Date	
37A-640 (Rev. 12/2015)		149		

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# MILITARY VETERAN EXPEDITE REQUEST

ATTACHMENT F

(attach to TOP of application with required documentation)

Applicant Name:		_BBS ID# (if known):		
Licensing Program Type:	LCSW	LEP	LMFT	LPCC
Application Type:				
Examination Eligibility	Registration			
Re-Examination	Testing Accor	nmodatior	IS	Initial Licensure

The Board of Behavioral Sciences is required to expedite processing of the application types listed above for applicants who have served as an active duty member of the Armed Forces of the United States AND were honorably discharged.

To be considered for expedited processing, complete this form (print on colored paper if possible) and attach it to the TOP of your application along with a copy of your DD214.

Your application will receive expedited processing if all requirements listed above are met. Applications received without this request form, and/or without a copy of your DD214 that indicates you were honorably discharged, will NOT receive expedited processing.

Please be aware that the greatest obstacle to an efficient licensing process is submission of an incomplete application.

*NOTE:* Knowingly providing false information or omitting pertinent information may be grounds for denial of this application.

Signature of Applicant: Date:
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Applicant Name: BBS ID# (if known):   Licensing Program Type: LCSW   LEP LMFT   Application Type: Registration   Examination Eligibility Testing Accommodations	Board of Behavioral Sciences 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 WWW.bbs.ca.gov ATTACHMENT G MILITARY SPOUSE/DOMESTIC PARTNER EXPEDITE REQUEST (attach to top of application with required documentation)					
Application Type:          □ Registration         □ Examination Eligibility         □ Testing Accommodations         □         □         □	Applicant Name:			BBS ID	0# (if known):	
Examination Eligibility     Testing Accommodations	Licensing Program	Type: 🛛 LCSW				
	Application Type:	□ Registration		□ Re-E>	amination	
		□ Examination Eli	igibility	🗆 Testir	g Accommodations	
				Initial	Licensure	

The Board of Behavioral Sciences is required to expedite processing of the application types listed above for applicants who meet all of the following requirements (Business and Professions Code section 115.5):

- Applicant holds a <u>current</u> license in another state, district, or territory of the U.S. in the profession for which he or she seeks a license from the Board of Behavioral Sciences AND
- Applicant's spouse or domestic partner is an active duty member of the Armed Forces of the U.S. who is officially assigned to a duty station in California

## To be considered for expedited processing, complete this form (print on colored paper if possible) and attach it to the top of your application along with all of the documentation listed below.

- 1. Evidence that you are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the U.S. who is officially assigned to a duty station in California. Attach a copy of your marriage certificate or certified declaration/registration of domestic partnership filed with the Secretary of State. For other forms of legal union not recognized by California, you may submit other documentation issued by the State that recognizes your legal union for consideration.
- 2. Evidence that your spouse or partner has been assigned to a duty station in California under official active duty military orders. For example, attach a copy of your spouse's or partner's military orders.
- 3. Evidence that you hold a current license or registration in another state, district, or territory of the United States in the profession for which you seek licensure or registration from the board. For example, attach a copy of your current license or registration, or attach a completed "Verification of Licensure" form, available on the Board's website.

Your application will receive expedited processing if all requirements listed above are met. Applications received without this request form and/or without all acceptable documentation will NOT receive expedited processing. Please be aware that the greatest obstacle to an efficient licensing process is submission of an incomplete application.

# **NOTE:** Knowingly providing false information or omitting pertinent information may be grounds for denial of this application.

Signature of Applicant:	Date:
State Where Licensed or Registered:	License/Registration Type & Number:

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## ATTACHMENT H

LICENSED PROFESSIONAL CLINICAL COUNSELOR

## REQUEST FOR CONFIRMATION OF QUALIFICATIONS TO ASSESS AND TREAT COUPLES AND FAMILIES

## **INSTRUCTIONS**

- Type or print clearly in ink.
- Please do not contact the Board to check the status of your request. If you would like to know whether the Board has received your forms, mail them in a manner that includes tracking.
- Processing time will vary depending on the volume of applications received.
- This form will not be accepted unless you currently hold an LPCC license in California.

ENCLOSE ALL OF THE FOLLOWING IN ADDITION TO THE COMPLETED FORMS (unless otherwise specified on the request form):

- Official transcripts verifying that you have met the educational qualifications, in an envelope sealed by the educational institution
- A course description or course syllabus if the course title does not clearly indicate the content
- Documentation of your supervised experience working with couples, families and/or children

## NOTE: New Requirement Effective January 1, 2017:

Effective January 1, 2017, an LPCC who wishes to treat couples or families **must** obtain written confirmation from the Board that he or she meets the requirements to treat couples and families, and must provide a copy of this written confirmation to:

• Couple or family clients prior to commencement of treatment

AND

- The types of supervisees listed below, prior to commencement of supervision:
  - o A marriage and family therapist trainee or intern
  - An LPCC or PCC Intern who is gaining the supervised experience necessary to treat couples or families

For more information on "couples and families" requirements, including FAQs, see the Board's website.



Board of Behavioral Sciences 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## LICENSED PROFESSIONAL CLINICAL COUNSELOR

## REQUEST FOR CONFIRMATION OF QUALIFICATIONS TO ASSESS AND TREAT COUPLES AND FAMILIES

Type or print clearly in ink

## A. APPLICANT INFORMATION

LPCC License Number:		BBS	BBS File Number (if known):		
Legal name*: Last			First	Middle	
Maiden name and any other	AKA				
Address of Record**:	Number and	Street			
City			State	Zip Code	
Is this a new address?	res 🗌 No	If YE	<b>S</b> , we will update	our records accordingly	
Business Telephone:	Residence 1	Telephone:	E-Mail Address	(OPTIONAL):	

- \* You must use your legal name. Your "legal name" is the name established legally by your birth certificate, marriage or domestic partnership certificate, or divorce decree (for example). If you have changed your legal name without notifying the Board, submit a Notification of Name Change form with your request along with the required documentation.
- \*\* The address you provide is public information and will be placed on the Internet pursuant to BPC section 27. All correspondence from the Board will be sent to this address. If you don't want your home or work address to be public, use an alternate mailing address such as a post office box.

Applicant Name:	Last	
rippiloant Name.	Lasi	

☐ Yes	ently hold a license as a Licensed Marriage and Family Therapist (LMFT)? ☐ No → Enter your LMFT license number: State: AND
	→ SKIP TO SECTION D
Do you holo	a LPCC license in another jurisdiction? Yes No
If YES:	➔ Enter your LPCC license number: State: AND
	→ Does the scope of practice in that jurisdiction clearly state that LPCCs are permitted to assess and treat couples, families or children?
	If NO: • Submit documentation of experience as described in Section B and complete Sections C and D.

## **B. EXPERIENCE REQUIREMENT**

To qualify, you must have a minimum of 500 hours of documented supervised experience working directly with couples, families and/or children under the supervision of one of the following, who has been licensed for at least two (2) years:

- A Licensed Professional Clinical Counselor who, at the time of supervision, had met the education and experience requirements to treat couples and families;
- A Licensed Marriage and Family Therapist; or
- Any of the following licensed persons who have sufficient education and experience to competently practice couples and family therapy:
  - o Licensed Clinical Social Worker
  - o Licensed Clinical Psychologist
  - Licensed Physician Board-Certified in Psychiatry by the American Board of Psychiatry and Neurology

## TO VERIFY SUPERVISED EXPERIENCE:

Attach a completed *Supervised Experience with Couples, Families or Children* form signed by your supervisor. If your supervisor is not available, your employer at the time you gained your experience may complete the form.

Applicant Name:	Last	First	Middle

## **C. EDUCATION REQUIREMENT**

I. A minimum of six (6) semester units or nine (9) quarter units of graduate coursework specifically focused on the theory and application of marriage and family therapy

## OR

- II. A named specialization or emphasis area on the qualifying degree in one of the following:
  - Marriage and family therapy
- o Marriage, family and child counseling
- Marital and family therapy
- Couple and family therapy

## TO VERIFY, COMPLETE <u>ONE</u> OF THE FOLLOWING SECTIONS (I or II) AND ATTACH OFFICIAL, SEALED TRANSCRIPTS

I.

## Coursework focused on the theory and application of marriage and family therapy:

School	Course Number	Course Title	Units

OR

II. Degree Title/Specialization:

Degree Title: Name of School, College or University:	Named Specialization or Emphasis: Marriage and family therapy Marital and family therapy Marriage, family and child counseling
	Couple and family therapy

## **D. APPLICANT SIGNATURE**

NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application. The Board may take disciplinary action on a licensee or registrant who misrepresents his or her education or professional qualifications.

Applicant Signature



Board of Behavioral Sciences 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## LICENSED PROFESSIONAL CLINICAL COUNSELOR SUPERVISED EXPERIENCE WITH COUPLES, FAMILIES OR CHILDREN

NOTE: This form will NOT be accepted as verification for purposes of a LPCC licensing application.

The supervisor\* of your experience working directly with couples, families and/or children must complete this form as follows:

- Use a separate form for each supervisor and employer.
- An original signature in ink is required. Have the signer initial any changes.
- Submit with your *Request for Confirmation of Qualifications to Assess and Treat Couples and Families* form.

### **APPLICANT INFORMATION**

LPCC License Number:		BBS File Number (if known):	
Legal name: Last		First	Middle

#### **EMPLOYER INFORMATION**

Applicant's Employer's Name	Employer Telephone

#### SUPERVISOR INFORMATION

Supervisor's Name			Superv	isor's Telephone
Supervisor's License Type	License Number	Issue D	ate	State
Do you have sufficient education and couples and family therapy?	🗌 No 🗌 Yes			
Have you received professional training in supervision?				🗌 No 🗌 Yes

\* If your supervisor is not available, your employer may sign

Applicant Name:	Last	First	Middle

### SUPERVISOR INFORMATION (Continued)

<b>Physicians:</b> Were you certified in Psychiatry by the American Board of Psychiatry and Neurology during this supervision?	No Yes: Certificate number:
<b>California-licensed LPCCs:</b> Did you meet California's qualifications to treat couples and families during this supervision?	<ul> <li>No</li> <li>Yes: Date you met the qualifications:</li> </ul>

## APPLICANT'S SUPERVISED EXPERIENCE

Dates (mm/dd/yyyy): From to	
Total supervised hours working directly with couples, families and/or children: hours	

NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of the application. The Board may take disciplinary action on a licensee who helps an applicant obtain a license by fraud, deceit or misrepresentation. All information on this form is subject to verification.

Signature of Supervisor:	Date:
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Board of Behavioral Sciences 1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## **ATTACHMENT I**

## LICENSED EDUCATIONAL PSYCHOLOGIST VERIFICATION OF EXPERIENCE AS A CREDENTIALED SCHOOL PSYCHOLOGIST

This form must be completed by an authorized school district employee with professional knowledge of the applicant's experience as a Credentialed School Psychologist. All information on this form is subject to verification. Two (2) years of full-time experience or the equivalent is required. Be sure to:

- Use a separate form for each employment setting
- Make certain that the form is complete and correct prior to signing
- o Provide an original signature in ink and have the signer initial any changes

NOTE: An applicant cannot be credited with experience as a credentialed school psychologist if it was obtained more than six (6) years prior to filing the LEP Application Packet with the Board.

#### **APPLICANT:** (*Please type or print clearly in ink*)

Name:	Last	First	Middle

#### EMPLOYER / SCHOOL DISTRICT: (Please type or print clearly in ink)

1. Employer/School District Name:			2. Telephone Number:
3. Address:	Number and	Street	City
State	Zip Code	4. Position Occupied by Applicant:	
5. Dates of Appl	icant's Employment:		6. Number of Hours Worked per Week:
Fro	m: mm/dd/yyyy	To: mm/dd/yyyy	(32 or more hours is full time)

I have professional knowledge that the above applicant was employed as a Credentialed School Psychologist as indicated above. NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application.

Signature of Employer/School District's Authorized Designee

Date Signed

Print Name

Title

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Middle

## ATTACHMENT J LICENSED EDUCATIONAL PSYCHOLOGIST VERIFICATION OF SUPERVISED EXPERIENCE

**Complete** <u>either</u> Section I OR Section II of this form. All information on this form is subject to verification Be sure to:

- o Use a separate form for each employment setting
- o Make certain that the form is complete and correct prior to signing
- o Provide an original signature in ink and have the signer initial any changes

# SECTION I

An individual with professional knowledge of your internship must complete this section in order to verify completion of one (1) year of supervised professional experience in an accredited school psychology program.

NOTE: If you do not have this type of experience, complete Section II only.

APPLICANT: (Please type or print clearly in ink)

Applicant Name: Last

#### SCHOOL / SCHOOL DISTRICT: (Please type or print clearly in ink)

	1 , ,				
1 Name of School or School District where interne	1. Name of School or School District where internship was completed:				
	ship was completed.				
2. Business Phone:					
Z. Dusiness Phone.					
3. Dates of Applicant's Internship:	_				
5. Dates of Applicant's internatip.	From:	To:			
	mm/dd/yyyy	mm/dd/yyyy			
	11111/33/3333	mm, aa, yyyy			
<ol><li>Internship Course Numbers and Titles:</li></ol>					

First

I have professional knowledge that the above applicant completed one year of supervised professional experience as indicated above. NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application.

Signature of Employer/School District's Authorized Designee	Date Signed	
Print Name	Title	

OR

## **SECTION II - SUPERVISED EXPERIENCE** (next page)

#### **SECTION II**

## SUPERVISED EXPERIENCE

Your supervisor must complete this section in order to verify completion of one (1) year of full-time (or the equivalent) experience as a Credentialed School Psychologist, obtained under the direction of either a Licensed Educational Psychologist or a Licensed Psychologist is required.

NOTE: If you do not have this type of experience, complete Section I only.

#### APPLICANT: (Please type or print clearly in ink)

Applicant	Last	First	Middle
Name:			

#### **SUPERVISOR:** (*Please type or print clearly in ink*)

1. Supervisor's Name: Last		First	Middle	
2. Supervisor License Information (LEP or Licensed Psychologist): NOTE: If you are licensed out-of-state, please provide a copy of your license.				
Type of License	License Number	State of Licensure	Date Originally Licensed	
3. Supervisor Phone Number:	4. Name of School/School District	:		
5. Dates of Experience:	From:mm/dd/yyyy	To: mm/dd/	уууу	
6. Number of hours worked per week	:	(32 or more hours is fu	ull time)	

The above applicant completed the above supervised experience under my direction.

NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application. The Board may take disciplinary action on a licensee who helps an applicant obtain a license by fraud, deceit or misrepresentation.

Signature of Supervisor

Date Signed

# STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

BBS		Board of Behavioral Sciences lorth Market Blvd., Suite S200, Sacramento, CA 95834 elephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov				
LI	LICENSEE MANUAL RENEWAL APPLICATION					
<ul> <li>Renew <u>online</u> for faster processing.</li> <li>Do not send this application more than 90 days prior to your expiration date.</li> <li>Failure to complete any portion of this renewal application will result in a delay. MARK ONE: LCSW LEP LMFT LPCC</li> </ul>						
License Number:		Expiration Date:	Amount Enclosed			
Legal Name <sup>→B</sup> :	Last	First	Middle			
Address of Record		Number and Street				
City		State	Zip Code			
Is this a new address?	Email Addr	ess (optional):	Telephone Number:			
Convictions or Discipline → MARK ONE: Subsequent to your last renewal, have you been convicted of, pled guilty to, or pled nolo contendere to a misdemeanor or felony, or have you had any disciplinary action taken by any regulatory or licensing board in this or any other state? □ Yes □ No						
Active Renewal: I have been granted an exc	ave complet eption by th	and Continuing Education <sup>→E</sup> - MA ed the required hours of CE within e board. Renew my license with an cense with an "inactive" status.	the last two years or have			
Knowingly providing f	alse inform	ation or omitting pertinent infor	mation may be grounds for			

denial of this application.

Signature

Date

→A RENEWAL FEES Make check payable to: Board of Behavioral Sciences Active Renewal Inactive Renewal License Type Delinquent Delinquent Timely Timely \$140.00 \$205.00 \$75.00 \$140.00 MFT LCSW \$110.00 \$160.00 \$110.00 \$60.00 \$120.00 \$80.00 LEP \$80.00 \$40.00 LPCC \$175.00 \$262.50 \$87.50 \$175.00

## INFORMATION FOR SECTIONS B, C, D & E

# →<sup>B</sup> Name Change

If you have a name change that you would like processed with your renewal application, you must submit the *Notification of Name Change* form and all required documentation. Your renewal will not be processed until your name change has been processed. Do not send original documents unless specifically requested to do so.

## <sup>≁C</sup> <u>Address</u>

Your renewal certificate will be mailed to the address written on your renewal form. This address is public information, and will be placed on the Internet pursuant to Business and Professions Code Section 27. If you do not want your home or work address available to the public, provide an alternate mailing address.

## Conviction/Discipline

Check the box next to "YES" if, since your last renewal, you have had any license ("license" includes registrations, certificates, or other means to engage in practice) disciplined by a government agency, or you have been convicted of, plead guilty to, or pled nolo contendere to any misdemeanor or felony in the United States, its territories, or a foreign country.

Convictions dismissed under sections 1203.4, 1203.4a, or 1203.41 of the Penal Code (or equivalent non-California law) must be disclosed. If you have obtained a dismissal of such a conviction, submit a certified copy of the court order.

Do not include:

- Offenses prior to your 18<sup>th</sup> birthday
- Charges dismissed under section 1000.3 of the Penal Code
- Convictions under sections 11357(b), (c), (d), (e) or section 11360(b) of the Health and Safety Code which are two (2) years or older
- Traffic violations for which a fine of \$500 or less was imposed
- Infractions

"Discipline" includes, but is not limited to, suspension, revocation, voluntary surrender, probation or any other restriction. "License" includes professional registrations, certificates, or other means to engage in practice. It is not necessary to report disciplinary action taken by the California Board of Behavioral Sciences.

## →<sup>E</sup> Continuing Education (CE)

- <u>DO NOT</u> SUBMIT CE CERTIFICATES WITH RENEWAL
- 18 hours are required to renew an initial license with an "active" status.
- 36 hours are required to renew a license for each <u>two-year</u> renewal period.

## **IMPORTANT INFORMATION**

#### **RECEIPT OF RENEWAL**

Please do not contact the Board to check the status of your renewal. You may either contact your bank to see if your check has been cashed, or include a self-addressed stamped postcard or envelope with your application, which will be mailed back to you upon receipt. Once your renewal has been processed, your new expiration date will appear in the <u>BreEZe online system</u>.

#### RENEWAL POSTMARKED AFTER EXPIRATION DATE

If your renewal form / fee are postmarked after your license's expiration date, a delinquency fee is required. There is no grace period.

#### **INACTIVE STATUS**

An inactive license must be renewed every two years. CE is not required to renew an inactive license, or to change a license status to inactive. There is no penalty for having an inactive status, and you can renew with an inactive status indefinitely. An inactive license can be reactivated at any time by completing the CE required at the time of reactivation and paying the remainder of the renewal fee.

#### **RETIRED STATUS**

If you are retired, you have the option to place your license on "retired" status. A holder of a retired license may not engage in any activity for which an active license is required. If your license is delinquent, all outstanding requirements for renewal must be met before a <u>Retired</u> <u>License Application</u> can be processed.

#### **CE AUDITS**

You must retain your CE certificates for at least two years from the date of the license renewal for which the courses were completed. The board performs random audits. If you are audited, you must provide copies of your CE certificates at that time as proof of completion.

#### DISPLAY OF LICENSE

A licensee is required to display their license in a conspicuous place in their primary place of business.

#### **EXPIRED LICENSES**

- A license that is not renewed by the expiration date is deemed expired. It is illegal to practice on an expired license.
- A licensee may not supervise or sign off hours for marriage and family therapist interns, associate clinical social workers, or professional clinical counselor interns while the license is expired or inactive.
- A licensee is not entitled to payment by a client or an insurer for services performed while a license is expired or inactive.

#### LICENSE CANCELLATION AFTER 3 YEARS

A license that is not renewed within 3 years after its expiration date will be cancelled. To be licensed again, you will be required to reapply for a new license, meet all current requirements, and pass the licensing examinations.

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Board of Behavioral Sciences

1625 North Market Blvd., Suite S200, Sacramento, CA 95834 Telephone: (916) 574-7830 TTY: (800) 326-2297 www.bbs.ca.gov



## INACTIVE TO ACTIVE LICENSE STATUS CHANGE

Allow 30 days for your license request to be processed

Type or print clearly in ink and enclose the correct fee to avoid delays in processing.

Legal name*: Last		First	Middle	
License Type and Number	r:	Expiration Date:		
Address of Record (Numb	er and Street )*:			
City:		State:	Zip Code:	
Is this a new address?  Yes No If YES, we will update our records accordingly				
Business Phone:	Residence Phone:	Email Address (OPTI	ONAL):	
* As it appears on your lies	anco Soo rovorco for inform	nation on name changes		

\*As it appears on your license. See reverse for information on name changes.

\*\*See reverse for information on the public listing of your address.

FEE

The fee for changing your license status from inactive to active is half of the active biennial renewal fee.

License Type	Fee
LMFT	\$65
LCSW	\$50
LPCC	\$87.50
LEP	\$40

FOR OFFICE USE ONLY	
Cashiering No.:	
Amount Paid:	
Date Ordered:	
Ву:	

## REQUEST

Request is hereby made for my license to be changed from an inactive status to an active status. I have completed the continuing education required to activate an inactive license. During the time I had an inactive license, I did not engage in any activity for which an active license is required.

## NOTE: The Board may refuse to issue a registration or license, or may suspend or revoke the license or registration if the applicant secures the license or registration by fraud, deceit, or misrepresentation.

\* If you have a name change that you would like processed with your application, you must submit the <u>Notification of Name Change</u> form and all required documentation. Your application will not be processed until your name change has been processed. Do not send original documents unless specifically requested to do so.

\*\* The address you enter on this application is public information and will be placed on the Internet pursuant to Business and Professions Code Section 27. If you do not want your home or work address available to the public, use an alternate mailing address. All correspondence from the Board will be mailed to this address.

## **IMPORTANT INFORMATION**

## **RECEIPT OF REQUEST**

Please do not contact the Board to check the status of your request for active status. Contact your bank to see if your check has been cashed, or include a self-addressed stamped postcard or envelope with your application, which will be mailed back to you upon receipt. Once your request has been approved, your active status will appear in the <u>BreEZe online system</u> and you will receive confirmation in the mail.

### **REQUIRED CONTINUING EDUCATION**

### License Activation

To activate your license, you must complete 36 hours of Continuing Education (CE) within two years prior to the postmark date of this request form.

#### License Renewal After Activation

After your license has been activated, you will be required to renew your license prior to its usual expiration date. To renew, you must complete additional CE. The number of CE hours required to *renew* depends on the postmark date of your request for active status, as follows:

- <u>18 hours of CE are required</u> if your license will expire **less than one year** from the date of your request for active status. All18 hours must be taken within your current renewal period\*\*\* and before your license expiration date.
- <u>36 hours of CE are required</u> if your license will expire more than one year from the date of your request for active status. All 36 hours must be taken within your current renewal period\*\*\* and before your license expiration date.

Any CE hours completed in the prior renewal period **CANNOT** be used toward the upcoming renewal. CE must be taken from a BBS-accepted provider or accredited school.

**DO NOT SUBMIT PROOF OF CE WITH THIS REQUEST.** You must retain your CE certificates for at least two years from the date of your request for active status. The board performs random CE audits. If you are audited, you must provide copies of your CE certificates at that time as proof of completion.

For clarification, contact <u>BBS.Renewal@dca.ca.gov</u> or call (916) 574-7830.

\*\*\*A renewal period is defined in Title 16, California Code of Regulations section 1887, as the two-year period which spans from a license's expiration date to the license's next expiration date.



#### Board of Behavioral Sciences

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www.bbs.ca.gov

### ATTACHMENT M



## **RETIRED TO ACTIVE LICENSE STATUS CHANGE**

SEE NEXT PAGE\* TO DETERMINE IF YOU ARE ELIGIBLE TO RESTORE YOUR LICENSE

#### CORRECT FEE MUST ACCOMPANY THIS FORM

Make check payable to - Behavioral Sciences Fund Licensed Marriage and Family Therapist - \$140 Licensed Educational Psychologist - \$80 Licensed Clinical Social Worker - \$110 Licensed Professional Clinical Counselor - \$175

(Disconduced an aviat algority in int)

For Office Use Only:

Cashiering No.

(Please type or print clearly in ink)								
<ol> <li>Legal Name (as it appears on your license)**</li> </ol>			First			Middle		
2. Address of Record*** Numb			iber and Street					
City	State	•	Zip Code		Is this a new 👽 🥅 👝 🥅			
					addres			
3. Business Telephone 4. Residence Te	1	5. E-Mail Address ( <b>OPTIONAL</b> )						
	•				,			
6. Birth Date: mm/dd/yyyy 7. Social Security Number****		8. License Ty	/pe	pe 9. License Number		<ol> <li>Retired License Issue Date*</li> </ol>		
11. Have you ever been denied a professional license, had a professional license privilege suspended.								

11. Have you ever been denied a professional license, had a professional license privilege suspended, Y revoked, or otherwise disciplined, or have you ever voluntarily surrendered any such license in California or any other state or territory of the United States, or by any other governmental agency?

If YES, attach your explanation and related documents as described in the REPORTING DISCIPLINE AGAINST LICENSE(S) section of the instructions.

12. Have you been convicted of, pled guilty to, or pled nolo contendere to any misdemeanor or felony? (Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. DO NOT include offenses prior to your 18th birthday; charges dismissed under section 1000.3 of the Penal Code; convictions which are two years or older under sections 11357(b), (c), (d), (e) or section 11360(b) of the Health and Safety Code; or any traffic violations for which a fine of \$500 or less was imposed.)

If YES, attach your explanation and related documents as described in the REPORTING PRIOR CONVICTION(S) section of the instructions. You must mark YES even if previously reported to the Board. However, it is not necessary for you to re-submit documentation previously on file, you may simply provide a written statement indicating that you believe the information is already on file.

- 13. Is any criminal action pending against you, or are you currently awaiting judgment and sentencing following entry of a plea or jury verdict?
- 14. Have you complied with the continuing education (CE) requirements as specified in the Business and Professions Code sections 4980.54 & 4984.41 (LMFT); 4989.34 & 4989.45 (LEP); 4996.22 & 4997.1 (LCSW); 4999.76; or 4999.113 (LPCC)]?
- 15. Have you submitted fingerprints to the Board in compliance with the information on page 3? If NO, you must submit fingerprints to the Board before your license can be restored to "active" status. Please refer to the *Licensee Live Scan Form* available on the Board's Web site in order to begin the fingerprinting process.

Yes No

Yes No

Yes | No

Yes 🗌 No 🗍

#### \*A retired license may ONLY be reactivated as follows:

- Retired license issued on or before December 31, 2013: Your license can only be reactivated if your status change request application is received within five (5) years from the date your retired license was issued.
- Retired license issued after December 31, 2013: Your license can only be reactivated if your status change request application is received within three (3) years from the date your retired license was issued

### Return your retired license with this application

I have read and understand the information provided on this form, and hereby request that my retired license be reactivated. NOTE: Knowingly providing false information or omitting pertinent information may be grounds for denial of this application.

Signature of Applicant: \_\_\_\_\_Date: \_\_\_\_\_Date

\*\*Business and Professions Code sections 4982(b), 4989.54 (b), 4992.3 (b) and 4999.90 (b) give the board the right to refuse to issue any registration or license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant secures the license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board.

\*\*\*The address you enter on this application is public information and will be placed on the Internet pursuant to Business and Professions Code section 27. If you do not want your home or work address available to the public, please provide an alternate mailing address such as a PO Box.

\*\*\*\*Disclosure of your social security number is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c) (2) (c)) authorizes collection of your social security number. Your social security number will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgment or order for family support in accordance with Section 17520 of the Family Code, or for verification of licensure or examination status by a licensing or examination entity which utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your social security number, your application for initial or renewal license will not be processed AND you will be reported to the Franchise Tax Board, which may assess a \$100 penalty against you.

Continued on next page

## IMPORTANT INFORMATION PLEASE READ CAREFULLY

#### FINGERPRINT SUBMISSION REQUIREMENT

In compliance with Title 16, California Code of Regulations Section 1815, the Board requires a Department of Justice (DOJ) and Federal Bureau of Investigation (FBI) criminal history background check on all applicants, licensee, and registrants who have not previously submitted fingerprints to the Board or whom an electronic record of the licensee's fingerprints does not exist in the DOJ's criminal offender record identification database. If you need to submit fingerprints to the Board, please refer to the *Licensee Live Scan* form available on the Board's Web site at <a href="https://www.bbs.ca.gov">www.bbs.ca.gov</a> under the "Forms/Pubs" section.

#### CONTINUING EDUCATION (CE) INFORMATION

The number of CE hours required to restore your license from retired to active depends on how long your license has been retired.

- If your retired license was issued <u>less than one year</u> from the date of this application, then you must complete 18 hours of continuing education.
- If your retired license was issued <u>one or more years</u> from the date of this application, then you must complete 36 hours of continuing education.

You may earn 12 hours of your required CE through self-study courses. CE must be taken from a BBS approved provider or accredited school. The Board conducts audits of licensee's continuing education. If you are audited, you will be notified in writing to submit copies of your CE certificates or course documentation as proof of compliance with the board's Licensing Laws and Regulations. DO NOT submit proof of CE with this request.

#### NAME CHANGES

You must use your LEGAL name for your professional license. If you have a name change that you would like to have processed with this form, you must submit a Name Change form to the Board.

#### **EXPIRATION DATE**

Your new expiration date will be the same as it would be if your license remained active. It is typically the last day of your birth month based on the normal two year renewal cycle. Example:

- Original license expiration date 5/31/2011
- Retired license issue date 1/15/2011
- Request to restore retired license to active 7/02/2012
- New expiration date 5/31/2013

#### STATE TAX OBLIGATION - EFFECTIVE JULY 1, 2012

Pursuant to Business and Professions Code section 31(e), the State Board of Equalization and the Franchise Tax Board may share taxpayer information with a board. A licensee must pay his or her state tax obligation and his or her license may be suspended if the state tax obligation is not paid.

#### **AMERICANS WITH DISABILITIES ACT**

The Board of Behavioral Sciences does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities. The Executive Officer of the Board has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided hereunder, are available from the ADA Coordinator.

Continued on next page

#### **REPORTING PRIOR CONVICTION(S)**

California Code of Regulations, Title 16, Section 1813 states: "When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the app licant and his or her present eligibility for a license or registration shall consider the following criteria:

- a. The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- b. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- c. The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- d. The extent to which the a pplicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- e. Evidence, if any, of rehabilitation submitted by the applicant."

Submit the following information with your application if you report that you have pled guilty or nolo c ontendere to a misdemeanor or felony conviction (*including any convictions dismissed under Section 1203.4 of the Penal Code*):

**DO NOT** include offenses prior to your 18<sup>th</sup> birthday; charges dismissed under section 1000.3 of the Penal Code; convictions which are two years or older under sections 11357(b), (c), (d), (e) or section 11360(b) of the Health and Safety Code; or any traffic violations for which a fine of \$500 or less was imposed.

- 1. A certified copy of the conviction and disposition of your case from the Court Clerk of the court in which convicted and any police reports.
- 2. A letter from you describing the underlying circumstances of the conviction. If convicted under a different name, please give that name.
- 3. A letter from you describing rehabilitation efforts or changes you have made to prevent future problems. It is your responsibility to present sufficient evidence of rehabilitation to demonstrate your fitness for licensure. The evidence of rehabilitation may include, but is not limited to:
  - a. Proof of completion of probation if it was required.
  - b. Letters of reference from employers, instructors, professional counselors, probation, or par ole officers on official letterhead.
- 4. You must disclose convictions even if the y have been previously reported to the Board. However, it is not necessary for you to re-submit documentation previously on file. You may simply provide a written statement indicating that you believe the information is already on file.

#### REPORTING DISCIPLINE AGAINST LICENSE(S)

Submit the following information with your application if you report any disciplinary action you received against a professional license:

- 1. A certified copy of the determination made by the licensing entity. This document should include date and location of the incident, specific violation, date of disciplinary action, and sanctions or penalties imposed and completion dates.
- 2. A letter from you describing the underlying circumst ances of the incident. If disciplinary action occurre d under a different name, please give that name.
- 3. A letter from you describing rehabilitation efforts or changes you have made to prevent future problems. It is your responsibility to present sufficient evidence of rehabilitation to demonstrate your fitness for licensure. The evidence of rehabilitation may include, but is not limited to:
  - a. Proof of completion of probation if it was required.
  - b. Letters of reference from employers, instructors, professional counselors, probation or parole officers on official letterhead.
- 4. You must disclose all disciplines against licenses even if they have been previously reported to the Bo ard. However, it is not necessary for you to re-submit documentation previously on file, you may simply provide a written statement indicating that you believe the information is already on file.





1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

То:	Board Members	Date:	February 15, 2017
From:	Christy Berger Regulatory Analyst	Telephone:	(916) 574-7817
Subiect:	Proposed Rulemaking: LPCCs Working with	Couples and	Families:

#### Subject: Proposed Rulemaking: LPCCs Working with Couples and Families: Exemptions and Supervised Experience

An LPCC is not permitted to assess or treat couples and families until the licensee has met certain educational and supervised experience requirements per Business and Professions Code (BPC) section 4999.20(a)(3). One of those specified requirements is 500 hours of documented supervised experience with couples, families or children.

Section 1820.5<sup>1</sup> of the Board's regulations provides an exemption, which allows LPCCs who do not yet meet the requirements of BPC section 4999.20 to assess or treat couples and families, but only if they are gaining the supervised experience necessary to comply with BPC section 4999.20(a)(3)(B). A similar exemption is also provided for professional counselor interns (PCIs).

The proposed regulatory changes would clarify <u>who can supervise</u> LPCCs and PCIs who are gaining experience in assessing or treating couples, families or children, and who wish to count that experience toward meeting the 500-hour requirement. The acceptable types of supervisors are currently implied by the regulation but needs to be made explicit, as they are listed in the context of the exemption, rather than in the context of meeting the 500-hour requirement.

The proposal would clearly specify that the required 500 hours of experience with couples, families or children must be supervised by one of the following licensees:

- A licensed professional clinical counselor who already meets the requirements specified in Section 4999.20(a)(3) of the Code.
- A LMFT, or an LCSW, licensed psychologist, or licensed physician who is board certified in psychiatry, who has sufficient education and experience in treating couples and families to competently practice couple and family therapy in California.

<sup>&</sup>lt;sup>1</sup> Title 16, California Code of Regulations

In addition, this regulation proposal would do the following:

- Change the regulation heading to more accurately reflect the topic of the regulation.
- Add "or children" to subdivision (b) in accordance with BPC section 4999.20(a)(3)(B). Note that trainees may assess or treat couples, families or children under the exemption, but may not count this experience toward meeting the 500-hour requirement.
- Change "intern" to "associate" in accordance with SB 1478 (Chapter 489, Statutes of 2016).
- Delete the word "approved" before the word "supervisor" in subparagraph (c)(2) as the supervision committee bill will remove the word "approved" from statute.

### **Recommendation**

Conduct an open discussion regarding the Policy and Advocacy Committee's recommended language; direct staff to make any discussed changes, and any non-substantive changes, and pursue as a regulatory proposal.

## ATTACHMENTS:

Attachment A: Proposed Language

Attachment B: Business and Professions Code (BPC) section 4999.20

Attachment C: Title 16, California Code of Regulations section 1820.7

### Attachment A

### BOARD OF BEHAVIORAL SCIENCES

## Initial Draft Language

### § 1820.5. EXEMPTIONS FOR WORKING WITH COUPLES OR FAMILIES ASSESSMENT OR TREATMENT OF COUPLES AND FAMILIES: EXEMPTIONS AND SUPERVISED EXPERIENCE

(a) Clinical counselor trainees, as defined in Section 4999.12, shall be exempt from Section 4999.20 (a)(3) of the Code if the trainee is gaining supervised practicum experience to comply with sections 4999.32(c)(3)(I), or 4999.33(c)(3)(K) of the Code.

(b) Trainees may not count supervised experience with couples, or families, or children toward the requirements of section 4999.20(a)(3) of the Code.

(c) Professional clinical counselor <u>interns\_associates</u> and licensees shall be exempt from the scope of practice restrictions set forth in section 4999.20(a)(3) of the Code if the <u>intern\_associate</u> or licensee meets all of the following requirements:

(1) Is gaining supervised experience to comply with Section 4999.20(a)(3)(B) or 4999.46 $\frac{(b)(2)}{2}$  of the Code.

(2) The supervised experience is gained under the direct supervision of a licensee who meets the definition of an "approved supervisor" as described in Section 4999.12(h) of the Code. If the supervisor is a licensed professional clinical counselor, he or she must also meet all requirements specified in Section 4999.20(a)(3) of the Code. A supervisor who is a licensed clinical social worker, licensed psychologist, or licensed physician who is board certified in psychiatry, shall have sufficient education and experience in treating couples and families to competently practice couples and family therapy in California.

(d) Professional clinical counselor associates and licensees gaining experience with couples, families, or children toward meeting the requirements of section 4999.20(a)(3)(B) of the Code, shall be supervised by a licensee who meets the gualifications of subsection (2) of paragraph (c) of this section.

(d e) Collateral consultation may be provided to a family of an individual who is being treated by an LPCC or intern\_associate who does not meet the requirements of section 4999.20(a)(3) of the Code, and who is not working under supervision toward meeting the requirements of section 4999.20(a)(3) of the Code. Collateral contact with the family may include, but is not limited to, treatment planning, recommending resources, monitoring progress, or termination and aftercare planning.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4990.20, 4999.12, 4999.20, 4999.32, and 4999.33, and 4999.46, Business and Professions Code.

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## ATTACHMENT B

### §4999.20. SCOPE OF PRACTICE; TREATMENT OF COUPLES OR FAMILIES

(a) (1) "Professional clinical counseling" means the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems, and the use, application, and integration of the coursework and training required by Sections 4999.32 and 4999.33. "Professional clinical counseling" includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed, rational decisions.

(2) "Professional clinical counseling" is focused exclusively on the application of counseling interventions and psychotherapeutic techniques for the purposes of improving mental health, and is not intended to capture other, nonclinical forms of counseling for the purposes of licensure. For purposes of this paragraph, "nonclinical" means nonmental health.

(3) "Professional clinical counseling" does not include the assessment or treatment of couples or families unless the professional clinical counselor has completed all of the following training and education:

(A) One of the following:

(i) Six semester units or nine quarter units specifically focused on the theory and application of marriage and family therapy.

(ii) A named specialization or emphasis area on the qualifying degree in marriage and family therapy; marital and family therapy; marriage, family, and child counseling; or couple and family therapy.

(B) No less than 500 hours of documented supervised experience working directly with couples, families, or children.

(C) A minimum of six hours of continuing education specific to marriage and family therapy, completed in each license renewal cycle.

(4) "Professional clinical counseling" does not include the provision of clinical social work services.

(b) "Counseling interventions and psychotherapeutic techniques" means the application of cognitive, affective, verbal or nonverbal, systemic or holistic counseling strategies that include principles of development, wellness, and maladjustment that reflect a

pluralistic society. These interventions and techniques are specifically implemented in the context of a professional clinical counseling relationship and use a variety of counseling theories and approaches.

(c) "Assessment" means selecting, administering, scoring, and interpreting tests, instruments, and other tools and methods designed to measure an individual's attitudes, abilities, aptitudes, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral concerns and development and the use of methods and techniques for understanding human behavior in relation to coping with, adapting to, or ameliorating changing life situations, as part of the counseling process. "Assessment" shall not include the use of projective techniques in the assessment of personality, individually administered intelligence tests, neuropsychological testing, or utilization of a battery of three or more tests to determine the presence of psychosis, dementia, amnesia, cognitive impairment, or criminal behavior.

(d) Professional clinical counselors shall refer clients to other licensed health care professionals when they identify issues beyond their own scope of education, training, and experience.

### ATTACHMENT C

#### **§1820.7 CONFIRMATION OF QUALIFICATIONS TO TREAT COUPLES OR FAMILIES**

(a) Effective January 1, 2017, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to treat couples and families, and shall provide a copy of this written confirmation to the clients prior to commencement of couple or family treatment.

(b) Effective January 1, 2017, a licensed professional clinical counselor shall obtain written confirmation from the board that he or she meets the requirements specified in 4999.20(a)(3) to treat couples and families, and shall provide a copy of this written confirmation to the supervisees listed below prior to commencement of supervision:

(1) A marriage and family therapist intern or trainee.

(2) A licensed professional clinical counselor or professional clinical counselor intern gaining supervised experience to comply with section 4999.20(a)(3).

(c) The board shall accept any of the following as documentation of the supervised experience required by section 4999.20(a)(3)(B) of the Code to treat couples and families:

(1) Hours of experience verified by a qualified supervisor.

(2) Hours of experience and supervisor's license information verified by the employer if the former supervisor is no longer available.

(3) The board may consider other documentation deemed equivalent by the board on a case-by-case basis.

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То:	Board Members	Date:	February 7, 2017
From:	Rosanne Helms Legislative Analyst	Telephone	(916) 574-7897

#### Subject: AB 93 (Required Experience and Supervision): Additional Amendments

The Board is pursuing legislation to update the requirements for gaining supervised experience toward licensure for LMFT, LCSW, and LPCC applicants. At its November 4, 2016 meeting, the Board approved language developed by the Supervision Committee, and directed staff to pursue a bill proposal through the Legislature.

The bill was introduced on January 9, 2017 as AB 93 (Medina).

Staff has identified the need for minor technical amendments in the bill proposal. The amendments do the following:

- 1. Change section references in statute that need to be updated due to renumbering Many sections were renumbered in the proposed language, and new sections were added. Therefore, there are several references in existing law that need to be updated.
- 2. Updating title designations of individuals in the licensure process in order to more accurately identify them.

The proposed language modified the definitions of "associate" and "applicant for licensure" in LMFT and LPCC law. Due to these changes, staff has reviewed existing references in law to "applicant," "associate," "intern," "supervisee," "trainee," and "registrant," among others, for accuracy. Changes have been made where appropriate.

- 3. Changing references from "intern" to "associate" to in compliance with the title change effective January 1, 2018.
- 4. Clarify 90 Day Rule for LMFT and LPCC Applicants: (BPC §§4980.03(b)(2), 4980.43.2(c), 4999.12(f)(2), 4999.46.1(c))

Upon graduation, an applicant may consider himself/herself a registrant for purposes of counting hours if he or she applies for registration with the Board within 90 days of the degree award date. This is referred to as the "90 day rule."

Language related to the 90 day rule has been amended to specify that the 90 day period to apply for registration after the degree is awarded is determined by <u>the date that the Board receives the application</u>.

- 5. Clarify Six-Year Rule: (BPC §§4980.43(a)(7), 4996.23(a)(5), 4999.46(c)) The law states that no hours of experience may be gained more than six years prior to the date the application for licensure is <u>filed</u>. An amendment was made to clarify that no hours of experience may be gained more than six years prior to the date the application for licensure was received by the Board.
- 6. Clarify PreDegree Practicum/Field Study Experience: (BPC §4999.46.3(b)) Language in BPC Section 4999.46.3(b) related to clinical counselor trainee predegree supervised practicum or field study experience was amended for clarity.
- 7. Limits on Supervisees (BPC §§4980.43.5(d), 4996.23.2(d), 4999.46.4(d)) The law sets limits on the number supervisees that may be supervised in a corporation. An amendment clarifies that the supervisees may be employees, volunteers, <u>or a</u> <u>combination of employees and volunteers</u>.

**Attachment A** shows the proposed amendments to sections that are already included in AB 93. In order to clearly show which amendments are *proposed*, amendments that staff is suggesting for approval today are shown in green text with underline or strikeout and yellow highlight.

Attachment B shows proposed amendments to sections that are not included in AB 93 yet. As these amendments are not yet part of the bill, they are shown in red text with underline and strikeout.

#### Policy and Advocacy Committee Meeting

At its February 3, 2017 meeting, the Policy and Advocacy Committee recommended that the Board commence with the amendments to AB 93 as proposed.

#### **Recommendation**

Conduct an open discussion about the proposed amendments. Direct staff to make any discussed changes, and any non-substantive changes, and submit to the Legislature as amendments to AB 93.

#### **Attachments**

Attachment A: Proposed Amendments to AB 93 Attachment B: AB 93: Additional Sections to be Included in AB 93

#### ATTACHMENT A PROPOSED AMENDMENTS TO AB 93

*Note: This document shows the text of AB 93 as introduced on 1/9/17. The Board approved this language on 11/4/16.* 

*New amendments for consideration today are shown in green text with underline or strikeout and yellow highlight.* 

#### CALIFORNIA LEGISLATURE 2017-2018 REGULAR SESSION

#### ASSEMBLY BILL

No. 93

#### Introduced by Assembly Member Medina

January 09, 2017

An act to amend Sections 4980.01, 4980.03, 4980.35, 4980.397, 4980.43, 4980.44, 4980.78, 4980.79, 4982, 4982.15, 4984.01, 4984.7, 4992.3, 4996.17, 4996.18, 4996.23, 4999.12, 4999.36, 4999.42, 4999.46, 4999.51, 4999.62, 4999.63, and 4999.90 of, to amend and renumber Section 4980.45 of, to add Sections 4980.43.1, 4980.43.2, 4980.43.3, 4980.43.4, 4980.43.6, 4996.20, 4996.21, 4996.23.1, 4996.23.2, 4996.23.3, 4999.46.1, 4999.46.2, 4999.46.3, 4999.46.4, and 4999.46.5 to, and to repeal Sections 4996.24, 4999.34, 4999.44, 4999.45, 4999.455, and 4999.47 of, the Business and Professions Code, relating to healing arts.

# LEGISLATIVE COUNSEL'S DIGEST

AB 93, as introduced, Medina. Healing arts: marriage and family therapists: clinical social workers: professional clinical counselors: required experience and supervision.

Existing law provides for the licensure and regulation of marriage and family therapists, clinical social workers, and professional clinical counselors by the Board of Behavioral Sciences, which is within the Department of Consumer Affairs. Existing law requires trainees, interns, and applicants for licensure in those professions to comply with specified educational and experience

requirements, including, but not limited to, hours of supervised experience, and sets forth terms, conditions, and limitations for those hours of experience, including required supervision, as specified. Existing law also requires individuals seeking licensure in those professions to register with the board in order to gain experience hours. Under existing law, a violation of any of the requirements of the licensing acts for marriage and family therapists, clinical social workers, and professional clinical counselors is punishable as a misdemeanor.

This bill would revise and recast those supervised experience requirements, as specified. The bill would place new requirements on supervisors of trainees, associates, and applicants for licensure and place new requirements on trainees, associates, and applicants for licensure who are under supervision, as specified. By placing new requirements on trainees, associates, applicants for licensure, and their supervisors, a violation of which would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

# **Digest Key**

Vote: MAJORITY Appropriation: NO Fiscal Committee: YES Local Program: YES

## **Bill Text**

# THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

#### **SECTION 1.**

Section 4980.01 of the Business and Professions Code is amended to read:

4980.01.

(a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Social Work Licensing Law, the Nursing Practice Act, the Licensed Professional Clinical Counselor Act, or the Psychology Licensing Act.

(b) This chapter shall not apply to any priest, rabbi, or minister of the gospel of any religious denomination when performing counseling services as part of his or her pastoral or professional duties, or to any person who is admitted to practice law in the state, or who is licensed to practice medicine, when providing counseling services as part of his or her professional practice.

(c) (1) This chapter shall not apply to an employee working in any of the following settings if his or her work is performed solely under the supervision of the employer:

(A) A governmental entity.

(B) A school, college, or university.

(C) An institution that is both nonprofit and charitable.

(2) This chapter shall not apply to a volunteer working in any of the settings described in paragraph (1) if his or her work is performed solely under the supervision of the entity, school, or institution.

(d) A marriage and family therapist licensed under this chapter is a licentiate for purposes of paragraph (2) of subdivision (a) of Section 805, and thus is a health care practitioner subject to the provisions of Section 2290.5 pursuant to subdivision (b) of that section.

(e) Notwithstanding subdivisions (b) and (c), all persons registered as <u>interns</u> *associates* or licensed under this chapter shall not be exempt from this chapter or the jurisdiction of the board.

#### **SEC. 2.**

Section 4980.03 of the Business and Professions Code is amended to read:

4980.03.

(a) "Board," as used in this chapter, means the Board of Behavioral Sciences.

(b) <u>"Intern,"</u> "*Associate,*" as used in this chapter, means an unlicensed person who has earned his or her master's or doctoral degree qualifying him or her for licensure and is registered with the board. meets one of the following:

(1) The individual is registered with the board as an associate.

(2) The individual's degree was awarded and <mark>he or she applies<u>the board receives his or her</u> application for registration as an associate with the board within 90 days of the degree award date.</mark>

(c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctoral degree program, as specified in Sections 4980.36 and 4980.37, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(d) "Applicant *for licensure*," as used in this chapter, means an unlicensed person who has completed a master's or doctoral degree program, as specified in Sections 4980.36 and 4980.37, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements *the required education and required hours of supervised experience* for licensure as specified in this-chapter, is no longer registered with the board as an intern, and is currently in the examination process. *chapter*.

(e) "Advertise," as used in this chapter, includes, but is not limited to, any public communication, as defined in subdivision (a) of Section 651, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. Signs within religious buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

(f) "Experience," as used in this chapter, means experience in interpersonal relationships, psychotherapy, marriage and family therapy, direct *clinical* counseling, and nonclinical practice that satisfies the requirements for licensure as a marriage and family therapist pursuant to Section 4980.40.

(g) "Supervisor," as used in this chapter, means an individual who meets all of the following requirements:

(1) Has been *actively* licensed by a state regulatory agency for at least two years as a in this state or has held an active equivalent license in any other state as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, licensed professional clinical counselor, licensed psychologist, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology. Neurology, for at least two years of the past five years immediately prior to commencing any supervision.

(2)If a licensed professional clinical counselor, the individual shall meet the additional training and education requirements specified in paragraph (3) of subdivision (a) of Section 4999.20.

(2) If the supervisor is a licensed professional clinical counselor, he or she meets the additional training and education requirements specified in subparagraphs (A) to (C), inclusive, of paragraph (3) of subdivision (a) of Section 4999.20.

(3) Has practiced psychotherapy or provided direct clinical supervision of marriage and family therapist trainees, associate marriage and family therapists, associate professional clinical counselors, or associate clinical social workers, who perform psychotherapy, for at least two years within the five-year period immediately preceding any supervision. Supervision of social work students enrolled in an accredited master's or doctoral program or professional clinical counselor trainees, who perform psychotherapy, shall be accepted toward the required two years if the supervision provided to the students is substantially similar equivalent to the supervision required for registrants.

(4) Has received professional training in supervision as specified in this chapter and by regulation.

(3)

(5) Has not provided therapeutic services to the trainee or intern. supervisee.

(4)

(6) Has *and maintains* a current and valid *active California* license that is not under suspension or probation.

#### (5)

(7) Complies with supervision requirements established by this chapter and by board regulations.

(h) "Client centered advocacy," as used in this chapter, includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

#### **SEC. 3**.

Section 4980.35 of the Business and Professions Code is amended to read:

4980.35.

(a) The Legislature acknowledges that the basic obligation to provide a complete and accurate application for a marriage and family therapist license lies with the applicant. At the same time, the Legislature recognizes that an effort should be made by the board to ensure that persons who enter degree programs and supervisorial training settings that meet the requirements of this chapter are enabled to discern the requirements for licensing and to take the examination when they have completed their educational and experience requirements.

(b) In order that the board, the educational institutions, and the supervisors who monitor the education and experience of applicants-for licensure-may develop greater cooperation, the board shall do all of the following:

(1) Apply a portion of its limited resources specifically to the task of communicating information about its activities, the requirements and qualifications for licensure, and the practice of marriage and family therapy to the relevant educational institutions, supervisors, professional associations, applicants, trainees, interns, *associates*, and the consuming public.

(2) Develop policies and procedures to assist educational institutions in meeting the curricula requirements of Sections 4980.36 and 4980.37 and any regulations adopted pursuant to those sections, so that those educational institutions may better provide assurance to their students that the curriculum offered to fulfill the educational requirements for licensure will meet those requirements at the time of the student's application for licensure.

(3) Notify applicants in the application procedure when applications are incomplete, inaccurate, or deficient, and inform applicants of any remediation, reconsideration, or appeal procedures that may be applicable.

(4) Undertake, or cause to be undertaken, further comprehensive review, in consultation with educational institutions, professional associations, supervisors, *interns, associates*, and trainees, of the supervision of *interns associates* and trainees, which shall include, but not be limited to,

the following, and shall propose regulations regarding the supervision of <u>interns</u> *associates* and trainees <u>which</u> *that* may include, but not be limited to, the following:

(A) Supervisor qualifications.

(B) Continuing education requirements of supervisors.

(C) Registration or licensing of supervisors, or both.

(D) Responsibilities of supervisors in general.

(E) The board's authority in cases of noncompliance or negligence by supervisors.

(F) The <u>intern's *associate*'s</u> and trainee's need for guidance in selecting well-balanced and high quality professional training opportunities within his or her community.

(G) The role of the supervisor in advising and encouraging his or her<u>intern</u> *associate* or trainee regarding the necessity or value and appropriateness of the<u>intern</u> *associate* or trainee engaging in personal psychotherapy, so as to enable the<u>intern</u> *associate* or trainee to become a more competent marriage and family therapist.

#### **SEC. 4**.

Section 4980.397 of the Business and Professions Code is amended to read:

4980.397.

(a) Effective January 1, 2016, <u>a registrant or</u> an applicant for licensure as a marriage and family therapist shall pass the following two examinations as prescribed by the board:

(1) A California law and ethics examination.

(2) A clinical examination.

(b) Upon registration with the board, **a** *associate* marriage and family therapist-intern shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant or an applicant for licensure may take the clinical examination only upon meeting all of the following requirements:

(1) Completion of all required supervised work experience.

(2) Completion of all education requirements.

(3) Passage of the California law and ethics examination.

(d) This section shall become operative on January 1, 2016.

#### SEC. 5.

Section 4980.43 of the Business and Professions Code is amended to read:

4980.43.

(a) To qualify for licensure as specified in Section 4980.40, each applicant shall complete experience related to the practice of marriage and family therapy under a supervisor who meets the qualifications set forth in Section 4980.03. The experience shall comply with the following:

(1) A minimum of 3,000 hours of supervised experience completed during a period of at least 104 weeks.

(2) A maximum of 40 hours in any seven consecutive days.

(3) A minimum of 1,700 hours obtained after the qualifying master's or doctoral degree was awarded.

(4) A maximum of 1,300 hours obtained prior to the award date of the qualifying master's or doctoral degree.

(5) A maximum of 750 hours of counseling and direct supervisor contact prior to the award date of the qualifying master's or doctoral degree.

(6) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction.

(7) No hours *Hours* of experience may *shall not* be gained more than six years prior to the date the application for examination eligibility *licensure* was filedrecieved by the board, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.

(8) A minimum of 1,750 hours of direct *clinical* counseling with individuals, groups, couples, or families, that includes not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(9) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to marriage and family therapy that have been approved by the applicant's supervisor.

(10) It is anticipated and encouraged that hours of experience will include working with elders and dependent adults who have physical or mental limitations that restrict their ability to carry out normal activities or protect their rights.

This subdivision shall only apply to hours gained on and after January 1, 2010.

(b) An individual who submits an application for examination eligibility *licensure* between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements *of this section* that were in place on January 1, 2015.

(c)All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by an intern or trainee only as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by an intern or trainee as an independent contractor.

(1)If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2)If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.

(d)Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (9) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1)A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(2)An individual supervised after being granted a qualifying degree shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(3)For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours per week of face-to-face contact in a group.

(4)Direct supervisor contact shall occur within the same week as the hours claimed.

(5)Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.

(6)Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(7)All experience gained by a trainee shall be monitored by the supervisor as specified by regulation.

(8)The six hours of supervision that may be credited during any single week pursuant to paragraphs (1) and (2) shall apply to supervision hours gained on or after January 1, 2009.

(e)(1)A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A)Lawfully and regularly provides mental health counseling or psychotherapy.

(B)Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C)Is not a private practice owned by a licensed marriage and family therapist, a licensed professional clinical counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2)Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(f)(1)An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A)Lawfully and regularly provides mental health counseling or psychotherapy.

(B)Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2)An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (e), until registered as an intern.

(3)While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4)Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5)Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(g)Except as provided in subdivision (h), all persons shall register with the board as an intern to be credited for postdegree hours of supervised experience gained toward licensure.

(h)Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctoral degree and is thereafter granted the intern registration by the board. An applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(i)Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(j)Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. For purposes of paragraph (3) of subdivision (a) of Section 2290.5, interns and trainees working under licensed supervision, consistent with subdivision (c), may provide services via telehealth within the scope authorized by this chapter and in accordance with any regulations governing the use of telehealth promulgated by the board. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of their employers.

(k)Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered employees and not independent contractors. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(1)Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

#### SEC. 6.

Section 4980.43.1 is added to the Business and Professions Code, to read:

4980.43.1.

(a) All trainees, associates, and applicants for licensure shall be at all times under the supervision of a supervisor as specified in this chapter and by regulation.

(b) As used in this chapter, the term "supervision" means responsibility for, and control of, the quality of services being provided by the supervisee. Consultation or peer discussion shall not be considered supervision and shall not qualify as supervised experience.

(c) Supervision includes, but is not limited to, all of the following:

(1) Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the supervisee.

(2) Monitoring and evaluating the supervisee's assessment, diagnosis, and treatment decisions and providing regular feedback.

(3) Monitoring and evaluating the supervisee's ability to provide services at the site or sites where he or she will be practicing and to the particular clientele being served.

(4) Monitoring for and addressing clinical dynamics, including, but not limited to, countertransference-, intrapsychic-, interpersonal-, or trauma-related issues that may affect the supervisory or the practitioner-patient relationship.

(5) Ensuring the supervisee's compliance with laws and regulations governing the practice of marriage and family therapy.

(6) Reviewing the supervisee's progress notes, process notes, and other patient treatment records, as deemed appropriate by the supervisor.

(7) With the client's written consent, providing direct observation or review of audio or video recordings of the supervisee's counseling or therapy, as deemed appropriate by the supervisor.

#### SEC. 7.

Section 4980.43.2 is added to the Business and Professions Code, to read:

4980.43.2.

(a) Before applying for licensure with the board, all applicants for licensure as a licensed marriage and family therapist shall first satisfy the required supervised experience.

(b) Except as provided in subdivision (c), all applicants shall have an active associate registration with the board in order to gain postdegree hours of supervised experience.

(c) Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the associate registration and the board receives the application within 90 days of the granting of the qualifying degree and he or she is thereafter granted the associate registration by the board. An applicant shall not be employed or volunteer in a private practice until he or she has been issued an associate registration by the board.

#### SEC. 8.

Section 4980.43.3 is added to the Business and Professions Code, to read:

4980.43.3.

(a) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (9) of subdivision (a) of Section 4980.43, supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting as follows:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact in each week for every five hours of direct clinical counseling that is performed in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(+2) An associate gaining experience shall receive at least one additional hour of direct supervisor contact in each week for which more than 10 hours of direct clinical counseling is performed in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(2) A trainee shall receive an average of at least one hour of direct supervisor contact in each week for every five hours of direct clinical counseling that is performed in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(b) For purposes of this chapter, "one hour of direct supervisor contact" means any of the following:

(1) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee.

(2) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two supervisees.

(3) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight supervisees. Segments of group supervision may be split into no less than one continuous hour.

(c) Direct supervisor contact shall occur within the same week as the hours claimed.

(d) An applicant for licensure shall have received at least one hour per week of direct supervisor contact that is individual, triadic, or a combination of both, as specified in paragraphs (1) or (2) of subdivision (b), for a minimum of 52 weeks.

(e) When conducting group supervision, as specified in paragraph (3) of subdivision (b), the supervisor shall ensure that the amount and degree of supervision is appropriate for each supervisee.

(f) Notwithstanding subdivision (b), an associate working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring compliance with state and federal law relating to confidentiality of patient health information.

(g) All experience gained by a trainee or associate shall be monitored by the supervisor as specified by this chapter and regulation.

(h) The six hours of supervision that may be credited during any single week, pursuant to paragraphs (1) and (2) of subdivision (a), shall apply to supervision hours gained on or after January 1, 2009.

(i) Notwithstanding any other law, once the required number of experience hours are gained, associates and applicants for licensure shall receive a minimum of one hour of direct supervisor contact per week for each setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as defined in paragraph (9) of subdivision (a) of Section 4980.43, shall be at the supervisor's discretion.

#### SEC. 9.

Section 4980.43.4 is added to the Business and Professions Code, to read:

4980.43.4.

(a) A trainee, associate, or applicant for licensure shall only perform services as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision shall apply equally to employees and volunteers. A trainee, associate, or applicant for licensure shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4980.02, as an independent contractor.

(1) If employed, an associate shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an associate shall provide the board with a letter from his or her employer verifying the associate's status as a volunteer during the dates the experience was gained. This letter shall be provided to the board upon application for licensure.

(b) (1) A trainee shall not perform services in a private practice. A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed professional clinical counselor, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Only experience gained in the position for which the trainee volunteers or is employed shall qualify as supervised experience.

(c) (1) An associate may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession, as defined in Section 4980.02.

(2) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(3) Only experience gained in the position for which the associate volunteers or is employed shall qualify as supervised experience.

(4) An applicant for registration as an associate shall not be employed or volunteer in a private practice until he or she has been issued an associate registration by the board.

(d) Any experience obtained under the supervision of a spouse, relative, or domestic partner shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(e) A trainee, associate, or applicant for licensure shall not receive any remuneration from patients or clients and shall only be paid by his or her employer.

(f) A trainee, associate, or applicant for licensure shall have no proprietary interest in his or her employer's business and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(g) A trainee, associate, or applicant for licensure who provides voluntary services in any lawful work setting other than a private practice and who only receives reimbursement for expenses actually incurred shall be considered an employee and not an independent contractor. The board may audit an applicant for licensure who receives reimbursement for expenses and the applicant for licensure shall have the burden of demonstrating that the payment received was for reimbursement of expenses actually incurred.

(h) A trainee, associate, or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee and not an independent contractor. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payment received was for the specified purposes.

(i) For purposes of paragraph (3) of subdivision (a) of Section 2990.5, an associate or a trainee working under a licensed supervisor, consistent with this chapter, may provide services via telehealth within the scope authorized by this chapter and in accordance with any regulations governing the use of telehealth promulgated by the board.

(j) Each educational institution preparing applicants pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her associates and trainees regarding the advisability of undertaking individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, educational institutions and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

#### SEC. 10.

Section 4980.43.6 is added to the Business and Professions Code, to read:

#### 4980.43.6.

The board shall have the right to audit the records of any supervisor to verify the completion of the supervisor qualifications specified by this chapter and by regulation. A supervisor shall maintain records of completion of the required supervisor qualifications for a period of seven years after termination of supervision and shall make these records available to the board for auditing purposes upon request.

#### SEC. 11.

Section 4980.44 of the Business and Professions Code is amended to read:

4980.44.

An unlicensed *associate* marriage and family therapist-intern employed under this chapter shall comply with the following requirements:

(a) Possess, at a minimum, a master's degree as specified in Section 4980.36 or 4980.37, as applicable.

(b) Register with the board prior to performing any duties, except as otherwise provided in subdivision  $\frac{(h) \text{ of Section 4980.43}(c) \text{ of section 4980.43.2}}{(h) \text{ of Section 4980.43.2}}$ .

(c) Prior to performing any professional services, inform each client or patient that he or she is an unlicensed *registered associate* marriage and family therapist registered intern, *therapist*, provide his or her registration number and the name of his or her employer, and indicate whether he or she is under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed professional clinical counselor, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

(d) (1) Any advertisement by or on behalf of a *registered associate* marriage and family therapist registered intern shall include, at a minimum, all of the following information:

(A) That he or she is a *registered associate* marriage and family-therapist registered intern. *therapist*.

(B) The intern's associate's registration number.

(C) The name of his or her employer.

(D) That he or she is supervised by a licensed person.

(2) The abbreviation "MFTI" "AMFT" shall not be used in an advertisement unless the title "marriage "registered associate marriage and family therapist registered intern" therapist" appears in the advertisement.

#### SEC. 12.

Section 4980.45 of the Business and Professions Code is amended and renumbered to read:

4980.45.

<del>(a)</del>

4980.43.5.

(a) A trainee, associate, or applicant for licensure shall only perform services at the place where his or her employer regularly conducts business and services, which may include performing services at other locations as long as the services are performed under the direction and control of his or her employer and his or her supervisor and in compliance with the laws and regulations pertaining to supervision.

(b) Except for periods of time during a supervisor's vacation or sick leave, an associate who is employed or volunteering in private practice shall be under the direct supervision of a supervisor who is either employed by, and practices at the same site as, the associate's employer or is an owner or shareholder of the private practice.

(c) A licensed professional in private practice who has satisfied the requirements of subdivision (g) of Section 4980.03 may supervise or employ, at any one time, no more than a total of three individuals registered as a *an associate* marriage and family therapist intern, clinical counselor intern, or therapist, an associate professional clinical counselor, or an associate clinical social worker in that private practice.

(d) All of the following limits shall apply to marriage and family therapy corporations:

#### <del>(b)</del>

(1) A marriage and family therapy corporation may-<u>employ</u>, *retain*, at any one time, no more than a total of three <u>individuals</u> *employees*, and *volunteers*, or a combination of employees and <u>volunteers</u>, registered as an associate marriage and family-therapist intern, clinical counselor intern, or therapist, an associate professional clinical counselor, or an associate clinical social worker for each <u>supervising</u> employee or shareholder who has satisfied the requirements of subdivision (g) of Section 4980.03. In

(2) In no event shall any marriage and family therapy corporation-<u>employ</u>, *retain*, at any one time, more than a total of 15-<u>individuals</u> *employees*, and *volunteers*, or a combination of *employees and volunteers*, registered as an associate marriage and family-therapist intern, clinical counselor intern, or therapist, an associate professional clinical counselor, or an associate clinical social worker. In

(3) In no event shall any supervisor supervise, at any one time, more than a total of three individuals employees. and volunteers, or a combination of employees and volunteers, registered as either a an associate marriage and family therapist intern, clinical counselor intern, or therapist, an associate professional clinical counselor, or an associate clinical social worker. Persons A person who supervise individuals supervises an employees or and volunteers registered as either a an associate marriage and family therapist intern, clinical counselor intern, or therapist, an associate marriage and family therapist intern, clinical counselor intern, or therapist, an associate marriage and family therapist intern, clinical counselor intern, or therapist, an associate professional clinical counselor, or an associate clinical social worker shall be employed full time by the marriage and family therapy corporation and shall be actively engaged in performing professional services at and for the marriage and family therapy corporation. Employment

(4) *Employment* and supervision within a marriage and family therapy corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

(e) In a setting that is not a private practice, a written agreement, as specified by regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer.

(f) In any setting that is not a private practice, a supervisor shall evaluate the <u>site or</u> sites where a trainee or associate will be gaining hours of experience toward licensure and shall determine both of the following:

(1) That the <u>site or</u> sites provide experience that is within the scope of practice of a marriage and family therapist.

(2) That the experience is in compliance with the requirements set forth in this chapter and regulation.

(g) Alternative supervision may be arranged during a supervisor's vacation or sick leave if the alternative supervision meets the requirements in this chapter and regulation.

#### SEC. 13.

Section 4980.78 of the Business and Professions Code is amended to read:

4980.78.

(a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who do not hold a license as described in Section 4980.72.

(b) For purposes of Section 4980.74, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.36, the degree shall contain no less than 60 semester or 90 quarter units of instruction.

(ii) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an-intern. *associate*.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.37, the degree shall contain no less than 48 semester units or 72 quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy.

(D) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) The applicant shall complete coursework in California law and ethics as follows:

(A) An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81, that did not contain instruction in California law and ethics, shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process. This coursework shall be completed prior to registration as an-intern. *associate*.

(B) An applicant who has not completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 shall complete this required coursework. The coursework shall contain content specific to California law and ethics. This coursework shall be completed prior to registration as an <u>intern</u>. *associate*.

(3) The applicant completes the educational requirements specified in Section 4980.81 not already completed in his or her education. The coursework may be from an accredited school, college, or university as specified in paragraph (1), from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is

acceptable to the board as defined in Section 4980.54. Undergraduate courses shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited school, college, or university as specified in paragraph (1) from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate courses shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, *associate*, unless otherwise specified.

(6) The applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.

#### SEC. 14.

Section 4980.79 of the Business and Professions Code is amended to read:

4980.79.

(a) This section applies to persons who apply for licensure or registration on or after January 1, 2016, and who hold a license as described in Section 4980.72.

(b) For purposes of Section 4980.72, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from a school, college, or university accredited by a regional or national institutional accrediting agency recognized by the United States Department of Education and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.36, the degree shall contain no less than 60 semester or 90 quarter units of instruction.

(ii) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an <u>intern</u>. *associate*.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4980.37, the degree shall contain no less than 48 semester or 72 quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy.

(i) An out-of-state applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the practicum requirement, shall remediate it by obtaining 150 hours of face-to-face experience counseling individuals, couples, families, or groups, and an additional 75 hours of either face-to-face experience counseling individuals, couples, families, or groups or client centered advocacy, or a combination of face-to-face experience counseling individuals, couples, families, or groups and client centered advocacy. These hours are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while registered as an-intern. *associate*.

(D) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.

(2) An applicant shall complete coursework in California law and ethics as follows:

(A) An applicant who completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 that did not include instruction in California law and ethics, shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process. This coursework shall be completed prior to registration as an intern. associate.

(B) An applicant who has not completed a course in law and professional ethics for marriage and family therapists as specified in paragraph (8) of subdivision (a) of Section 4980.81 shall complete this required coursework. The coursework shall include content specific to California law and ethics. An applicant shall complete this coursework prior to registration as an intern. *associate*.

(3) The applicant completes the educational requirements specified in Section 4980.81 not already completed in his or her education. The coursework may be from an accredited school,

college, or university as specified in paragraph (1), from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited school, college, or university as specified in paragraph (1) above, from an educational institution approved by the Bureau for Private Postsecondary Education, or from a continuing education provider that is acceptable to the board as defined in Section 4980.54. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction pertaining to the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.

(6) An applicant may complete any units and course content requirements required under paragraphs (3) and (4) not already completed in his or her education while registered as an intern, *associate*, unless otherwise specified.

#### SEC. 15.

Section 4982 of the Business and Professions Code is amended to read:

4982.

The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.

(d) Gross negligence or incompetence in the performance of marriage and family therapy.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.

(1) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern trainee, registered associate, or applicant for licensure under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered intern, *associate*, associate clinical social worker, or trainee, or applicant by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a trainee or registered intern trainee, registered associate, or applicant for licensure under one's supervision or control to perform, or permitting the trainee or registered intern trainee, registered associate, or applicant for licensure to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's trainee's, registered associate's, or applicant's for licensure's level of education, training, or experience.

(u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(z) Failure to comply with Section 2290.5.

(aa) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(ab) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

#### SEC. 16.

Section 4982.15 of the Business and Professions Code is amended to read:

4982.15.

(a) The board may place a license or registration on probation under the following circumstances:

(1) In lieu of, or in addition to, any order of the board suspending or revoking the license or registration of any licensee or <del>intern.</del> *associate*.

(2) Upon the issuance of a license to an individual who has been guilty of unprofessional conduct, but who had otherwise completed all education and training and experience required for licensure.

(3) As a condition upon the reissuance or reinstatement of any license that has been suspended or revoked by the board.

(b) The board may adopt regulations establishing a monitoring program to ensure compliance with any terms or conditions of probation imposed by the board pursuant to subdivision (a). The cost of probation or monitoring may be ordered to be paid by the licensee, registrant, or applicant.

(c) The board, in its discretion, may require any licensee or registrant who has been placed on probation, or whose license or registration has been suspended, to obtain additional professional training, and to pass an examination upon completion of that training, and to pay any necessary examination fee. The examination may be written, oral, or a practical or clinical examination.

#### SEC. 17.

Section 4984.01 of the Business and Professions Code is amended to read:

4984.01.

(a) The *associate* marriage and family therapist-intern registration shall expire one year from the last day of the month in which it was issued.

(b) To renew the registration, the registrant shall, on or before the expiration date of the registration, complete all of the following actions:

(1) Apply for renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Participate in the California law and ethics examination pursuant to Section 4980.399 each year until successful completion of this examination.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken against him or her by a regulatory or licensing board in this or any other state subsequent to the last renewal of the registration.

(c) The registration may be renewed a maximum of five times. No registration shall be renewed or reinstated beyond six years from the last day of the month during which it was issued, regardless of whether it has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent-intern *associate* registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent-intern *associate* registration described in Section 4980.399. An applicant who is issued a subsequent-intern *associate* registration number in the provide a subsequent-intern *associate* registration number and has passed the California law and ethics examination described in Section 4980.399. An applicant who is issued a subsequent-intern *associate* registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(d) This section shall become operative on January 1, 2016.

#### SEC. 18.

Section 4984.7 of the Business and Professions Code is amended to read:

4984.7.

(a) The board shall assess the following fees relating to the licensure of marriage and family therapists:

(1) The application fee for an *intern associate* registration shall be seventy-five dollars (\$75).

(2) The renewal fee for an *intern associate* registration shall be seventy-five dollars (\$75).

(3) The fee for the application for examination eligibility shall be one hundred dollars (\$100).

(4) The fee for the clinical examination shall be one hundred dollars (\$100). The fee for the California law and ethics examination shall be one hundred dollars (\$100).

(A) An applicant who fails to appear for an examination, after having been scheduled to take the examination, shall forfeit the examination fee.

(B) The amount of the examination fees shall be based on the actual cost to the board of developing, purchasing, and grading each examination and the actual cost to the board of administering each examination. The examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

(5) The fee for rescoring an examination shall be twenty dollars (\$20).

(6) The fee for issuance of an initial license shall be a maximum of one hundred eighty dollars (\$180).

(7) The fee for license renewal shall be a maximum of one hundred eighty dollars (\$180).

(8) The fee for inactive license renewal shall be a maximum of ninety dollars (\$90).

(9) The renewal delinquency fee shall be a maximum of ninety dollars (\$90). A person who permits his or her license to expire is subject to the delinquency fee.

(10) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(11) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(12) The fee for issuance of a retired license shall be forty dollars (\$40).

(b) With regard to license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

(c) This section shall become operative on January 1, 2016.

#### SEC. 19.

Section 4992.3 of the Business and Professions Code is amended to read:

4992.3.

The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine

if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Incompetence in the performance of clinical social work.

(e) An act or omission that falls sufficiently below the standard of conduct of the profession as to constitute an act of gross negligence.

(f) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(g) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(h) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(i) Aiding or abetting *or employing, directly or indirectly*, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(j) Intentionally or recklessly causing physical or emotional harm to any client.

(k) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(1) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(m) Performing, or holding one's self *oneself* out as being able to perform, or offering to perform or permitting, any registered associate elinical social worker or intern worker, trainee, registrant, or applicant under supervision to perform any professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter. the license authorized by this chapter.

(n) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (o).

(q) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(r) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device. A licensee shall limit access to that test or device to persons with professional interest who are expected to safeguard its use.

(s) Any conduct in the supervision of any registered associate clinical social worker, intern, *associate*, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

(t) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(u) Permitting an applicant for licensure, trainee, or registrant under one's supervision or control to perform, or permitting the supervisee to hold himself or herself out as competent to perform, professional services beyond the supervisee's level of education, training, or experience.

(v) The violation of any law or regulation governing the gaining or supervision of experience required by this chapter.

#### <del>(t)</del>

(w) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

#### <del>(u)</del>

(x) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

#### <del>(v)</del>

(y) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

#### <del>(w)</del>

(z) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

#### <del>(x)</del>

(aa) Failure to comply with Section 2290.5.

#### <del>(y)</del>

(*ab*) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

#### <del>(z)</del>

(*ac*) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of the examination as described in Section 123.

#### SEC. 20.

Section 4996.17 of the Business and Professions Code is amended to read:

4996.17.

(a) (1) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(2) Commencing January 1, 2014, an applicant with education gained outside of California shall complete an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(b) The board may issue a license to any person who, at the time of application, holds a valid active clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes, or has passed, the licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 3,000 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(4) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, holds a valid, active clinical social work license issued by a board of clinical social work examiners or a corresponding authority of any state, if the person has held that license for at least four years immediately preceding the date of application, the person passes, or has passed, the licensing examinations as specified in Section 4996.1, and the person pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) Commencing January 1, 2014, completion of an 18-hour course in California law and professional ethics. The content of the course shall include, but not be limited to, the following: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, state and federal laws related to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and process.

(3) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(4) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(5) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(6) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(7) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

(d) Commencing January 1, 2016, an applicant who obtained his or her license or registration under another jurisdiction may apply for licensure with the board without taking the clinical examination specified in Section 4996.1 if the applicant obtained a passing score on the licensing examination set forth in regulation as accepted by the board.

#### SEC. 21.

Section 4996.18 of the Business and Professions Code is amended to read:

4996.18.

(a) A person who wishes to be credited with experience toward licensure requirements shall register with the board as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the board.

(b) An applicant for registration shall satisfy the following requirements:

(1) Possess a master's degree from an accredited school or department of social work.

(2) Have committed no crimes or acts constituting grounds for denial of licensure under Section 480.

(3) Commencing January 1, 2014, have completed training or coursework, which may be embedded within more than one course, in California law and professional ethics for clinical social workers, including instruction in all of the following areas of study:

(A) Contemporary professional ethics and statutes, regulations, and court decisions that delineate the scope of practice of clinical social work.

(B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of clinical social work, including, but not limited to, family law.

(C) The current legal patterns and trends in the mental health professions.

(D) The psychotherapist-patient privilege, confidentiality, dangerous patients, and the treatment of minors with and without parental consent.

(E) A recognition and exploration of the relationship between a practitioner's sense of self and human values, and his or her professional behavior and ethics.

(F) Differences in legal and ethical standards for different types of work settings.

(G) Licensing law and process.

(c) An applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible to take the clinical examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

(d)All applicants and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of clinical social work.

(e)Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(d) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education to a school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

#### <del>(g)</del>

(e) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a master's of social work degree that is equivalent to a master's degree issued from a school or department of social work that is accredited by the Commission on Accreditation of the Council on Social Work Education. These applicants shall provide the board with a comprehensive evaluation of the degree and shall provide any other documentation the board deems necessary. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements regardless of evaluation or accreditation.

(h)A registrant shall not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee.

(f) All applicants and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of clinical social work.

#### (i)A registrant

(g) All applicants and registrants shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

# SEC. 22.

Section 4996.20 is added to the Business and Professions Code, to read:

4996.20.

(a) "Supervisor," as used in this chapter, means an individual who meets the requirements set forth in this chapter and by regulation. The requirements include, but are not limited to, all of the following:

(1) Has been actively licensed in this state or has held an active equivalent license in any other state as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology, for at least two years of the past five years immediately prior to commencing any supervision.

(2) Has practiced psychotherapy or provided direct clinical supervision of associate clinical social workers, associate marriage and family therapists or trainees, or associate professional clinical counselors, who perform psychotherapy, for at least two years within the five-year period immediately preceding any supervision. Supervision of social work students enrolled in an accredited master's or doctoral program who perform psychotherapy or professional clinical counselor trainees who perform psychotherapy shall be accepted toward the required two years if the supervision provided to the students is substantially similarequivalent to the supervision required for registrants.

(3) Has received professional training in supervision as specified in this chapter and by regulation.

(4) Has not provided therapeutic services to the supervisee.

(5) Has and maintains a current and active California license that is not under suspension or probation.

(6) Complies with supervision requirements established by this chapter and by board regulations.

(b) "Supervision," for purposes of this chapter, means responsibility for, and control of, the quality of services being provided by the supervisee. Consultation or peer discussion shall not be considered supervision and shall not qualify as supervised experience.

(c) Supervision includes, but is not limited to, all of the following:

(1) Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the supervisee.

(2) Monitoring and evaluating the supervisee's assessment, diagnosis, and treatment decisions and providing regular feedback.

(3) Monitoring and evaluating the supervisee's ability to provide services to the particular clientele being served at the site or sites where he or she will be practicing.

(4) Monitoring for and addressing clinical dynamics, including, but not limited to, countertransference-, intrapsychic-, interpersonal-, or trauma-related issues that may affect the supervisory or the practitioner-patient relationship.

(5) Ensuring the supervisee's compliance with laws and regulations governing the practice of clinical social work.

(6) Reviewing the supervisee's progress notes, process notes, and other patient treatment records, as deemed appropriate by the supervisor.

(7) With the client's written consent, providing direct observation or review of audio or video recordings of the supervisee's counseling or therapy, as deemed appropriate by the supervisor.

# SEC. 23.

Section 4996.21 is added to the Business and Professions Code, to read:

4996.21.

The board shall have the right to audit the records of any supervisor to verify the completion of the supervisor qualifications specified by this chapter and by regulation. A supervisor shall maintain records of completion of the required supervisor qualifications for a period of seven years after termination of supervision and shall make these records available to the board for auditing purposes upon request.

# SEC. 24.

Section 4996.23 of the Business and Professions Code is amended to read:

4996.23.

(a) To qualify for licensure as specified in Section 4996.2, each applicant shall complete 3,200 3,000 hours of post-master's degree supervised experience related to the practice of clinical social-work. work under a supervisor who meets the qualifications in Section 4996.20. Experience shall not be gained until the applicant is actively registered as an associate clinical social worker. The experience shall comply with the following:

(1) At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined by a regulation adopted by the board. *supervisor holding any of the license types listed as acceptable in this chapter*.

(2) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(3) A maximum of  $1,200 \ 1,000$  hours in client centered advocacy, consultation, evaluation, research, direct supervisor contact, and workshops, seminars, training sessions, or conferences directly related to clinical social work that have been approved by the applicant's supervisor.

(4) Of the 2,000 clinical hours required in paragraph (2), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

(5) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was  $\frac{\text{filed}_{recieved}}{\text{filed}_{recieved}}$ .

(6) Experience shall not be credited for more than 40 hours in any week.

# (7) No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(b) An individual who submits an application for examination eligibility *licensure* between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements *of this section* that were in place on January 1, 2015.

(c)"Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(d)(1)Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.

(2)Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. For purposes of this subdivision, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours of face-to-face contact in a group conducted within the same week as the hours claimed.

(3)An associate shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face to face psychotherapy is performed in each setting in which experience is gained. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(4)Supervision shall include at least one hour of direct supervisor contact during each week for which experience is gained in each work setting. Supervision is not required for experience gained attending workshops, seminars, training sessions, or conferences as described in paragraph (3) of subdivision (a).

#### (5)

(c) The six hours of supervision that may be credited during any single week pursuant to paragraph (3) (7) of subdivision (a) shall apply only to supervision hours gained on or after January 1, 2010.

(6)Group supervision shall be provided in a group of not more than eight supervisees and shall be provided in segments lasting no less than one continuous hour.

(7)Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker.

(8)Notwithstanding paragraph (2), an associate clinical social worker working for a governmental entity, school, college, or university, or an institution that is both a nonprofit and charitable institution, may obtain the required weekly direct supervisor contact via live two-way

videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is preserved.

(e)The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.

(f)Experience shall only be gained in a setting that meets both of the following:

(1)Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2)Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(g)Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(h)Employment in a private practice as defined in subdivision (i) shall not commence until the applicant has been registered as an associate clinical social worker.

(i)A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(j)If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(k)If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(1)While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(m)An associate shall not do the following:

(1)Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2)Have any proprietary interest in the employer's business.

(3)Lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(n)An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(o)Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.

# SEC. 25.

Section 4996.23.1 is added to the Business and Professions Code, to read:

4996.23.1.

(a) For purposes of this chapter, "one hour of direct supervisor contact" means any of the following:

(1) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee.

(2) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two supervisees.

(3) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight supervisees. Segments of group supervision may be split into no less than one continuous hour.

(b) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (3) of subdivision (a) of Section 4996.23, supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting. An associate clinical social worker gaining experience shall receive at least one additional hour of direct supervisor contact in every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting.

(c) Direct supervisor contact shall occur within the same week as the hours claimed.

(d) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, triadic supervision, or a combination of both.

(e) Of the 52 weeks of required individual or triadic supervision, no less than 13 weeks shall be supervised by a licensed clinical social worker.

(f) When conducting group supervision, the supervisor shall ensure that the amount and degree of supervision is appropriate for each supervisee.

(g) Notwithstanding subdivision (a), an associate clinical social worker working for a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring compliance with state and federal law relating to confidentiality of patient health information.

(h) Notwithstanding any other law, once the required number of experience hours are gained, an associate clinical social worker or applicant for licensure shall receive a minimum of one hour of direct supervisor contact per week for each setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as defined in paragraph (3) of subdivision (a) of Section 4996.23, shall be at the supervisor's discretion.

# SEC. 26.

Section 4996.23.2 is added to the Business and Professions Code, to read:

4996.23.2.

(a) An associate clinical social worker or applicant shall only perform services as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision shall apply equally to employees and volunteers. An associate or applicant shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4996.9, as an independent contractor.

(1) If employed, an associate shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an associate shall provide the board with a letter from his or her employer verifying the associate's status as a volunteer during the dates the experience was gained. This letter shall be provided to the board upon application for licensure.

(b) "Private practice," for purposes of this chapter, is defined as a setting owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed professional clinical counselor, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(c) Employment in a private practice shall not commence until the applicant has been registered as an associate clinical social worker.

(d) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(e) While an associate clinical social worker may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(f) Only experience gained in the position for which the associate clinical social worker volunteers or is employed shall qualify as supervised experience.

(g) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(h) An associate or applicant shall not do any of the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in his or her employer's business.

(3) Lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(i) An associate clinical social worker or applicant for licensure who provides voluntary services in any lawful work setting other than a private practice and who only receives reimbursement for expenses actually incurred shall be considered an employee and not an independent contractor. The board may audit an applicant for licensure who receives reimbursement for expenses and the applicant shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(j) An associate clinical social worker or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee and not an independent contractor. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payments received were for the specified purposes.

# SEC. 27.

Section 4996.23.3 is added to the Business and Professions Code, to read:

4996.23.3.

(a) An associate clinical social worker or an applicant for licensure shall only perform services at the place where his or her employer regularly conducts business and services, which may include performing services at other locations, as long as the services are performed under the direction and control of his or her employer and his or her supervisor and in compliance with the laws and regulations pertaining to supervision.

(b) Except for periods of time during a supervisor's vacation or sick leave, an associate clinical social worker who is employed or volunteering in private practice shall be under the direct supervision of a supervisor who is either employed by, and practices at the same site as, the associate's employer or is an owner or shareholder of the private practice.

(c) A licensed professional in private practice who has satisfied the requirements of subdivision (a) of Section 4996.20 may supervise or employ, at any one time, no more than a total of three individuals registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker in that private practice.

(d) All of the following limits shall apply to a licensed clinical social worker corporation:

(1) A licensed clinical social worker corporation may retain, at any one time, no more than a total of three employees <u>-and</u> volunteers, <u>or a combination of employees and volunteers</u>, registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker for each <u>supervising</u> employee or shareholder who has satisfied the requirements of subdivision (a) of Section 4996.20.

(2) In no event shall any licensed clinical social worker corporation retain, at any one time, more than a total of 15 employees, and volunteers, or a combination of employees and volunteers, registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker.

(3) In no event shall any supervisor supervise, at any one time, more than a total of three employees, and volunteers, or a combination of employees and volunteers, registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker. A person who supervises an employees and or volunteers registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker and family therapist, an associate professional clinical counselor, or an associate clinical social worker shall be employed full time by the licensed clinical social worker corporation and shall be actively engaged in performing professional services at and for the licensed clinical social worker corporation.

(4) Employment and supervision within a licensed clinical social worker corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

(e) In a setting that is not a private practice, a written agreement, as specified by regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer.

(f) In any setting that is not a private practice, a supervisor shall evaluate the <u>site or</u> sites where an associate clinical social worker will be gaining hours of experience toward licensure and shall determine both of the following:

(1) That the site provides experience that is within the scope of practice of a clinical social worker.

(2) That the experience is in compliance with the requirements set forth in this chapter and regulations.

(g) Alternative supervision may be arranged during a supervisor's vacation or sick leave if the alternative supervision meets the requirements in this chapter and by regulation.

# SEC. 28.

Section 4996.24 of the Business and Professions Code is repealed.

#### <del>4996.24.</del>

(a)A licensee in private practice who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations may supervise or employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b)A licensed clinical social workers' corporation may employ, at any one time, no more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of Section 1870 of Title 16 of the California Code of Regulations.

(c)In no event shall any licensed clinical social workers' corporation employ, at any one time, more than a total of 15 individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than a total of three individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as either a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the licensed clinical social workers' corporation and shall be actively engaged in performing professional services at and for the licensed clinical social workers' corporation. Employment and supervision within the licensed clinical social workers' corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

# SEC. 29.

Section 4999.12 of the Business and Professions Code is amended to read:

4999.12.

For purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the Board of Behavioral Sciences.

(b) "Accredited" means a school, college, or university accredited by a regional or national institutional accrediting agency that is recognized by the United States Department of Education.

(c) "Approved" means a school, college, or university that possessed unconditional approval by the Bureau for Private Postsecondary Education at the time of the applicant's graduation from the school, college, or university.

(d) "Applicant" "Applicant for licensure" means an unlicensed person who has completed a master's or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, and whose application for registration as an intern is pending or who has applied for examination eligibility, or an unlicensed person who has completed the requirements for licensure specified in this chapter and is no longer registered with the board as an intern. the required education and required hours of supervised experience for licensure as specified in this chapter.

(e) "Licensed professional clinical counselor" or "LPCC" means a person licensed under this chapter to practice professional clinical counseling, as defined in Section 4999.20.

(f) <u>"Intern"</u> "*Associate*" means an unlicensed person who meets the requirements of Section 4999.42 and is registered with the board. who meets one of the following:

(1) The individual is registered with the board as an associate.

(2) The individual's degree was awarded and <del>he or she applies<u>the board receives his or her</u> application for registration with the board as an associate within 90 days of the degree award date.</del>

(g) "Clinical counselor trainee" means an unlicensed person who is currently enrolled in a master's or doctoral degree program, as specified in Section 4999.32 or 4999.33, as applicable, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(h) <u>"Approved supervisor"</u> "*Supervisor*" means an individual who meets *all of* the following requirements:

(1) Has documented two years of clinical experience been actively licensed in this state or has held an active equivalent license in another state as a licensed professional clinical counselor, licensed marriage and family therapist, licensed clinical psychologist, licensed clinical social worker, or licensed physician and surgeon who is certified in psychiatry by the American Board of Psychiatry and Neurology. Neurology, for at least two of the past five years immediately prior to commencing any supervision.

(2) The supervisor meets the additional training and education requirements in subparagraphs (A) to (C), inclusive, of paragraph (3) of subdivision (a) of Section 4999.20 if he or she is a licensed professional clinical counselor, supervising an associate marriage and family therapist, a marriage and family therapist trainee, or an associate professional clinical counselor or licensee seeking experience to treat couples and families pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 4999.20.

(3) Has practiced psychotherapy or provided direct clinical supervision of marriage and family therapist trainees, associate marriage and family therapists, associate professional clinical counselors, or associate clinical social workers, who perform psychotherapy, for at least two years within the five-year period immediately preceding any supervision. Supervision of social work students enrolled in an accredited master's or doctoral program or professional clinical counselor trainees, who perform psychotherapy, shall be accepted toward the required two years if the supervision provided to the students is substantially similarequivalent to the supervision required for registrants.

# (2)

(4) Has received professional training in <u>supervision</u> supervision as specified in this chapter and by regulation.

(3)

(5) Has not provided therapeutic services to the clinical counselor trainee or intern. supervisee.

# (4)

(6) Has *and maintains* a current and valid *active California* license that is not under suspension or probation.

#### (7) Complies with supervision requirements established by this chapter and by regulation.

(i) "Client centered advocacy" includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

(j) "Advertising" or "advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

(k) "Referral" means evaluating and identifying the needs of a client to determine whether it is advisable to refer the client to other specialists, informing the client of that judgment, and communicating that determination as requested or deemed appropriate to referral sources.

(1) "Research" means a systematic effort to collect, analyze, and interpret quantitative and qualitative data that describes how social characteristics, behavior, emotion, cognitions, disabilities, mental disorders, and interpersonal transactions among individuals and organizations interact.

(m) (1) "Supervision" includes the following: means responsibility for, and control of, the quality of services being provided by the supervisee. Consultation or peer discussion shall not be considered supervision and shall not qualify as supervised experience.

(2) Supervision includes, but is not limited to, all of the following:

(1)

(A) Ensuring that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the person being supervised.

#### (2)Reviewing client or patient records, monitoring

(B) Monitoring and evaluating assessment, diagnosis, and treatment decisions of the clinical counselor trainee. supervisee and providing regular feedback.

#### (3)

(*C*) Monitoring and evaluating the *supervisee's* ability of the intern or clinical counselor trainee to provide services to the particular clientele at the site or sites where he or she will be practicing.

(D) Monitoring for and addressing clinical dynamics, including, but not limited to, countertransference-, intrapsychic-, interpersonal-, or trauma-related issues that may affect the supervisory or the practitioner-patient relationship.

#### (4)

(*E*) Ensuring *the supervisee's* compliance with laws and regulations governing the practice of licensed professional clinical counseling.

(F) Reviewing the supervisee's progress notes, process notes, and other patient treatment records, as deemed appropriate by the supervisor.

#### (5)That amount of direct observation,

(G) With the client's written consent, providing direct observation or review of audio or videotapes video recordings of the supervisee's counseling or therapy, as deemed appropriate by the supervisor.

(n) "Clinical setting" means any setting that meets both of the following requirements:

(1) Lawfully and regularly provides mental health counseling or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and in regulation and is within the scope of practice of the profession.

(o) "Community mental health setting," as used in Section 4999.46, means a clinical setting that meets all of the following requirements:

(1) Lawfully and regularly provides mental health counseling or psychotherapy.

(2) Clients routinely receive psychopharmacological interventions in conjunction with psychotherapy, counseling, or other psycho-social interventions.

(3) Clients receive coordinated care that includes the collaboration of mental health providers.

(4) Is not a private practice.

#### SEC. 30.

Section 4999.34 of the Business and Professions Code is repealed.

#### <del>4999.34.</del>

A clinical counselor trainee may be credited with predegree supervised practicum and field study experience completed in a setting that meets all of the following requirements:

(a)Lawfully and regularly provides mental health counseling and psychotherapy.

(b)Provides oversight to ensure that the clinical counselor trainee's work at the setting meets the practicum and field study experience and requirements set forth in this chapter and is within the scope of practice for licensed professional clinical counselors.

#### (c)Is not a private practice.

(d)Experience may be gained by the clinical counselor trainee solely as part of the position for which the clinical counselor trainee volunteers or is employed.

#### SEC. 31.

Section 4999.36 of the Business and Professions Code is amended to read:

4999.36.

(a) A clinical counselor trainee may perform activities and services provided that the activities and services constitute part of the clinical counselor trainee's supervised course of study and that the person is designated by the title "clinical counselor trainee."

(b) All practicum and field study hours gained as a clinical counselor trainee shall be coordinated between the school and the site where 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.

(c) If an applicant has gained practicum and field study hours while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those practicum and field study hours were gained in compliance with this section.

(d) A clinical counselor trainee shall inform each client or patient, prior to performing any professional services, that he or she is unlicensed and under supervision.

(e) No hours earned while a clinical counselor trainee may count toward the 3,000 hours of *required* postdegree-internship hours. *supervised experience*.

(f)A clinical counselor trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. For purposes of this subdivision, "one hour of direct supervisor contact" means one hour of face to face contact on an individual basis or two hours of face to face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

# SEC. 32.

Section 4999.42 of the Business and Professions Code is amended to read:

4999.42.

(a) To qualify for registration as an intern, *associate*, an applicant shall have all of the following qualifications:

(1) The applicant shall have earned a master's or doctoral degree as specified in Section 4999.32 or 4999.33, as applicable. An applicant whose education qualifies him or her under Section 4999.32 shall also have completed the coursework or training specified in subdivision (e) of Section 4999.32.

(2) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480.

(3) The board shall not issue a registration to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(b) The board shall begin accepting applications for <u>intern</u> *associate* registration on January 1, 2011.

# SEC. 33.

Section 4999.44 of the Business and Professions Code is repealed.

#### <del>4999.44.</del>

An intern may be credited with supervised experience completed in any setting that meets all of the following requirements:

(a)Lawfully and regularly provides mental health counseling or psychotherapy.

(b)Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as specified in Article 2 (commencing with Section 4999.20).

(c)Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

#### (d)An intern shall not be employed or volunteer in a private practice until registered as an intern.

#### SEC. 34.

Section 4999.45 of the Business and Professions Code is repealed.

4999.45.

(a)An intern employed under this chapter shall:

(1)Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an intern.

(2)Not be employed or volunteer in a private practice until registered as an intern.

(3)Inform each client prior to performing any professional services that he or she is unlicensed and under supervision.

(4)Renew annually for a maximum of five years after initial registration with the board.

(b)When no further renewals are possible, an applicant may apply for and obtain a subsequent intern registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent intern registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent intern registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

(c)This section shall become operative on January 1, 2016.

# SEC. 35.

Section 4999.455 of the Business and Professions Code is repealed.

4999.455.

(a)A licensed professional in private practice who has satisfied the requirements of subdivision (h) of Section 4999.12 may supervise or employ, at any one time, no more than a total of three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker in that private practice.

(b)A professional clinical counselor corporation may employ, at any one time, no more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker for each employee or shareholder who has satisfied the requirements of subdivision (h) of Section 4999.12. In no event shall any professional clinical counselor corporation employ, at any one time, more than 15 individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. In no event shall any supervisor supervise, at any one time, more than three individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker. Persons who supervise individuals registered as a marriage and family therapist intern, clinical counselor intern, or associate clinical social worker shall be employed full time by the professional clinical counselor corporation and shall be actively engaged in performing professional services at and for the professional clinical counselor corporation. Employment and supervision within a professional clinical counselor corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

# SEC. 36.

Section 4999.46 of the Business and Professions Code is amended to read:

4999.46.

(a) To qualify for licensure as specified in Section 4999.50, applicants shall complete experience related to the practice of professional clinical counseling under an approved supervisor. *a supervisor*. The experience shall comply with the following:

(1) A minimum of 3,000 postdegree hours of supervised experience performed over a period of not less than two years (104 weeks).

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,750 hours of direct *clinical* counseling with individuals, groups, couples, or families in a setting described in Section-4999.44 4999.46.3 using a variety of psychotherapeutic techniques and recognized counseling interventions within the scope of practice of licensed professional clinical counselors.

(4) Not less than 150 hours of clinical experience in a hospital or community mental health setting, as defined in Section 1820 of Title 16 of the California Code of Regulations. 4999.12.

(5) A maximum of 1,250 hours of nonclinical practice, consisting of direct supervisor contact, administering and evaluating psychological tests, writing clinical reports, writing progress or process notes, client centered advocacy, and workshops, seminars, training sessions, or conferences directly related to professional clinical counseling that have been approved by the applicant's supervisor.

(b) An individual who submits an application for <u>examination eligibility *licensure*</u> between January 1, 2016, and December 31, 2020, may alternatively qualify under the experience requirements *of this section* that were in place on January 1, 2015.

(c) No hours of clinical mental health experience may be gained more than six years prior to the date the application for examination eligibility *licensure* was filed received by the board.

(d)An applicant shall register with the board as an intern in order to be credited for postdegree hours of experience toward licensure. Postdegree hours of experience shall be credited toward licensure, provided that the applicant applies for intern registration within 90 days of the granting of the qualifying degree and is thereafter granted the intern registration by the board. An

applicant shall not be employed or volunteer in a private practice until registered as an intern by the board.

(e)All applicants and interns shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of professional clinical counseling.

(f)Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g)Except for experience gained by attending workshops, seminars, training sessions, or conferences as described in paragraph (5) of subdivision (a), supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(1)No more than six hours of supervision, whether individual or group, shall be credited during any single week. This paragraph shall apply to supervision hours gained on or after January 1, 2009.

(2)An intern shall receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of face to face psychotherapy is performed in each setting in which experience is gained.

(3)For purposes of this section, "one hour of direct supervisor contact" means one hour of faceto face contact on an individual basis or two hours of face to face contact in a group of not more than eight persons in segments lasting no less than one continuous hour.

(4)Notwithstanding paragraph (3), an intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable, may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

(h)This section shall become operative on January 1, 2016.

# SEC. 37.

Section 4999.46.1 is added to the Business and Professions Code, to read:

4999.46.1.

(a) An associate or applicant for licensure shall be at all times under the supervision of a supervisor as specified in this chapter and by regulation.

(b) Except as provided in subdivision (c), an applicant shall have an active associate registration with the board in order to gain postdegree hours of supervised experience.

(c) Postdegree hours of experience shall be credited toward licensure so long as the applicant applies for <u>associate</u> registration <u>as an associate</u> and the board receives the application within 90 days of the granting of the qualifying degree and he or she is thereafter granted registration as an associate by the board. An applicant shall not be employed or volunteer in a private practice until he or she has been issued an associate registration by the board.

(d) An associate employed under this chapter shall do all of the following:

(1) Not perform any duties, except for those services provided as a clinical counselor trainee, until registered as an associate.

(2) Not be employed or volunteer in a private practice until registered as an associate with the board.

(3) Inform each client, prior to performing any professional services, that he or she is unlicensed and under supervision.

(4) Renew annually for a maximum of five years after initial registration with the board.

(e) When no further renewals are possible, an applicant may apply for and obtain a subsequent associate registration number if the applicant meets the educational requirements for registration in effect at the time of the application for a subsequent associate registration number and has passed the California law and ethics examination described in Section 4999.53. An applicant issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

# SEC. 38.

Section 4999.46.2 is added to the Business and Professions Code, to read:

4999.46.2.

(a) A clinical counselor trainee shall receive an average of at least one hour of direct supervisor contact in each week for every five hours of direct clinical counseling that is performed in each setting.

(b) (1) Except for experience gained by attending workshops, seminars, training sessions, or conferences, as described in paragraph (5) of subdivision (a) of Section 4999.46, supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting.

(2) An associate gaining experience shall receive at least one additional hour of direct supervisor contact in each week for which more than 10 hours of direct clinical counseling is performed in each setting. No more than six hours of supervision, whether individual or group, shall be credited during any single week.

(c) For purposes of this chapter, "one hour of direct supervisor contact" means any of the following:

(1) Individual supervision, which means one hour of face-to-face contact between one supervisor and one supervisee.

(2) Triadic supervision, which means one hour of face-to-face contact between one supervisor and two supervisees.

(3) Group supervision, which means two hours of face-to-face contact between one supervisor and no more than eight supervisees. Segments of group supervision may be split into no less than one continuous hour.

(d) Direct supervisor contact shall occur within the same week as the hours claimed.

(e) An applicant for licensure shall have received at least one hour per week of direct supervisor contact that is individual, triadic, or a combination of both, as specified in paragraphs (1) and (2) of subdivision (c), for a minimum of 52 weeks.

(f) When conducting group supervision, as specified in paragraph (3) of subdivision (c), the supervisor shall ensure that the amount and degree of supervision is appropriate for each supervisee.

(g) Notwithstanding subdivision (c), an associate working in a governmental entity, a school, a college, a university, or an institution that is both nonprofit and charitable may obtain the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring compliance with state and federal law relating to confidentiality of patient health information.

(h) The six hours of supervision that may be credited during any single week, pursuant to paragraph (2) of subdivision (b), shall apply to supervision hours gained on or after January 1, 2009.

(i) Notwithstanding any other law, once the required number of experience hours are gained, associates and applicants for licensure shall receive a minimum of one hour of direct supervisor contact per week for each setting in which direct clinical counseling is performed. Once the required number of experience hours are gained, further supervision for nonclinical practice, as defined in paragraph (5) of subdivision (a) of Section 4999.46, shall be at the supervisor's discretion.

# SEC. 39.

Section 4999.46.3 is added to the Business and Professions Code, to read:

#### 4999.46.3.

(a) A clinical counselor trainee, associate, or applicant for licensure shall only perform services as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision shall apply equally to employees and volunteers. A clinical counselor

trainee, associate, or applicant for licensure shall not perform any services or gain any experience within the scope of practice of the profession, as defined in Section 4999.20, as an independent contractor.

(1) If employed, an associate shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.

(2) If volunteering, an associate shall provide the board with a letter from his or her employer verifying the associate's status as a volunteer during the dates the experience was gained. This letter shall be provided to the board upon application for licensure.

(b) (1) A clinical counselor trainee shall not perform services in a private practice.

(2) A clinical counselor trainee may be credited with<u>shall complete the required</u> predegree supervised practicum or field study experience completed in a setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling and<u>or</u> psychotherapy.

(B) Provides oversight to ensure that the clinical counselor trainee's work at the setting meets the practicum or field study experience requirements <u>set forth</u> in this chapter, and is within the scope of practice for licensed professional clinical counselors.

 $(\frac{23}{2})$  Only experience gained in the position for which the clinical counselor trainee volunteers or is employed shall qualify as supervised <u>practicum or field study</u> experience.

(c) (1) An associate may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements in this chapter and is within the scope of practice for the profession as specified in Article 2 (commencing with Section 4999.20).

(2) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(3) Only experience gained in the position for which the associate volunteers or is employed shall qualify as supervised experience.

(4) An applicant for registration as an associate shall not be employed or volunteer in a private practice until an associate registration has been issued to the applicant by the board.

(d) Experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Experience obtained under the supervision of a supervisor with whom the applicant has had or currently has a personal, professional, or business relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience. (e) A clinical counselor trainee, associate, or applicant for licensure shall not receive any remuneration from patients or clients and shall only be paid by his or her employer.

(f) A clinical counselor trainee, associate, or applicant for licensure shall have no proprietary interest in his or her employer's business and shall not lease or rent space, pay for furnishings, equipment, or supplies, or in any other way pay for the obligations of his or her employer.

(g) A clinical counselor trainee, associate, or applicant for licensure who provides voluntary services in any lawful work setting other than a private practice and who only receives reimbursement for expenses actually incurred shall be considered an employee and not an independent contractor. The board may audit an applicant for licensure who receives reimbursement for expenses and the applicant for licensure shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(h) A clinical counselor trainee, associate, or applicant for licensure who receives a stipend or educational loan repayment from a program designed to encourage demographically underrepresented groups to enter the profession or to improve recruitment and retention in underserved regions or settings shall be considered an employee and not an independent contractor. The board may audit an applicant who receives a stipend or educational loan repayment and the applicant shall have the burden of demonstrating that the payments received were for the specified purposes.

(i) Each educational institution preparing applicants pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her associates and trainees regarding the advisability of undertaking individual, marital, conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, educational institutions and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

# SEC. 40.

Section 4999.46.4 is added to the Business and Professions Code, to read:

#### 4999.46.4.

(a) A clinical counselor trainee, associate, or applicant for licensure shall only perform services at the place where his or her employer regularly conducts business and services, which may include performing services at other locations, as long as the services are performed under the direction and control of his or her employer and his or her supervisor and in compliance with the laws and regulations pertaining to supervision.

(b) Except for periods of time during a supervisor's vacation or sick leave, an associate who is employed or volunteering in private practice shall be under the direct supervision of a supervisor who is either employed by, and practices at the same site as, the associate's employer or is an owner or shareholder of the private practice.

(c) A licensed professional in private practice who has satisfied the requirements of subdivision (h) of Section 4999.12 may supervise or employ, at any one time, no more than a total of three individuals registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker in that private practice.

(d) All of the following limits shall apply to a professional clinical counselor corporation:

(1) A professional clinical counselor corporation may retain, at any one time, no more than a total of three employees and volunteers, or a combination of employees and volunteers, registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker for each supervising employee or shareholder who has satisfied the requirements of subdivision (h) of Section 4999.12.

(2) In no event shall any professional clinical counselor corporation retain, at any one time, more than a total of 15 employees, and volunteers, or a combination of employees and volunteers, registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker.

(3) In no event shall any supervisor supervise, at any one time, more than a total of three employees, and volunteers, or a combination of employees and volunteers, registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker. A person who supervises an employees and or volunteers registered as an associate marriage and family therapist, an associate professional clinical counselor, or an associate clinical social worker shall be employed full time by the professional clinical counselor corporation and shall be actively engaged in performing professional services at and for the professional clinical counselor corporation.

(4) Employment and supervision within a professional clinical counselor corporation shall be subject to all laws and regulations governing experience and supervision gained in a private practice setting.

(e) In a setting that is not a private practice, a written agreement, as specified in regulation, shall be executed between the supervisor and employer when the supervisor is not employed by the supervisee's employer or is a volunteer.

(f) In any setting that is not a private practice, a supervisor shall evaluate the site <u>or sites</u> where an associate will be gaining hours of experience toward licensure and shall determine both of the following:

(1) That the <u>site or</u> sites provide experience that is within the scope of practice of a professional clinical counselor.

(2) That the experience is in compliance with the requirements set forth in this chapter and by regulation.

(g) Alternative supervision may be arranged during a supervisor's vacation or sick leave if the alternative supervision meets the requirements in this chapter and regulation.

SEC. 41.

Section 4999.46.5 is added to the Business and Professions Code, to read:

4999.46.5.

The board shall have the right to audit the records of any supervisor to verify the completion of the supervisor qualifications specified by this chapter and by regulation. A supervisor shall maintain records of completion of the required supervisor qualifications for a period of seven years after termination of supervision and shall make these records available to the board for auditing purposes upon request.

# SEC. 42.

Section 4999.47 of the Business and Professions Code is repealed.

#### <del>4999.47.</del>

(a)Clinical counselor trainees, interns, and applicants shall perform services only as an employee or as a volunteer.

The requirements of this chapter regarding gaining hours of clinical mental health experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(1)If employed, a clinical counselor intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure as a professional clinical counselor.

(2)If volunteering, a clinical counselor intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure as a professional clinical counselor.

(b)Clinical counselor trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(c)While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration.

(d)Clinical counselor trainees, interns, and applicants who provide voluntary services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those clinical counselor trainees, interns, and applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor.

(e)The board may audit an intern or applicant who receives reimbursement for expenses and the intern or applicant shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(f)Clinical counselor trainees, interns, and applicants shall only perform services at the place where their employer regularly conducts business and services, which may include other locations, as long as the services are performed under the direction and control of the employer and supervisor in compliance with the laws and regulations pertaining to supervision. Clinical counselor trainees, interns, and applicants shall have no proprietary interest in the employer's business.

(g)Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and clinical counselor trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

# SEC. 43.

Section 4999.51 of the Business and Professions Code is amended to read:

4999.51.

To qualify for licensure as a professional clinical counselor or registration as an-intern, *associate*, applicants shall meet the board's regulatory requirements for professional clinical counselor licensure or <u>intern</u> *associate* registration, as applicable, including the following:

(a) The applicant has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

(b) The board shall not issue a license or registration to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(c) The applicant has successfully passed a state and federal level criminal offender record information search conducted through the Department of Justice, as follows:

(1) The board shall direct applicants to electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state and federal level convictions and arrests and information as to the existence and content of a record of state or federal level arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

(2) The Department of Justice shall forward the fingerprint images and related information received pursuant to paragraph (1) to the Federal Bureau of Investigation and request a federal summary for criminal history information.

(3) The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the board pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(4) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105.2 of the Penal Code, for each person who submitted information pursuant to paragraph (1).

(5) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

# SEC. 44.

Section 4999.62 of the Business and Professions Code is amended to read:

4999.62.

(a) This section applies to persons who apply for examination eligibility or registration on or after January 1, 2016, and who do not hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.61, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of, at a minimum, the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester or 90 graduate quarter units of instruction.

(ii) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an-intern. *associate*.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester or 72 graduate quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(D) The required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study listed in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet

any deficiencies shall be the equivalent of three semester units or four and one-half quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient in the required areas of study specified in subparagraphs subparagraph (E) or (G) of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients. An applicant shall complete this coursework prior to registration as an-intern. *associate*.

(iii) An applicant who has not completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. An applicant shall complete this coursework prior to registration as an <u>intern</u>. *associate*.

(2) The applicant completes any units required by subdivision (c) of Section 4999.33 not already completed in his or her education as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) (A) The applicant completes the following coursework not already completed in his or her education:

(i) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(ii) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(iii) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(iv) A minimum of 10 contact hours of instruction in aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(B) This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units, or 45 hours, of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experiences of mental illness, treatment, and recovery.

(B) At least one semester unit, or 15 hours, of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required under paragraphs (2), (3), or (4) not already completed in his or her education while registered with the board as an <u>intern</u>. *associate*.

# SEC. 45.

Section 4999.63 of the Business and Professions Code is amended to read:

4999.63.

(a) This section applies to persons who apply for examination eligibility or registration on or after January 1, 2016, and who hold a license as described in Section 4999.60.

(b) For purposes of Section 4999.60, education is substantially equivalent if all of the following requirements are met:

(1) The degree is obtained from an accredited or approved institution, as defined in Section 4999.12, and consists of the following:

(A) (i) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.33 the degree shall contain no less than 60 graduate semester or 90 graduate quarter units of instruction.

(ii) Up to 12 semester or 18 quarter units of instruction may be remediated, if missing from the degree. The remediation may occur while the applicant is registered as an-intern. *associate*.

(B) For an applicant who obtained his or her degree within the timeline prescribed by subdivision (a) of Section 4999.32 the degree shall contain no less than 48 graduate semester or 72 graduate quarter units of instruction.

(C) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 280 hours of face-to-face supervised clinical experience counseling individuals, families, or groups.

(i) An applicant who has been licensed for at least two years in clinical practice, as verified by the board, is exempt from this requirement.

(ii) An out-of-state applicant who has been licensed for less than two years in clinical practice, as verified by the board, who does not meet the practicum requirement, shall remediate the requirement by demonstrating completion of a total of 280 hours of face-to-face supervised clinical experience, as specified in subparagraph (K) of paragraph (3) of subdivision (c) of Section 4999.33. Any postdegree hours gained to meet this requirement are in addition to the 3,000 hours of experience required by this chapter, and shall be gained while the applicant is registered with the board as an-intern. *associate*.

(D) The required areas of study specified in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33.

(i) (I) An applicant whose degree is deficient in no more than six of the required areas of study specified in subparagraphs (A) to (M), inclusive, of paragraph (1) of subdivision (c) of Section 4999.33 may satisfy those deficiencies by successfully completing graduate level coursework at an accredited or approved institution, as defined in Section 4999.12. Coursework taken to meet any deficiencies shall be the equivalent of three semester units or four and one-half quarter units of study.

(II) Notwithstanding subclause (I), no applicant shall be deficient in the required areas of study specified in subparagraphs subparagraph (E) or (G) of paragraph (1) of subdivision (c) of Section 4999.33.

(ii) An applicant who completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 that did not contain instruction in California law and ethics shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, instruction in advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous clients, psychotherapist-client privilege, recordkeeping, client access to records, state and federal laws relating to confidentiality of patient health information, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to clients. An applicant shall complete this coursework prior to registration as an <u>intern</u>. *associate*.

(iii) An applicant who has not completed a course in professional orientation, ethics, and law in counseling as required by subparagraph (I) of paragraph (1) of subdivision (c) of Section 4999.33 shall complete this required coursework, including content in California law and ethics. An applicant shall complete this coursework prior to registration as an <u>intern</u>. *associate*.

(2) The applicant completes any units required under subdivision (c) of Section 4999.33 not already completed in his or her education as follows:

(A) At least 15 semester units or 22.5 quarter units of advanced coursework to develop knowledge of specific treatment issues or special populations. This coursework is in addition to the course requirements described in subparagraph (D) of paragraph (1).

(B) Coursework shall be from an accredited or approved school, college, or university as defined in Section 4999.12.

(3) The applicant completes the following coursework not already completed in his or her education:

(A) A minimum of 10 contact hours of training in human sexuality, as specified in Section 25 and any regulations promulgated thereunder, including the study of the physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.

(B) A minimum of 15 contact hours of instruction in spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.

(C) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated under that section.

(D) A minimum of 10 contact hours of instruction in aging and long-term care, including biological, social, cognitive, and psychological aspects of aging. This coursework shall include instruction on the assessment and reporting of, as well as treatment related to, elder and dependent adult abuse and neglect.

(E) This coursework may be from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(4) The applicant completes the following coursework not already completed in his or her education from an accredited or approved school, college, or university as defined in Section 4999.12, or from a continuing education provider that is acceptable to the board as defined in Section 4999.76. Undergraduate coursework shall not satisfy this requirement.

(A) At least three semester units or 45 hours of instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, including structured meetings with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.

(B) At least one semester unit or 15 hours of instruction that includes an understanding of various California cultures and the social and psychological implications of socioeconomic position.

(5) An applicant may complete any units and course content requirements required by subparagraph (D) of paragraph (1) or paragraphs (2), (3), and (4) not already completed in his or her education while registered with the board as an <u>intern</u>, *associate*, unless otherwise specified.

# SEC. 46.

Section 4999.90 of the Business and Professions Code is amended to read:

4999.90.

The board may refuse to issue any registration or license, or may suspend or revoke the registration or license of any *intern associate* or licensed professional clinical counselor, if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing licensed professional clinical counseling services.

(d) Gross negligence or incompetence in the performance of licensed professional clinical counseling services.

(e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee or registrant, allowing any other person to use his or her license or registration.

(h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed professional clinical counselor.

(1) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee, applicant, or registrant under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional clinical counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner that is false, fraudulent, misleading, or deceptive, as defined in Section 651.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of a registered internassociate, associate clinical social worker, or clinical counselor trainee, or applicant by any licensee that violates this chapter or any rules or regulations adopted by the board.

(s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.

(t) Permitting a <u>clinical counselor</u> trainee or intern trainee, associate, or applicant for licensure under one's supervision or control to perform, or permitting the <u>clinical counselor</u> trainee or intern trainee, associate, or applicant for licensure to hold himself or herself out as competent to perform, professional services beyond the <u>clinical counselor</u> trainee's or intern's trainee's, associate's, or applicant's for licensure's level of education, training, or experience.

(u) The violation of any statute or regulation of the standards of the profession, and the nature of the services being rendered, governing the gaining and supervision of experience required by this chapter.

(v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(x) Failing to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

(y) Repeated acts of negligence.

(z) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

(ab) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a professional clinical counselor, clinical social worker, educational psychologist, or marriage and family therapist.

(ac) Failing to comply with the procedures set forth in Section 2290.5 when delivering health care via telehealth.

(ad) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

# SEC. 47.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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#### ATTACHMENT B AB 93: ADDITIONAL SECTIONS TO BE INCLUDED in AB 93

#### AMEND BUSINESS AND PROFESSIONS CODE (BPC) §728. PRIOR SEXUAL CONTACT BETWEEN PSYCHOTHERAPIST AND PATIENT; PSYCHOTHERAPIST OR EMPLOYER PROVIDING AND DISCUSSING BROCHURE; FAILURE TO COMPLY WITH SECTION; DEFINITIONS

(a) Any psychotherapist or employer of a psychotherapist who becomes aware through a patient that the patient had alleged sexual intercourse or alleged sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the patient a brochure promulgated by the department that delineates the rights of, and remedies for, patients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss with the patient the brochure prepared by the department.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:

(1) "Psychotherapist" means a physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a marriage and family therapist, a licensed professional clinical counselor, a psychological assistant, <u>aan associate</u> marriage and family therapist <u>registered intern</u> or <u>marriage and family therapist</u> trainee, an <u>intern or an associate professional</u> clinical counselor <u>or professional clinical counselor</u> trainee, as specified in Chapter 16 (commencing with Section 4999.10), or an associate clinical social worker.

(2) "Sexual contact" means the touching of an intimate part of another person.

(3) "Intimate part" and "touching" have the same meaning as defined in subdivisions (g) and

(e), respectively, of Section 243.4 of the Penal Code.

(4) "The course of a prior treatment" means the period of time during which a patient first commences treatment for services that a psychotherapist is authorized to provide under his or her scope of practice, or that the psychotherapist represents to the patient as being within his or her scope of practice, until the psychotherapist-patient relationship is terminated.

#### AMEND BPC §4980.399. CALIFORNIA LAW AND ETHICS EXAMINATION

(a) Except as provided in subdivision (a) of Section 4980.398, each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrantapplicant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

#### AMEND BPC §4980.40. QUALIFICATIONS

To qualify for a license, an applicant shall have all of the following qualifications:

(a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.

(b) Be at least 18 years of age.

(c) Have at least two years of <u>supervised</u> experience that meet the requirements of <u>Section</u> 4980.43. of this chapter and those specified by the Board in regulation.

(d) Effective January 1, 2016, successfully pass a California law and ethics examination and a clinical examination. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

(e) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(f) This section shall become operative on January 1, 2016.

#### AMEND BPC §4980.42. TRAINEES' SERVICES

(a) Trainees performing services in any work setting specified in subdivision (c) of Section 4980.43 4980.43.4 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee's supervised course of study and that the person is designated by the title "trainee."

(b) Trainees subject to Section 4980.37 may gain hours of experience and counsel clients outside of the required practicum. This subdivision shall apply to hours of experience gained and client counseling provided on and after January 1, 2012.

(c) Trainees subject to Section 4980.36 may gain hours of experience outside of the required practicum but must be enrolled in a practicum course to counsel clients. Trainees subject to Section 4980.36 may counsel clients while not enrolled in a practicum course if the period of lapsed enrollment is less than 90 calendar days, and if that period is immediately preceded by enrollment in a practicum course and immediately followed by enrollment in a practicum course or completion of the degree program.

(d) All hours of experience gained pursuant to subdivisions (b) and (c) shall be subject to the other requirements of this chapter.

(e) 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. If an applicant has gained hours of experience while enrolled in an institution other than the one that confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those hours of trainee experience were gained in compliance with this section.

### AMEND BPC §4980.50. EXAMINATION; ISSUANCE OF LICENSE; EXAMINATION RECORD RETENTION; SEVEN YEAR LIMITATION ON CLINICAL EXAMINATION

Effective January 1, 2016, the following shall apply:

(a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (d) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The

board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The board shall not deny any applicant, whose application for licensure is complete, admission to the clinical examination, nor shall the board postpone or delay any applicant's clinical examination or delay informing the candidate of the results of the clinical examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the California law and ethics examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination or the clinical examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(g) Effective January 1, 2016, no applicant <u>for licensure</u> shall be eligible to participate in the clinical examination if he or she fails to obtain a passing score on the clinical examination within seven years from his or her initial attempt, unless he or she takes and obtains a passing score on the current version of the California law and ethics examination.

(h) A passing score on the clinical examination shall be accepted by the board for a period of seven years from the date the examination was taken.

(i) An applicant <u>for licensure</u> who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.

(j) This section shall become operative on January 1, 2016.

#### AMEND BPC §4992.05. REQUIRED EXAMINATIONS

(a) Effective January 1, 2016, <u>a registrant or an applicant for licensure as a clinical social worker</u> shall pass the following two examinations as prescribed by the board:

(1) A California law and ethics examination.

(2) A clinical examination.

(b) Upon registration with the board, an associate clinical social worker registrant shall, within the first year of registration, take an examination on California law and ethics.

(c) A registrant <u>or an applicant for licensure</u> may take the clinical examination only upon meeting all of the following requirements:

(1) Completion of all education requirements.

(2) Passage of the California law and ethics examination.

- (3) Completion of all required supervised work experience.
- (d) This section shall become operative on January 1, 2016.

#### AMEND BPC §4992.09. CALIFORNIA LAW AND ETHICS EXAMINATION

(a) Except as provided in subdivision (a) of Section 4992.07, an applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application except for as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this

section, he or she shall complete, at a minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider, as specified by the board by regulation, a county, state or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrantapplicant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative on January 1, 2016.

#### AMEND BPC §4999.50. ISSUANCE OF LICENSE; REQUIREMENTS

(a) The board may issue a professional clinical counselor license to any person who meets all of the following requirements:

(1) He or she has received a master's or doctoral degree described in Section 4999.32 or 4999.33, as applicable.

(2) He or she has completed at least 3,000 hours of supervised experience in the practice of professional clinical counseling as provided in Section 4999.46.

(3) He or she provides evidence of a passing score, as determined by the board, on the examinations designated in Section 4999.53.

(b) An applicant <u>for licensure</u> who has satisfied the requirements of this chapter shall be issued a license as a professional clinical counselor in the form that the board may deem appropriate.

(c) This section shall become operative on January 1, 2016.

### AMEND §4999.52. EXAMINATION; BOARD DETERMINATION; EXAMINATION ADMISSION DENIAL

(a) Every applicant for a license as a professional clinical counselor shall be examined by the board. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine.

(c) The board shall not deny any applicant who has submitted a complete application for examination admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(d) The board shall not deny any applicant whose application for licensure is complete admission to the examinations specified by paragraph (2) of subdivision (a) of Section 4999.53, nor shall the board postpone or delay this examination for any applicant or delay informing the candidate of the results of this examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(e) If an applicant for the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, who has passed the California law and ethics examination, is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take this examination, but may notify the applicant that licensure will not be granted pending completion of the investigation.

(f) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the California law and ethics examination, or the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, permission to retake either examination pending completion of the investigation of any complaints against the applicant.

(g) Nothing in this section shall prohibit the board from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Section 11503 or 11504 of the Government Code, respectively, or the application has been denied in accordance with subdivision (b) of Section 485.

(h) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.

(i) On and after January 1, 2016, the examination specified by paragraph (2) of subdivision (a) of Section 4999.53 shall be passed within seven years of an applicant's applicant for licensure's initial attempt.

(j) A passing score on the clinical examination shall be accepted by the board for a period of seven years from the date the examination was taken.

(k) No applicant <u>for licensure</u> shall be eligible to participate in the examination specified by paragraph (2) of subdivision (a) of Section 4999.53, if he or she fails to obtain a passing score on this examination within seven years from his or her initial attempt. If the applicant <u>for</u> <u>licensure</u> fails to obtain a passing score within seven years of initial attempt, he or she shall obtain a passing score on the current version of the California law and ethics examination in order to be eligible to retake this examination.

(I) This section shall become operative on January 1, 2016.

#### AMEND BPC §4999.55. CALIFORNIA LAW AND ETHICS EXAMINATION

(a) Each applicant and registrant shall obtain a passing score on a board-administered California law and ethics examination in order to qualify for licensure.

(b) A registrant shall participate in a board-administered California law and ethics examination prior to his or her registration renewal.

(c) Notwithstanding subdivision (b), an applicant who holds a registration eligible for renewal, with an expiration date no later than June 30, 2016, and who applies for renewal of that registration between January 1, 2016, and June 30, 2016, shall, if eligible, be allowed to renew the registration without first participating in the California law and ethics examination. These applicants shall participate in the California law and ethics examination in the next renewal cycle, and shall pass the examination prior to licensure or issuance of a subsequent registration number, as specified in this section.

(d) If an applicant fails the California law and ethics examination, he or she may retake the examination, upon payment of the required fees, without further application, except as provided in subdivision (e).

(e) If a registrant fails to obtain a passing score on the California law and ethics examination described in subdivision (a) within his or her renewal period on or after the operative date of this section, he or she shall complete, at minimum, a 12-hour course in California law and ethics in order to be eligible to participate in the California law and ethics examination. Registrants shall only take the 12-hour California law and ethics course once during a renewal period. The 12-hour law and ethics course required by this section shall be taken through a continuing education provider as specified by the board by regulation, a county, state, or governmental entity, or a college or university.

(f) The board shall not issue a subsequent registration number unless the registrantapplicant has passed the California law and ethics examination.

(g) Notwithstanding subdivision (f), an applicant who holds or has held a registration, with an expiration date no later than January 1, 2017, and who applies for a subsequent registration number between January 1, 2016, and January 1, 2017, shall, if eligible, be allowed to obtain the subsequent registration number without first passing the California law and ethics examination. These applicants shall pass the California law and ethics examination during the next renewal period or prior to licensure, whichever occurs first.

(h) This section shall become operative January 1, 2016.

### AMEND HEALTH AND SAFETY CODE (HSC) §124260. MENTAL HEALTH SERVICES FOR MINORS

(a) As used in this section:

(1) "Mental health treatment or counseling services" means the provision of outpatient mental

health treatment or counseling by a professional person, as defined in paragraph (2).

(2) "Professional person" means any of the following:

(A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Title 9 of the California Code of Regulations.

(B) A marriage and family therapist, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(C) A licensed educational psychologist, as defined in Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code.

(D) A credentialed school psychologist, as described in Section 49424 of the Education Code.

(E) A clinical psychologist licensed under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(F) Any of the following persons, while working under the supervision of a licensed professional specified in Section 2902 of the Business and Professions Code:

(i) A registered psychologist, as defined in Section 2909.5 of the Business and Professions Code.

(ii) A registered psychological assistant, as defined in Section 2913 of the Business and Professions Code.

(iii) A psychology trainee, as defined in Section 1387 of Title 16 of the California Code of Regulations.

(G) A licensed clinical social worker, as defined in Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code.

(H) An associate clinical social worker, or a social work intern, as defined in Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in paragraph (1) of subdivision (a) of Section 4996.23 4996.20 of the Business and Professions Code.

(I) A person registered as <u>a an associate</u> marriage and family therapist-<u>intern</u>, or a marriage and family therapist trainee, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.

(J) A board certified, or board eligible, psychiatrist.

(K) A licensed professional clinical counselor, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.

(L) A person registered as a<u>n associate professional</u> clinical counselor-intern, or a clinical counselor trainee, as defined in Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (h) of Section 4999.12 of the Business and Professions Code.

(b) (1) Notwithstanding any provision of law to the contrary, a minor who is 12 years of age or older may consent to mental health treatment or counseling services if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in the mental health treatment or counseling services.

(2) A marriage and family therapist trainee, a clinical counselor trainee, a psychology trainee, or a social work intern, as specified in paragraph (2) of subdivision (a), shall notify his or her supervisor or, if the supervisor is unavailable, an on-call supervisor at the site where the trainee or intern volunteers or is employed within 24 hours of treating or counseling a minor pursuant to paragraph (1). If upon the initial assessment of the minor the trainee or intern believes that the minor is a danger to self or to others, the trainee or intern shall notify the supervisor or, if the supervisor is unavailable, the on-call supervisor immediately after the treatment or counseling session.

(3) Nothing in paragraph (2) is intended to supplant, alter, expand, or remove any other reporting responsibilities required of trainees or interns under law.

(c) Notwithstanding any provision of law to the contrary, the mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian, unless the professional person who is treating or counseling the minor, after consulting with the minor, determines that the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.

(d) The minor's parent or guardian is not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian.

(e) This section does not authorize a minor to receive convulsive treatment or psychosurgery, as defined in subdivisions (f) and (g) of Section 5325 of the Welfare and Institutions Code, or psychotropic drugs without the consent of the minor's parent or guardian.



Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

То:	Board Members	Date:	February 14, 2017
From:	Kim Madsen Executive Officer	Telephone:	(916) 574-7841

Subject: Draft Policy to Remove Board Newsletter from the Board's Website

#### **Background**

Business and Professions Code section 27 (a) specifies the type of information that the Board is required to publish on its website. In addition to displaying a licensee's or registrant's information, such as the license/registrant's number and address of record, other information including suspensions revocations and other related enforcement actions (accusations filed) taken by the Board is published on the Board's website.

Business and Professions Code section 4990.09 further defines the parameters regarding the reporting of citations. Pursuant to this code section, the Board shall not publish on the Internet, the final determination of a citation and fine of \$1500 or less for more than five years from the date of issuance. After five years, the Board must remove the action from its website. Currently, BreEZe is designed to perform this function automatically.

In 2015 the Board resumed publishing its newsletter. Within the newsletter, Board disciplinary actions, including citations and fines, are published. Concerns emerged related to publishing citations and fines of less than \$1,500 on the Board's website and in the Board's newsletter. A citation and fine may be issued for minor violations such as being a few units short on documented Continuing Education and with a fine less than \$1,500. This raises the question: should these names appear on the Board's website? Although the Board defines a citation and fine as an administrative action, listing formal disciplinary action (revocations, suspensions) under the title "Administrative Actions" in the Board newsletter may be confusing.

#### Discussion

As noted above, Business and Professions Code section 27 requires the Board to post its Enforcement Actions on the Internet (aka Board website). Unlike Business and Professions Code section 4990.09, Business and Professions Code section 27 does not specify parameters that allow the Board discretion to post an enforcement action or not. However, Business and Professions Code section 4990.16 states that protection of the public shall be the highest priority for the Board. If the Board were to determine that some citations and fines would be published and others were not, the Board may appear non-compliant with its consumer protection mandate.

A citation and fine that is issued to a licensee is attached to the licensee's record. A public search of a licensee's record through the BreEZe system will reveal if a citation and fine has been issued. The public then has the opportunity to view the citation and fine document, which specifies the cause for the citation, fine assessed (if any), and Order of Abatement.

Citation and fines are listed in the Board's newsletter under "Enforcement Citations" and provide the name of the licensee, overall category of the violation (e.g. unprofessional conduct, unlicensed activity) and the fine amount (if any). A member of the public must conduct a license search through BreEZe to view details of the citation and fine. In the Board's newsletter a citation and fine is defined as *"an administrative action used for minor violations. Citations and fines are public information but are not considered to be disciplinary actions."* 

Formal disciplinary actions appearing in the Board newsletter are listed under the heading "Administrative Actions". A summary of the formal disciplinary action taken is provided along with the name of the licensee or registrant, their location, and license/registration number. Further, a list of terms and their definition related to the discipline process is provided in every newsletter. Both the citations and fines and formal disciplinary actions appear next to each other in the Board's newsletter.

Another concern expressed is related to the five year time period in which a citation and fine is available on the Board's website. Specifically, if the Board is removing the citation and fine information after five years, are other related publications that include this information, such as the Board's newsletter, also removed? A review of the Board's website reveals that Board newsletters dating back to 1999 remain on the website. Citations and Fines were first published in the Fall 2005 newsletter.

#### April 15, 2016 Policy and Advocacy Committee Discussion

At the April 15, 2016 Policy and Advocacy Committee meeting, Committee members and the public discussed this matter. Some minor modifications, such as revising the titles in the Board newsletter, to be consistent with the definitions of the Board actions in the newsletter would be beneficial.

Specifically, "Enforcement Citations" could be revised to "Administrative Actions". Also, revising "Administrative Actions" to "Formal Disciplinary Actions" and revise the definition to indicate a higher level of discipline would provide further clarification to the public and licensees/respondents. Committee members were advised that these modifications could be done without any formal direction from the Board.

The remaining issue to consider was should the Board establish a policy to specify the removal of newsletters from the Board's website that complies with five year requirement specified in Business and Professions Code section 4990.09. Currently, a

policy does not exist. Adoption of a policy would formally establish a process to remove Board newsletters from its website.

The Policy and Advocacy Committee Members voted to recommend the Board establish a policy to remove the Board's newsletters from its website within a specified period of time and advise the public how they may obtain newsletters once the newsletter is removed from the Board's website.

#### August 19, 2016 Board Meeting

At the August 19, 2016, the Board Members discussed the Policy and Advocacy Committee's recommendation. Board staff indicated that the minor modifications such as the titles were already in effect. The Board Members voted to establish a policy to remove the Board newsletters five years from the date the newsletter was posted on the Board's website.

#### February 3, 2017 Policy and Advocacy Committee Meeting

At the February 3, 2017 Policy and Advocacy Committee meeting, committee members and stakeholder discussed revising the time period to retain the newsletter on the Board website. The Board publishes its newsletter three times a year. The initial draft policy proposed a five year retention period.

Stakeholders raised concerns that the proposed time period (5 years) to remove the newsletters from the Board's website, may exceed the five year period specified in law to remove a citation and fine from a licensee's public record. Therefore, the matter may remain available to the public longer than what is specified in law. Following the discussion, Committee Members voted to recommend a four year retention period.

#### **Recommendation**

Conduct an open discussion regarding the draft policy to remove the Board newsletters from the Board's website. If the Board Members vote to adopt the policy, direct staff to implement the policy immediately.

#### Attachment

- a. Draft Policy to Remove Board newsletters from the Board website
- b. Business and Professions Code Section 27
- c. Business and Professions Code Section 4990.09
- d. Business and Professions Code Section 4990.16

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### ATTACHMENT A



1625 North Market Blvd., Suite S-200, Sacramento, CA 95834 (916) 574-7830, (800) 326-2297 TTY, (916) 574-8625 Fax www.bbs.ca.gov Governor Edmund G. Brown Jr. State of California Business, Consumer Services and Housing Agency Department of Consumer Affairs

SUBJECT: Retention Schedule for Board	<b>POLICY #</b> : B-17-1	DATE APPROVED:
Newsletters on the Board Website	SUPERSEDES: N/A	PAGE: 2 pages
IMPLEMENTATION DATE: Effective Immediately Upon Board Approval	APPROVED BY:	

The Board of Behavioral Sciences (Board) recognizes its mandate to protect consumers. Consumers rely on the Board to provide accurate and relevant information regarding licensees; such as, licensure information and any disciplinary action taken by the Board against a licensee. The Board publishes all disciplinary actions, including the issuance of a citation and fine, on the Board website and Board newsletter.

#### Policy

It shall be the policy of the Board to retain Board newsletters on the Board website for four years from the date of publication. After which, the Board newsletter will be removed from the website.

For historical purposes, the Board will retain copies of all Board newsletters. Any member of the public seeking a copy of a Board newsletter that is no longer available on the Board website may submit a written request, pursuant to the California Public Records Act, to the Board.

#### **Background**

Business and Professions Code section 27 (a) specifies the type of information that the Board is required to publish on its website. In addition to displaying a licensee's or registrant's information, such as the license/registrant's number and address of record, other information including suspensions revocations and other related enforcement actions (accusations filed) taken by the Board is published on the Board's website.

Business and Professions Code section 4990.09 further defines the parameters regarding the reporting of citations. Pursuant to this code section, the Board shall

not publish on the Internet the final determination of a citation and fine of \$1500 or less for more than five years from the date of issuance. After five years, the Board must remove the action from its website. Currently, BreEZe removes this information automatically.

In 2015 the Board resumed publishing its newsletter. Within the newsletter, Board disciplinary actions, including citations and fines, are published. The Board publishes its newsletter on its website. Further, the Board does not have a policy or retention schedule in effect that specifies when these newsletters are to be removed from the website. Therefore, information regarding citation and fines will remain available to the public indefinitely.

#### ATTACHMENT B

#### §27. PUBLIC INFORMATION

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also

disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

#### ATTACHMENT C

#### §4990.09. INTERNET PUBLICATION OF FINAL DETERMINATION; TIME LIMIT

The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars (\$1,500) or less issued against a licensee or registrant pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.

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#### ATTACHMENT D

#### §4990.16. PROTECTION OF THE PUBLIC

Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount

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1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

То:	Board Members	Date:	February 15, 2017
From:	Rosanne Helms Legislative Analyst	Telephone:	(916) 574-7897
<b>•</b> • • •			

### Subject: Additional Amendments to Proposed Regulations – English as a Second Language: Additional Examination Time

The Board is pursuing a regulatory proposal which would allow it to grant time-and-a-half (1.5x) on a Board-administered examination to an English as a second language (ESL) applicant, if the applicant meets specific criteria demonstrating limited English proficiency.

The proposed regulatory language was approved by the Board at its meeting in November 2015. From there, the proposal was published in the California Regulatory Notice Register on January 1, 2016, and went through the public hearing process and the review process.

On February 2, 2017 the Office of Administrative Law (OAL), which is the entity that must approve or disapprove all regulations, notified the Board that it had decided to disapprove the ESL regulations.

#### **Reasons for Disapproval**

OAL noted in its Decision of Disapproval (**Attachment C**) that certain changes must be made to the proposed language, as follows:

- 1. **Documentation "to the satisfaction of the board."** OAL noted that the phrase requiring documentation "to the satisfaction of the board" in Section 1805.2(b) and (c) is unclear. OAL recommended providing examples as to the type of documentation that would be acceptable.
- 2. **Coursework "primarily" in a language other than English.** OAL stated that the option to qualify for the ESL accommodation by providing documentation that the out-of-country degree was presented "primarily" in a language other than English is too vague. OAL asked for amendments specifying exactly how much of the degree could be in another language in order to qualify for the accommodation.

3. **Penalty of Perjury.** The language stated that to qualify for an ESL accommodation, the applicant needed to submit a request for additional time signed under the penalty of perjury that states English is his or her second language. OAL asked that the Board justify why it is necessary for an applicant to certify this under penalty of perjury.

#### Proposed Amendments

Staff is proposing amendments to address the issues described in items 1 and 2 above. Staff also proposes removing the requirement that the ESL request be signed under penalty of perjury. The Board's unprofessional conduct sections already provide it with statutory authority to refuse to issue a license or registration, or to suspend or revoke it if the applicant, registrant, or licensee is found to be guilty of misrepresentation, or the commission of a dishonest, corrupt, or fraudulent act.

Attachment A shows the proposed amendments to the ESL regulation language based on OAL's feedback. New changes needing approval by the Board are shown in double underline and double strikeout.

Attachment B is the "Supplement to the Initial Statement of Reasons." This document details each change and the reason it is being made. This document will be part of the rulemaking file.

#### Next Steps

The Board has until June 2, 2017 to re-submit the proposed language to OAL for consideration.

If the Board approves the newly proposed language today, then a 15-day public comment period will be held. If any comments are received related to the changes, the Board will need to consider those. The new language will need to be approved by the Department of Consumer Affairs (DCA), and then OAL.

#### **Recommendation**

Conduct an open discussion about the proposed amendments. Direct staff to make any discussed changes, and any non-substantive changes, and to continue pursuing the proposal through the rulemaking process.

#### **Attachments**

Attachment A: Additional Proposed Amendments
 Attachment B: Supplement to the Initial Statement of Reasons
 Attachment C: Office of Administrative Law: Decision of Disapproval of Regulatory Action (February 2, 2017)

#### ATTACHMENT A REVISED LANGUAGE

#### NOTE:

#### Single underline indicates originally proposed new language.

Double underline indicates proposed modified new language. Double strikeout indicates proposed modified deleted language.

#### The Board of Behavioral Sciences of the Department of Consumer Affairs hereby adopts regulations in Division 18 of Title 16 of the California Code of Regulations, as follows:

## ADD § 1805.2. ADDITIONAL EXAMINATION TIME: ENGLISH AS A SECOND LANGUAGE

<u>The board, in its sole discretion, may grant additional examination time to an applicant</u> for whom English is his or her second language. To qualify for consideration, the applicant must <del>complete and</del> submit a request for additional time <del>that states under</del> <del>penalty of perjury\_stating\_that English is his or her second language, and provide one of</del> the following:

- (a) <u>A Test of English as a Foreign Language, Internet Based Test (TOEFL-iBT)</u> <u>certification score of 85 or below, sent by Educational Testing Service directly to</u> <u>the board. The TOEFL must have been taken within the previous two years prior</u> <u>to application.</u>
- (b) Documentation, to the satisfaction of the board, from the qualifying master's degree program that the program had granted the applicant additional examination time or other allowance due to speaking English as a second language while he or she was enrolled in the program. <u>Acceptable</u> documentation includes, but is not limited to, a letter from chair of the qualifying master's degree program, or from the educational institution's chief academic officer.
- (c) Documentation, to the satisfaction of the board, that the qualifying master's degree was obtained from an educational institution outside the United States, and that at least fifty percent of the coursework was presented primarily in a language other than English. Acceptable documentation includes, but is not limited to, a letter from the chair of the qualifying master's degree program, or from the educational institution's chief academic officer.

If approved, the applicant will be allotted time–and-a-half (1.5x) when taking the required board-administered examination. Allowance of this option for a required national examination is subject to availability from the exam-administering entity.

<u>Note:</u> Authority cited: Sections 4980.34, 4980.60, 4990.18, and 4990.20, Business and Professions Code. Reference: Sections 4980.397, 4980.50, 4989.22, 4992.05, 4992.1, 4999.52, 4999.53, Business and Professions Code.

#### ATTACHMENT B BOARD OF BEHAVIORAL SCIENCES SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

**Subject Matter of Proposed Regulations:** English as a Second Language: Additional Examination Time

#### Title 16 Sections Affected: 16 CCR Section 1805.2

The additional changes to the regulatory proposal are as follows:

### 1. Additional Amendment #1: "Completing and submitting a request for additional time"

<u>Proposed Change:</u> The originally proposed language has been amended to state the applicant must "submit a request" for additional time, rather than saying they must "complete and submit" a request for additional time.

<u>Purpose/Rationale:</u> The Board determined that the phrase "complete and submit" a request is repetitive. It is unnecessary to state that a request must be completed, because submission of a request already implies it is completed. Therefore, the amendment was made to make the language more clear and concise.

<u>Anticipated Benefit:</u> Making the language more concise ensures that it is more easily understood by an applicant.

### 2. Additional Amendment #2: Remove requirement that request for additional time be signed under penalty of perjury

<u>Proposed Change:</u> The originally proposed language states that to qualify for consideration for additional exam time, the applicant needs to submit a request stating under penalty of perjury that English is his or her second language.

<u>Purpose/Rationale:</u> The Board has removed the requirement that the statement that English is the second language be made under penalty of perjury, since it has been determined it was not necessary. The Board already has statutory authority to refuse to issue a license or registration, or to suspend or revoke it if the applicant, registrant, or licensee is found to be guilty of unprofessional conduct. Two unprofessional conduct provisions are particularly relevant here:

a. Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. (Business and Professions Code (BPC) §§4982(f), 4989.54(I), 4992.3(g), and 4999.90(f)

 b. The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant (BPC §§4982(j), 4989.54(g), 4992.3(k), and 4999.90(j))

The Board, therefore, does not believe it would be necessary to require a statement regarding English as a second language to be made under penalty of perjury when it already has appropriate disciplinary tools available to it, in the event the Board discovers that the statement is false.

<u>Anticipated Benefit</u>: The anticipated benefit of this change is increased efficiency in government, because the Board is utilizing the existing disciplinary process already within its authority, instead of pursuing new disciplinary measures.

## 3. Additional Amendment #3: Documentation of Master's program ESL accommodation (16 CCR §1805.2(b))

<u>Proposed Change:</u> The originally proposed language stated that one way to qualify for an ESL accommodation would be to provide documentation, to the satisfaction of the Board, that the qualifying master's degree program had granted the applicant additional examination time or other accommodation due to speaking English as a second language.

The Office of Administrative Law (OAL) asked the Board to amend the language to provide examples of documentation that would satisfy the Board.

The Board has therefore deleted the requirement that the documentation be "to the satisfaction of the Board." After consulting with stakeholders at universities offering master's degrees intended to lead to Board licensure, the Board has determined that a letter from the degree program's chair or chief academic officer would be examples of credible and acceptable documentation that the school gave this accommodation.

<u>Purpose/Rationale</u>: The addition of examples of acceptable documentation makes it clear to applicants seeking an ESL accommodation via this method what type of documentation the Board will accept.

<u>Anticipated Benefit:</u> Increased clarity benefits applicants for the ESL accommodation because they know what type of documentation the Board is expecting.

### 4. Additional Amendment #4: Documentation of Master's program outside the United States and presented in a language other than English (16 CCR §1805.2(c))

<u>Proposed Change:</u> The originally proposed language stated that one way to qualify for an ESL accommodation would be to provide documentation, to the satisfaction of the Board, that the qualifying master's degree program was located outside of the United States and was presented in a language primarily in a language other than English. The Office of Administrative Law (OAL) asked the Board to amend the language to provide examples of documentation that would satisfy the Board.

The Board has therefore deleted the requirement that the documentation be "to the satisfaction of the Board." The Board has determined that a letter from the degree program's chair or chief academic officer would be an example of credible and acceptable documentation of a degree being outside the U.S. and presented in a foreign language.

<u>Purpose/Rationale:</u> The addition of an example of acceptable documentation makes it clear to applicants seeking an ESL accommodation via this method what type of documentation the Board will accept.

<u>Anticipated Benefit:</u> Increased clarity benefits applicants for the ESL accommodation because they know what type of documentation the Board is expecting.

### 5. Additional Amendment #5: Master's program presented primarily in a language other than English (16 CCR §1805.2(c))

<u>Proposed Change:</u> The originally proposed language stated that one way to qualify for an ESL accommodation would be to provide documentation, to the satisfaction of the Board, that the qualifying master's degree program was located outside of the United States and was presented primarily in a language other than English.

The Office of Administrative Law (OAL) asked the Board to amend the language to clarify the meaning of "primarily in a language other than English."

The Board has therefore deleted the word "primarily" and amended the language to state that "at least fifty percent of the coursework was presented in a language other than English."

<u>Purpose/Rationale:</u> This change makes it clear exactly how much of a degree must be in another language in order to qualify for the ESL accommodation.

<u>Anticipated Benefit:</u> Specifying how much of the degree must be presented in another language promotes clarity, because it establishes a minimum baseline and gives applicants a better idea of whether or not they will qualify under this option.

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### State of California Office of Administrative Law

In re: Board of Behavioral Sciences

**Regulatory Action:** 

Title 16, California Code of Regulations

Adopt section: 1805.2

#### DECISION OF DISAPPROVAL OF REGULATORY ACTION

**Government Code Section 11349.3** 

OAL Matter Number: 2016-1213-01

OAL Matter Type: Regular (S)

#### SUMMARY OF REGULATORY ACTION

This rulemaking action by the Board of Behavioral Sciences (Board) proposes to add section 1805.2 to title 16 of the California Code of Regulations. This section states the conditions under which the Board may grant additional time to complete examinations to those for whom English is a second language.

#### **DECISION**

On December 13, 2016, the Board submitted the above-referenced regulatory action to the Office of Administrative Law (OAL) for review. On January 27, 2017, OAL notified the Board of the disapproval of this regulatory action. The reasons for the disapproval were failure to comply with the "clarity" and "necessity" standards of Government Code section 11349.1. This Decision of Disapproval of Regulatory Action explains the reasons for OAL's action.

#### **DISCUSSION**

Regulations adopted by the Board must generally be adopted pursuant to the rulemaking provisions of the California Administrative Procedure Act (APA), chapter 3.5 of part 1 of division 3 of title 2 of the Government Code (secs. 11340-11361). Pursuant to section 11346 of the Government Code, any regulatory action a state agency adopts through the exercise of quasi-legislative power delegated to the agency by statute is subject to the requirements of the APA, unless a statute expressly exempts or excludes the regulatory action under review. Consequently, before these regulations may become effective, the regulations and rulemaking record must be reviewed by OAL for compliance with the substantive standards and procedural requirements of the APA, in accordance with Government Code section 11349.1.

#### I. CLARITY

OAL must review regulations for compliance with the "clarity" standard of the APA, as required by Government Code section 11349.1. Government Code section 11349, subdivision (c), defines "clarity" as meaning "…written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them."

The "clarity" standard is further defined in section 16 of title 1 of the California Code of Regulations (CCR), OAL's regulation on "clarity," which provides the following:

In examining a regulation for compliance with the "clarity" requirement of Government Code section 11349.1, OAL shall apply the following standards and presumptions:

(a) A regulation shall be presumed not to comply with the "clarity" standard if any of the following conditions exists:

- (1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or
- (2) the language of the regulation conflicts with the agency's description of the effect of the regulation; or
- (3) the regulation uses terms which do not have meanings generally familiar to those "directly affected" by the regulation, and those terms are defined neither in the regulation nor in the governing statute; or
- (4) the regulation uses language incorrectly. This includes, but is not limited to, incorrect spelling, grammar or punctuation; or
- (5) the regulation presents information in a format that is not readily understandable by persons "directly affected;" or
- (6) the regulation does not use citation styles which clearly identify published material cited in the regulation.
- (b) Persons shall be presumed to be "directly affected" if they:
  - (1) are legally required to comply with the regulation; or
  - (2) are legally required to enforce the regulation; or
  - (3) derive from the enforcement of the regulation a benefit that is not common to the public in general; or
  - (4) incur from the enforcement of the regulation a detriment that is not common to the public in general.

As discussed below, two provisions of proposed section 1805.2 fail to comply with the clarity standard of the APA.

The Board administers a number of examinations, all of which are given in English. Pursuant to section 1805.2, an applicant whose native language is not English may request additional time to complete a Board examination by providing evidence of his or her English as a Second Language (ESL) status. The Board will consider three types of evidence, which are described in section 1805.2, subdivisions (a) through (c).

Subdivisions (b) and (c) of proposed section 1805.2 read:

(b) Documentation, to the satisfaction of the board, from the qualifying master's degree program that the program had granted the applicant additional examination time or other allowance due to speaking English as a second language while he or she was enrolled in the program.

(c) Documentation, to the satisfaction of the board, that the qualifying master's degree was obtained from an educational institution outside the United States, and that coursework was presented <u>primarily</u> in a language other than English. [Emphasis added.]

**Issue 1.** The phrase "to the satisfaction of the board" in subdivisions (b) and (c) is not clear or easily understood by those affected by the regulation. Section 1805.2 provides no examples, criteria, or other benchmarks to assist an applicant in submitting documentation that will satisfy the Board. This lack of distinct guidance leaves documentation "to the satisfaction of the board" open to more than one reasonable and logical interpretation by each directly affected person, which is a violation of the clarity standard of the APA and section 16, subdivision (a)(1), of title 1 of the CCR.

**Issue 2.** The word "primarily" in subdivision (c) is vague. Merriam-Webster's Collegiate Dictionary (11<sup>th</sup> Ed., 2007) defines "primarily" to mean "for the most part." Stated numerically, "primarily" ranges from slightly more than 50% to slightly less than 100%. At what point in this spectrum will the Board begin approving requests for additional examination time? Based on the regulation text alone, an applicant cannot be certain what percentage of international coursework presented in a language other than English will satisfy the Board. This ambiguity violates the clarity standard of the APA and section 16, subdivision (a)(1), of title 1 of the CCR.

#### **II. NECESSITY**

OAL must review regulations for compliance with the "necessity" standard of Government Code section 11349.1. Government Code section 11349, subdivision (a), defines "necessity" as meaning "...the record of the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute, court decision, or other provision of law that the regulation implements, interprets, or makes specific, taking into account the totality of the record. For purposes of this standard, evidence includes, but is not limited to, facts, studies, and expert opinion."

To further explain the meaning of substantial evidence in the context of the "necessity" standard, subdivision (b) of section 10 of title 1 of the CCR provides:

In order to meet the "necessity" standard of Government Code section 11349.1, the record of the rulemaking proceeding shall include:

(1) a statement of the specific purpose of each adoption, amendment, or repeal; and

(2) information explaining why each provision of the adopted regulation is required to carry out the described purpose of the provision. Such information shall include, but is not limited to, facts, studies, or expert opinion. When the explanation is based upon policies, conclusions, speculation, or conjecture, the rulemaking record must include, in addition, supporting facts, studies, expert opinion, or other information. An "expert" within the meaning of this section is a person who possesses special skill or knowledge by reason of study or experience which is relevant to the regulation in question.

**Issue 1.** When requesting additional examination time, proposed section 1805.2 requires each applicant to state "under penalty of perjury that English is his or her second language[.]" The Board's Initial Statement of Reasons (ISR) simply restates the above provision without offering any evidence to explain why an applicant must certify his or her request under penalty of perjury. Further, though the rulemaking record includes a series of Board meeting minutes and three documents relied upon to supplement the ISR in support of this proposed regulation, these additional materials provide no justification for requiring an applicant to certify his or her request under penalty of perjury. The complete absence of evidentiary support for the adoption of this requirement is a violation of the necessity standard of the APA.

#### **CONCLUSION**

For the reasons set forth above, OAL disapproved this regulatory action. Pursuant to Government Code section 11349.4, subdivision (a), the Board may resubmit this rulemaking action within 120 days of its receipt of this Decision of Disapproval.

Any changes made to the regulation text to address the clarity issues discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11346.8 and section 44 of title 1 of the CCR prior to adoption by the Board. Additionally, any supplement to the ISR or other document the Board may create or otherwise propose to add to the record in order to address the necessity issue discussed above must be made available for at least 15 days for public comment pursuant to Government Code section 11347.1 prior to adoption by the Board. The Board must document in the rulemaking file its approval of the final text after consideration of all public comments and relevant information before resubmitting to OAL.

If you have any questions, please contact me at (916) 322-3761.

Date: February 2, 2017

Eric Partington Senior Attorney

For: Debra M. Cornez Director

Original: Kim Madsen Copy: Rosanne Helms

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**Date:** February 14, 2017

From: Kim Madsen Executive Officer Telephone: (916) 574-7841

# Subject: Parental Alienation Coursework for Marriage and Family Therapists, Clinical Social Workers, Professional Clinical Counselors, and Educational Psychologists

Mr. Ron Berglas will formally present a request to the Board to revise the 7-hour Child Abuse course to include the study of Parental Alienation and its diagnostic indicators.

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# PARENTAL ALIENATION

**Supportive Documents** 

for the

**California Board of Behavioral Sciences** 

Pursuant to our Request that the curriculum within the 7-hour course on Child Abuse for LMFT'S, LCSW'S, LEP'S and LPCC'S be altered to include the study of Parental Alienation and its diagnostic indicators.

Assembled by:

Margaret L. Avineri Psy.D, LMFT; Ron Berglas M.Ed.; William Bernet M.D.; Lynn Steinberg Ph.D.

# Ron Berglas

12247 Iron Stone Drive, Rancho Cucamonga, CA 91739

909-725-1268 / poughquag@gmail.com

To the Members of the California Board of Behavioral Sciences,

This package is in support of my request to alter the curriculum for Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Educational Psychologists and Licensed Professional Clinical Counselors to include the study of Parental Alienation and its diagnostic indicators on the agenda for your General Meeting.

Enclosed you should find all relevant materials as requested. They include:

- Cover letter
- Letter from Amy Baker, Ph.D.
- Letter from Gerry Grossman, LMFT
- Letter from Jennifer Harman, Ph.D.
- Letter from Les Linet, M.D.
- Clinical Review: Child Affected by Parental Relationship Distress by William Bernet, MD, Marianne Z. Wamboldt, M.D., William Narrow, M.D., MPH
- Bibliography Regarding Parental Alienation by William Bernet, M.D.
- Symptoms of Parental Alienation by Douglas Darnell, Ph.D.
- Clinical Decision Making Errors by Dr. Steven Miller
- Brazil's New Law on Parental Alienation
- Off-putting relationships: the essentials of Child Alienation by Nick Child, M.D.
- The Particular Problems of Hearing the Voice of the Child in cases of Parental Alienation by Karen Woodall, Ph.D.
- Diagnostic Checklist for Pathogenic Parenting: Extended Version by Craig Childress, Psy.D.
- Recommendations for best practice in response to parental alienation: findings from a systematic review from the Journal of Family Therapy (2016) 00: 00–00 doi:10.1111/1467-6427.12137 by Kate Templer, Mandy Matthewson, Janet Haines and Georgina Cox

Here is the link to the television show I wrote, produced, directed and hosted on Parental Alienation called Cracking the Ice. You can watch it in its entirety here:

# https://youtu.be/EONqcnziJ7A

It is a tragedy grown all too common that therapists, not trained to recognize Parental Alienation, leave the children with the very parent who is psychologically abusing them, exacerbating the situation by assuming that if the child says it's true then there must be something to it, leading to a catastrophic breakdown in the relationship between the children and their targeted parent.

Imagine a child having to tell their mother or father that they hate them despite how they really feel. Imagine the damage that does to the child who must behave in an entirely counter-intuitive way simply to please, or protect, the alienating parent.

Ultimately this is about protecting the children. It is about making sure that children really do have the right and the ability to love both parents freely and without guilt.

Please read the contents of this package so that when we meet again in March, you come ready to do the right thing: incorporate the study of Parental Alienation and its diagnostic indicators into the Child Abuse section of the curriculum. I have included in your package a copy of Jennifer Harman, PH.D.'s new book PARENTS ACTING BADLY. Please pass this on to the members of the Board.

Thank you.

/ Ron Berglas M.Ed.

Amy J.L. Baker, Ph.D., Parental Alienation Researcher, Author, Coach PO Box 505 Teaneck NJ 07666 <u>www.amyilbaker.com</u> amyilbaker@aol.com

January 4, 2017

To BBS Board Members,

As a nationally recognized leader in the field of parental alienation, I am writing to lend my support to Ron Berglas, M.Ed in his efforts to ensure that all mental health professionals in the state of California receive extensive and specialized training on the topic of parental alienation. Because parental alienation is a form of emotional abuse (this has been established in several research studies published in peer-reviewed journals) and because mental health professionals are mandated reporters of all forms of child maltreatment, it is essential that they receive training on parental alienation. Moreover, several aspects of diagnosing and treating parental alienation are counter-intuitive and require specialized expert knowledge. Therefore, it is extremely important that professionals who come into contact with families affected by parental alienation do not make diagnostic and treatment decisions based on non-PA knowledge. Doing so is highly likely to result in misguided and erroneous decisions and could in fact further contribute to a child losing a relationship with a loving parent.

By way of background, I am an author of a research methods text book published by Columbia University Press and seven books on child maltreatment published by Routledge, WW Norton, Rowman & Littlefield, and New Harbinger. I am also the author or co-author of over 100 articles (most in peer-reviewed journals) and have been accepted as an expert in parental alienation, child development, and parenting in courts around the United States and in Canada. I am a board member of the Parental Alienation Study Group, which works to create awareness of parental alienation. I would be happy to provide additional background information about myself as well as the reasons why I believe mental health professionals must receive rigorous, PA-specialized training in the field of parental alienation.

Thank you for your time and attention,

Amy J.L. Baker, Ph.D



12304 Santa Monica Boulevard • Suite 214 • Los Angeles, CA 90025 (310) 820-6322 • (800) 300-6322 • Fax: (310) 820-4432 • Email: ggs@gerrygrossman.com

December 22, 2016

Dear BBS Board Members,

As a CAMFT-Approved Continuing Education Provider (#133709), I am writing to support the efforts of Ron Berglas, M.Ed. in his efforts to raise awareness about the phenomenon of parental alienation. This behavior on the part of a parental figure can constitute a form of *emotional abuse* or *unjustifiable mental suffering* as defined by the following California Penal codes.

California law addresses the responsibility of mandated reporters dealing with known or suspected emotional abuse as follows: Mandated reporters *may report* when they have knowledge of or suspect that:

A child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others.... (P.C., §11166.05)

One exception to the above is when cases of severe emotional abuse, in which "any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering" are suspected, mandated reporters *must report* (P.C., §11165.3).

Mr. Berglas has indicated that the American Psychological Association is examining its position on parental alienation and that the U.S. Department of Justice has cited parental alienation as a form of domestic violence.

Given that at least 7 hours of training in Child Abuse Assessment and Reporting is required coursework for mental health professionals under the jurisdiction of the BBS (California Code of Regulations Section 1807.2) and that parental alienation can lead a child to experience either emotional abuse or unjustifiable mental suffering, it would be important that parental alienation be a topic to be addressed in this training as it could constitute a mandated reporting responsibility of the part of a mental health professional.

Thank you for your time and consideration of this matter.

Sincerely,

Deny moroman

Gerry Grossman, LMFT (#20077)



Department of Psychology 1876 Campus Delivery Fort Collins, CO 80523-1876 970-491-6363 Phone 970-491-1032 Fax

December 19, 2016

To whom it may concern

We are writing to share our professional opinion on a topic that we believe is very important for mental health professionals to better recognize and take steps to address more proactively. The problem is parental alienation, and it is something that greatly affects the well-being of children in high-conflict divorced families, as well as (to the surprise of many) numerous intact families. This is a problem that one of us (Dr. Harman) has struggled with herself, both as a mother and a step-mother. It wasn't until she personally experienced this problem that she learned about how severe and devastating the issue is. We as researchers used think that parental alienation was just a product of high-conflict divorce, or occurred in couples who just did not get along. We both operated under the assumption that it ended when the divorce ended. It has been considered a private problem, not a public or societal one. We were both so very wrong.

In a paper we recently published with *Youth and Child Services Review*, we estimate based on a poll conducted with a representative sample of North Carolina adults that 13% of parents report being alienated from their children by the other parent. This statistic represents over 22 million adults in the U.S. alone. Over half of these adults (approximately 10 million) report this experience as being severe. Many parents have more than one child, so the population-level prevalence among children is high. Out of sheer curiosity, one of us (Dr. Harman) conducted a quick poll of two large undergraduate classes she taught this semester and last Spring, and over 44% of the students in the classes stated that they had experienced parental alienation. We can no longer deny that this is a real problem.

You are likely well aware that there has been great controversy about the term "parental alienation" itself and whether it can be characterized as a syndrome. We provide a thorough review of these arguments in our new book, *Parents acting badly: How institutions and societies promote the alienation of children from their loving families* (2016; available on Amazon.com; one desk copy is submitted with this letter). In our book, we also discuss *why* there has been such controversy. The purpose of our missive here is not to rehash and discuss the controversy, but rather to highlight what the true intent of these behaviors is, and how these behaviors affect children and families. Our hope is that you will start to include in your required training of mental health providers how to identify and treat parental alienation.

We have surveyed, interviewed, and spoken with hundreds of parents who have been alienated from their children. We both get emails and phone calls from parents every day, from all over the world, begging for psychological, emotional, and legal help. Many are suicidal. Many are successful in their attempts. There are currently no resources for them. These data, combined with over 3 decades of clinical and descriptive data published by other mental health and legal professionals around the world, point to the fact that parents/guardians/adults who alienate their children from the other parent are doing it to hurt them. Whether their behavior is conscious or implicitly motivated varies case by case, but the true intent and motive of the alienating behavior is to hurt, punish, and get revenge on the other parent. Many parents engage in administrative and legislative aggression (e.g., Berger, Douglas, & Hines, 2016). Many parents badmouth the other parent to their child, tell them lies or age-inappropriate things to make the child dislike the other parent, limit time/contact with the other parent (without court approval), make false allegations of abuse, and engage in many other behaviors that have been welldocumented by others (e.g., Baker et al., 2010). Again, all of these behaviors are designed to hurt the other parent and their relationship to their child. Therefore, parental alienation is a form of indirect aggression, with children being used as weapons. These behaviors are not discrete, one-time events. They are long- lasting campaigns. It is for this reason that we firmly believe that parental alienation is a form of domestic violence.

Many mental health professionals and advocates have been opposed to using the term "parental alienation" because they believe all alienation is "justified estrangement." We strongly disagree with this stance, as it blames the victim for what is happening to them. To this day, people still often blame victims of sexual assault-- they must have been wearing something provocative, or been someplace where they should not have been alone. We do this to alienated parents as well--they *must* have done something wrong for their child to not want to see or talk to them. They *must* be bad if their child dislikes them so much. Their other parent *must* be extraordinary for the child to prefer them so much more than the targeted parent. All of these statements demonstrate the fundamental attribution error, in action. Recent data collected by Drs. Kathleen Reay and William Bernet have found it is very easy to clinically and quantitatively differentiate between children who are estranged versus alienated from a parent. Estrangement appears as ambivalence towards the parent who has *legitimate* shortcomings. Alienation appears as extreme dislike (with little to no guilt or ambivalence) towards the alienated parent, and extreme positivity (and typically unhealthy enmeshment) towards the alienating parent.

Clinicians working with families and children need better training and awareness on what parental alienation is and what it is not. If they do not, then they contribute to the problem. Many mistake an unhealthy enmeshment between a child and an alienating parent as a secure attachment, when such enmeshment is actually devastating for a child's development and mental health. Such enmeshment often results in the development of personality disorders and behavioral issues. Many professionals do not treat children from a systems perspective and fail to question the validity of information provided by one parent as "truth" about the other parent. This is unethical, contributes to the abuse of the child, and demonstrates collusion (whether deliberate or not) with the abuser. Many professionals fail to include or consult with all adults in a child's life when they are in treatment or providing clinical recommendations, and this causes more damage to the child and further exacerbates the alienation. Many guidance counselors and school psychologists are also roped into alienator's stratagems and campaigns to destroy the alienated parent in social spheres such as school in order to push the alienated parent further away. These professionals are often ill-equipped or undertrained on what they are dealing with.

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As a result, the children who are being alienated suffer. They lose not only a relationship with a loving parent, but that parent's entire social network, which can provide the child with much needed support and social capital as they grow up. The children are led to dislike and hate a parent, and the impact this has on their own identity and self-esteem is substantial. Researchers have documented severe mental health outcomes for alienated children, academic declines, behavioral and conduct disorders, and even suicidal ideation and attempts. For less severe cases, children develop problems forming healthy romantic attachments when they get older, and suffer milder forms of anxiety and distress. Some become so alienated they refuse to see the other parent indefinitely. Others are resistant to the alienation and still love both parents, but still struggle psychologically as a result of split loyalties and needing to compartmentalize or live double lives in order to "survive" when they are with the alienating parent.

We have spoken with many mental health and legal professionals who have told us that when they have asked for professional training on parental alienation, they are told that it is not real and so they do not need training about it. And yet the latest version of the DSM *does* include parental alienation behaviors (e.g., badmouthing a parent to a child) as an example of Child Affected by Parental Relationship Distress (CAPRD; under "other conditions that may be a focus of clinical attention" under Relationship Problems). Two of the authors of the DSM-V have also recently published a paper specifically outlining what CAPRD encompasses (Bernet, Wamboldt & Narrow, 2016) and parental alienation falls under this category. Professionals need to be trained on the distinguishability and treatment of parental alienation from other forms of CAPRD (e.g., intimate partner violence, loyalty conflict) and understand when it is CAPRD versus true Parent-Child relationship issues.

We hope that you take the time to consider our professional opinion on this matter and the strong need for clinicians to be trained on this topic. We need to set aside politics and personal biases to see and acknowledge this problem for what it is. It is our ethical duty as to do so in service of the people we work with. We are in the process of developing a training that can be utilized by mental health professionals on this topic, and have suggestions for professional Boards who finally acknowledge this problem and are taking steps to address it.

Please feel free to contact us with any questions you may have about parental alienation, research that our team and others are working on, and any other questions you may have. The need is great to deal with this problem, and we need your leadership to do this. If you would like to learn more, please check out our new book (referenced earlier), or watch the TEDx talk Dr. Harman gave on the topic a few months ago (https://www.youtube.com/watch?v=v3YdldNXZnQ), or an article she wrote for The Conversation recently: https://theconversation.com/parental-alienation-what-it-means-and-why-it-matters-60763

Thank you for your time and consideration.

Sincerely,

Harman, PhD lenøife

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November 28, 2016

Ron Berglas M.Ed. 12247 Iron Stone Drive Rancho Cucamonga, CA 91739 poughquag@gmail.com

Dear Ron:

I heartily applaud your efforts to effect a change in the curriculum studied by Licensed Marriage and Family Therapists (LMFT), Licensed Clinical Social Workers (LCSW), Licensed Professional Clinical Counselors (LPCC) and Licensed Educational Psychologists (LEP) to include the study of Parental Alienation.

I understand that the California Board of Behavioral Sciences has agreed to put a discussion on how to alter the curriculum to include Parental Alienation on their agenda. The board has asked you to send relevant materials for them to review. I believe one of the most persuasive references is the largest study of brainwashed children, a book published by the American Bar Association (*Children Held Hostage: Identifying brainwashed children, presenting a case, and crafting solutions, Second Ed.* Chicago: American Bar Association, 2013) by Dr. Stanley Clawar and Dr. Brynne Rivlin. These authors not only describe unwarranted estrangement between child and targeted parent. They also discuss that, when this pathology is properly recognized, it can be reversed. They found that increasing the child's contact with the alienated parent was the most effective way to reverse alienation. I will quote *Children Held Hostage: Identifying brainwashed children, presenting a case, and crafting solution*:

Of the approximately four hundred cases we have seen where the courts have increased the contact with the target parent (and in half of these, over the objection of the children), there has been positive change in 90 percent of the relationships between the child and the target parent, including the elimination or reduction of many socialpsychological, educational, and physical problems that the child presented prior to the modification.

... We have had the opportunity to interview hundreds of children after environmental change [changes to be made in the amount of physical contact a child is permitted with the programming/brainwashing and target parents] has taken place, and we can quote one child as a fair summary of the others:

"I would never have made the change to spend more time with my mother if the court didn't make it happen and you didn't suggest it. Now that I have, I've gotten to know my mother. She's a nicer person than I ever believed, and I realize that I could have grown up without ever knowing her and what she believes about life. It's been real important, and I want to thank you [child extends hand to shake]. I have also learned that I don't know everything and I have to be real careful about making closed opinions in the future."

This commentary was made by seventeen-year-old child after approximately one year of reconciliation with his mother. Before that year, he had had a damaging and distant relationship (including periods without contact) with his mother. This was caused, in large part, by an extensive programming/brainwashing process developed and implemented by his father.

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70% of children felt relief that the programming and brainwashing was discovered.

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This form of child abuse is, in fact, described in the current Diagnostic and Statistical Manual (DSM-5):

**PARENT-CHILD RELATIONAL PROBLEM** Z62.820: The description of this condition specifically states that it may include "hostility toward or scapegoating of the other, and unwarranted feelings of estrangement." [A description of a child induced into unwarranted alienation from a targeted parent]

I wish you and the California Board of Behavioral Sciences well in considering this too long neglected form of the abuse of children.

Sincerely,

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# **Child Affected by Parental Relationship Distress**

William Bernet, MD, Marianne Z. Wamboldt, MD, William E. Narrow, MD, MPH

**Objective:** A new condition, "child affected by parental relationship distress" (CAPRD), was introduced in the DSM-5. A relational problem, CAPRD is defined in the chapter of the DSM-5 under "Other Conditions That May Be a Focus of Clinical Attention." The purpose of this article is to explain the usefulness of this new terminology.

Method: A brief review of the literature establishing that children are affected by parental relationship distress is presented. To elaborate on the clinical presentations of CAPRD, four common scenarios are described in more detail: children may react to parental intimate partner distress; to parental intimate partner violence; to acrimonious divorce; and to unfair disparagement of one parent by another. Reactions of the child may include the onset or exacerbation of psychological symptoms, somatic complaints, an internal loyalty conflict, and, in the extreme, parental alienation, leading to loss of a parent-child relationship.

**Results:** Since the definition of CAPRD in the *DSM-5* consists of only one sentence, the authors propose an

hen the *DSM-IV-TR* transitioned to the *DSM-5*, there were many important changes in the text, such as the removal of 54 diagnoses and the addition of 39 new diagnoses. One of the new terms introduced in the *DSM-5* was "child affected by parental relationship distress" (CAPRD). There is little elaboration of the meaning of CAPRD in the *DSM-5*, with the brief explanatory text simply saying: "This category should be used when the focus of clinical attention is the negative effects of parental relationship discord (e.g., high levels of conflict, distress, or disparagement) on a child in the family, including effects on the child's mental or other medical disorders."<sup>1(p716)</sup> The codes for CAPRD are V61.29 (as in the *International Classification of Diseases, 9th Revision [ICD-9-CM]*) and Z62.898 (as in *ICD-10-CM*).

CAPRD is in the chapter of the *DSM-5* "Other Conditions That May Be a Focus of Clinical Attention." It is in the first section of that chapter, which is headed "Relational Problems." The introductory material notes that parent-child relationships can be "protective, neutral, or detrimental to health outcomes."<sup>11</sup>(p715)</sup> Also, "a relational problem may come

This article is discussed in an editorial by Drs. Robert R. Almoff and Ardrés Martin on page 542.

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An interview with the author is available by podcast at www.jaacan.org or by scanning the QR code to the right. expanded explanation, clarifying that children may develop behavioral, cognitive, affective, and physical symptoms when they experience varying degrees of parental relationship distress, that is, intimate partner distress and intimate partner violence, which are defined with more specificity and reliability in the DSM-5.

**Conclusion:** CAPRD, like other relational problems, provides a way to define key relationship patterns that appear to lead to or exacerbate adverse mental health outcomes. It deserves the attention of clinicians who work with youth, as well as researchers assessing environmental inputs to common mental health problems.

Key words: child affected by parental relationship distress, intimate partner distress, intimate partner violence, loyalty conflict, parental alienation

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to clinical attention either as the reason that the individual seeks health care or as a problem that affects the course, prognosis, or treatment of the individual's mental or other medical disorder."<sup>1(p715)</sup> The other relational problems presented in the chapter, "Other Conditions That May Be a Focus of Clinical Attention," are parent–child relational problem; sibling relational problem; upbringing away from parents; relationship distress with spouse or intimate partner; disruption of family by separation or divorce; high expressed emotional level within family; and uncomplicated bereavement. Also included in the chapter "Other Conditions That May Be a Focus of Clinical Attention" are defined terms for both child maltreatment and adult maltreatment.

CAPRD captures the interplay among environmental stressors, genetic vulnerabilities, children who are more susceptible to psychopathology, and those who are resilient. This review explains how children who are exposed to parental relationship distress (e.g., domestic violence) may develop a variety of mental disorders, ranging from an adjustment disorder to major depressive disorder. When children have a mental disorder, adding the diagnosis of CAPRD or other relational problem, as appropriate, may help to differentiate treatment outcomes. On the other hand, children



who are unusually resilient—because of innate hardiness, support from extended family, community resources, or other situational factors—may experience parental relationship distress and manifest no psychological symptoms at all.

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There are no doubt many genetic factors, most of them unknown as yet, that contribute to a child's inherent biological strengths and weaknesses.<sup>2</sup> A good example is having the long allele of the serotonin transporter gene, which appears to protect children from mental conditions who are facing severe psychosocial stressors.3,4 As elegantly argued by Teicher and Samson, exposure to child maltreatment is a risk factor for the development of numerous mental disorders in childhood as well as adulthood.<sup>5</sup> In their article, they summarize studies that show differential brain changes, pathophysiology, and treatment outcomes for patients with similar diagnoses, for example, major depression, with or without a history of childhood maltreatment. Furthermore, they propose using the term "ecophenotype" to delineate these psychiatric conditions, as well as to add the specifiers "with maltreatment history" or "with early life stress" to the disorders that have differential trajectories dependent on early life stressors, so that those populations can be studied separately or stratified within samples. CAPRD is one of the early life stressors that should be cited.

The purpose of this article is to explain how clinicians and researchers can use the new terminology of CAPRD. Since two of the authors of this article (M.Z.W. and W.E.N.) developed the chapter on "Other Conditions," our comments here are consistent with the structure, content, and intentions of the DSM-5. Parallel to the development of the DSM-5, a group of family researchers was organized to collect the scientific evidence and to create the conceptual frameworks necessary to bring greater attention to interpersonal relationships in clinical practice. That team of research personnel, the Relational Processes Working Group, advised both the DSM-5 Task Force and the Topic Advisory Group for Mental Health, the component of the World Health Organization that has been revising the International Classification of Diseases, regarding the presentation of relational problems in their respective nosological systems." The Relational Processes Working Group has produced several publications including two books, Relational Processes and DSM-V: Neuroscience, Assessment, Prevention, and Intervention<sup>7</sup> and Family Problems and Family Violence: Reliable Assessment and the ICD-11.8

Members of the Relational Processes Working Group summarized the effects of parental relationship distress in this way: "Relationship distress influences both parental adjustment and parenting behavior toward children.... Whereas healthy families, or families characterized by low levels of stress and conflict, have been linked to resilience and mental health and adjustment in both children and adults; unhealthy families, or families characterized by high levels of stress and conflict, have been linked to a wide range of parenting problems, such as poor discipline, increased negativity, and decreased warmth, as well as adjustment difficulties in children, including mental illness" (citations omitted).<sup>9(p95)</sup>

## PROPOSED DEFINITION FOR CAPRD

When clinicians are initially exposed to the terminology of CAPRD, it may seem like a fuzzy concept. As the one-sentence definition in the *DSM*-5 is not detailed enough to

clarify the concept, we propose the following expanded definition for CAPRD: This category should be used when the focus of clinical attention is the negative effects of parental relationship distress on a child in the family, including effects on the child's mental or medical disorders. For this category, "parental relationship distress" refers to: persistent disparagement of one or both parents by the other parent; high levels of conflict; intimate partner distress (dissatisfaction with the relationship as well as difficulty resolving conflicts, lack of positive exchanges, coercive exchanges, or persistently perceiving negative intentions in the partner); and intimate partner violence (physical force such as hitting, slapping, and biting; extreme psychological manipulation; and/or coercive sexual acts). Typically, a child affected by parental relationship distress displays impaired functioning in behavioral, cognitive, affective, and/or physical domains. Examples of behavioral problems include oppositionality and the child's reluctance or refusal to have a relationship with a parent without a good reason (parental alienation). Cognitive problems may include cognitive dissonance (discomfort due to conflicting beliefs), attempting to maintain affection for both parents simultaneously (loyalty conflict), and/or adopting the false belief that the rejected parent is evil or dangerous (parental alienation). Affective problems may include anger, anxiety, depressed mood, and posttraumatic symptoms. Physical symptoms may include stomachaches, headaches, and exacerbation of general medical conditions.

# MEASURING PARENTAL RELATIONSHIP

Family researchers have successfully operationalized the assessment of marital or intimate partner relational problems (for example, with the Marital Satisfaction Inventory-Revised [MSI-R]).<sup>10</sup> There is a short form of the MSI-R that can be used as a screening tool, which consists of only 10 questions.11 The interviewer asks questions such as: "Does your partner often fail to understand your point of view on things?" "Do minor disagreements with your partner often end up in big arguments?" "Is your sexual relationship entirely satisfactory?" If 4 or more of the 10 questions are answered in a manner consistent with a distressed relationship, the couple is "probably in need of further assessment and possible intervention."8(p103) Of course, a more complete assessment of intimate partner relationship distress would involve clinical interviews and multidimensional selfreport measures differentiating among sources of relationship distress.12

The MSI-R pertains to couples or parents who are living together. When parents split up, a substantial degree of parental relationship distress is usually referred to as a highconflict separation or divorce. The behavioral or external markers of high-conflict separation or divorce include: ongoing animosity between the parties and inability to agree on parenting schedules and other parenting decisions; verbal acts, such as abusive language, threatening violence; physical acts, endangering each other; actual or alleged domestic violence; actual or alleged child sexual abuse; involvement of child welfare agencies in the dispute; the unusual number of times the case goes to court; and the length of time it takes for the case to be settled.<sup>13-15</sup>

### SCOPE OF CAPRD

Children, of course, are influenced for better or worse by events that occur in their family, which include the opinions, moods, and actions of the parents and also the interactions between the parents and among all of the family members. Depending on the circumstances of his or her family, a child may be adversely affected to a significant degree when there is persistent or substantial conflict between the parents. Several large studies of psychosocial risk factors for the development of mental health problems in children document that dysfunctional parental relationships lead to increased problems in children. For example, the Adverse Childhood Experiences (ACE) study of more than 18,000 insured adults found that 12.5% of participants reported exposure to interparental violence, and 23.3% dealt with parental divorce.<sup>16</sup> These were two of eight stressors noted to lead to impaired health in adulthood. Several studies from the Duke Developmental Epidemiology Program showed that interparental problems alone were associated with increased risks (odds ratio [OR] = 3.1) for disruptive behavior disorders in children compared to children with no risks, and contributed to both internalizing and externalizing problems in children when other risks were also present.<sup>1</sup> The Duke studies reported on more early childhood stressors than the ACE study, and were able to separate "interparental problems" from divorce, exposure to interparental violence, or childhood maltreatment (all of which were also tabulated). These studies also showed that increased numbers of childhood stressors led to increased likelihood of development of a number of internalizing and externalizing disorders in children. Children may be affected by a number of parental relationship problems, including intimate partner distress, intimate partner violence, parental triangulation of the child resulting in loyalty conflicts within the child, and a combination of dynamics known in the forensic literature as "parental alienation." These four scenarios are described below.

#### Intimate Partner Distress

Intimate partner distress (IPD) may have negative effects on the emotional and physical wellbeing of both partners of the relationship, as well as their children. Relationship distress is associated with impaired functioning in the following: behavioral domains, for example, conflict resolution difficulty, withdrawal, and overinvolvement; cognitive domains, for example, chronic negative attributions of the other's intentions or dismissal of the partner's positive behaviors; and/or affective domains, for example, chronic sadness, apathy, and/or anger about the other partner.<sup>18</sup> IPD is the most common cause of acute emotional distress in treatment-seeking samples.<sup>19</sup> Researchers have used taxometric methods to assess the prevalence of intimate partner distress,<sup>20,21</sup> and found it to be 0.20 for newlyweds and 0.32 across all couples. There is a sizeable literature linking IPD to a broad range of psychiatric problems.<sup>22</sup> Cummings and Davies have written, "Effects of marital conflict on child development are well documented. Many of the associations, for example in predicting children's internalizing and externalizing disorders, have been demonstrated repeatedly" (citations omitted).<sup>23(p31)</sup>

When children have been adversely affected by IPD between their parents, CAPRD would be an appropriate diagnosis. The following vignette illustrates how an adolescent may develop psychological symptoms after exposure to continuing intimate partner conflicts of this kind:

Case 1. Nicole was the daughter of parents who engaged in frequent displays of interparental hostility and conflict. By adolescence, Nicole had developed significant problems with anxiety and depression. Numerous family circumstances complicated both Nicole's and her parents' problems. Nicole's mother and father both evidenced depressive symptoms. In addition, Nicole's father attempted to self-medicate his symptoms with alcohol, and had thus developed a drinking problem. Moreover, it appeared that in response to these conflicts, the father's alcohol abuse, and other family stressors, the mother developed major depression. Nicole became highly emotionally distressed when her parents fought-evidencing sensitivity and reactivity to her parents' conflicts, even when they were relatively mild. She felt compelled to mediate the parents' disputes and to try to alleviate her parents' distress and sadness. Over time, these many family problems took a heavy toll on Nicole's well-being.24(p6) Cummings EM, Davies PT. Marital Conflict and Children: An Emotional Security Perspective. New York: Guilford Press; 2010. Reprinted with permission of Guilford Press.

#### Intimate Partner Violence

Domestic violence (DV) refers broadly to physical, sexual, or psychological abuse of one family member by another, so it includes both intimate partner violence (IPV) (e.g., violence between the parents) and physical, sexual, or psychological maltreatment of a child. IPV is a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation, or emotional, sexual, or economic abuse to control the other partner in the relationship. Of course, violence between partners can be perpetrated by one partner or by both partners. The DSM-5 definition of IPV was written to be inclusive of partners of any sexual orientation and marital status.

There has been considerable research regarding the effects on children of exposure to IPV.<sup>25,26</sup> Crooks *et al.* wrote, "The existing studies show that as a group, children who have been raised in families where there has been violence between the adult intimate partners fare worse than their peers across a range of social, behavioral, and learning outcomes," and furthermore, "Research indicates that

children exposed to DV are more likely than other children to be aggressive and have behavioral problems, have different physiological presentations, [and] exhibit higher rates of posttraumatic stress disorder symptomatology" (citations omitted).<sup>27(p22-24)</sup>

When IPV has occurred in a family, it is likely that the children in the family experience CAPRD. It is psychologically traumatic for a child to witness persistent or substantial conflict between parents. When high levels of violence occur, the child may develop posttraumatic stress disorder.28 When relatively low levels of violence occur chronically, the child may develop anxiety (such as separation anxiety disorder or generalized anxiety disorder) or depression. In order for clinicians to clearly describe and communicate the child's condition, it is possible to use these conditions together. For example, a child who has seen her father repeatedly berate and occasionally slap her mother may have nightmares related to the father's behavior and refuse to go to school because of fear of losing her mother. The clinician may use both separation anxiety disorder and CAPRD to describe the child's condition.

Sadly, there are many vignettes of children exposed to IPV. The following vignette, taken from the author's (M.Z.W.) clinical practice, illustrates how exposure to IPV can modify a child's physical and mental health, both directly as well as through changes in parenting practices.

Case 2. Gregory was an 8-year-old boy with chronic, poorly controlled asthma, brought to a tertiary care center by his mother. During his mother's pregnancy with Gregory, she was hit and pushed by Gregory's father several times. The father's behavior improved temporarily when Gregory was born, but worsened again when Gregory developed asthma at age 2 years. When Gregory was a toddler, his mother was holding him during a mild asthma attack and his father became so enraged that he choked her. (The evaluator did not have contact with the father and was not able to determine precisely why he behaved in that manner.) Gregory was released from his mother's arms only when she slumped to the floor unconscious. Following that episode, the parents divorced, and Gregory did not see his father again. Gregory's asthma became very difficult to control, necessitating numerous steroid bursts as well as several hospitalizations. During work at the asthma specialty hospital, it became apparent that when Gregory developed a slight wheeze or mild cough, his mother would become quite anxious and over-vigilant, likely linked to her posttraumatic stress symptoms from the choking episode, which in turn led Gregory to develop secondary panic anxiety when he had mild asthma symptoms. This anxiety was difficult for the family and primary care physicians to distinguish from asthma, so his symptoms were often over-treated with steroids. While Gregory denied having any overt memories of the IPV, he would often try to avoid inhalers or nebulizers, perhaps an avoidance of a trigger of his posttraumatic anxiety. Thus, he was frequently nonadherent to daily steroid inhalers, and only utilized his epinephrine inhalers when desperate. Once the exposure to IPV and secondary anxiety symptoms in both mother and child were understood and treated, Gregory's asthma was able to be well controlled. (Adapted from Wamboldt, Weintraub, Krafchick, Berce, and Wamboldt, pp. 142-144)<sup>29</sup>

#### Loyalty Conflict

A loyalty conflict occurs in a child when she tries to maintain affection and good feelings toward each of her parents (or other caregivers), even though they are angry and hostile toward each other. Having a low level of divided loyalty for a short duration is usually not problematic for the child. The child realizes that her parents sometimes argue, but usually they are able to work out their disagreements.

However, a child may experience a high degree of divided loyalty if parental conflicts are obvious and persistent. Also, a more serious loyalty conflict may develop if one or both parents pressure the child to support that parent's side in the daily or weekly disagreements that occur between them:

If Mom expects the child to agree with her, the child feels guilty at not siding with Dad; if Dad pressures the child to be on his side, the child feels distressed in rejecting Mom. ... It is extremely uncomfortable to be caught in an unending battle that features external conflict (between the two parents) and internal conflict (the child's affection for Mom versus her affection for Dad).<sup>30(p52)</sup>

In family systems theory, this pattern may be described as triangulation, a concept that explains the origin and maintenance of some dysfunctional family relationships. A common form of triangulation is cross-generational coalition, which family therapists have linked to maladjustment of the involved children.<sup>31,32</sup>

Children frequently develop physical and psychological symptoms when they experience high levels of loyalty conflict stress, as illustrated in the following case vignette:

Case 3. The most common psychosomatic symptoms that occur in children are headaches and stomachaches, and Stephanie, age 11, had both. Stephanie had a good relationship with both of her parents prior to their divorce. After the divorce, she lived most of the time with Mom, but had considerable parenting time with Dad. The parents divided their responsibilities. With regard to homework, Mom focused on arithmetic and science, while Dad helped Stephanie with spelling tests and geography. The problem was that the parents endlessly bickered with each other and frequently argued when Stephanie transitioned from one household to the other. Stephanie dreaded the "switching hours" and developed anticipatory physical symptoms including abdominal pain and vomiting. The headaches and stomachaches vanished when the parents firmly resolved to stop disagreeing in front of Stephanie.30(p53) Adapted from Bernet W, Freeman B. The psychosocial assessment of contact refusal. In: Lorandos D, Bernet W, Sauber SR, eds. Parental Alienation: The Handbook for Mental Health and Legal Professionals. Springfield, IL: Charles C Thomas; 2013:47-73. Reprinted with permission of Charles C Thomas.

It is noteworthy that loyalty conflicts frequently occur in the context of IPD and IPV, the two scenarios previously described in this article. If the focus of attention is on the child, CAPRD is the appropriate term to use; if the adult partners are in treatment, the appropriate term to use would be either IPD and/or IPV, depending on which criteria were met. Children with loyalty conflicts experience a specific mental state (attempting to maintain good feelings toward 2 individuals who are in conflict with each other) that should be identified by evaluators and therapists. Triangulation and loyalty conflicts may occur in intact families as well as divorced families; likewise, CAPRD may occur in intact families as well as divorced families. In this type of case, CAPRD is an appropriate designation because the relational problem involves the father, the mother, and the child. The child is symptomatic due to feeling caught in the middle. In the case of Stephanie, the parent-child relational problem diagnosis would not be used because the child did get along individually with each parent.

#### Parental Alienation

Parental alienation refers to a child's reluctance or refusal to have a relationship with a parent without a good reason. Typically, the child has a false belief that the rejected parent has been abusive or neglectful. Children with false beliefs about events that never actually occurred may develop false memories, that is, memories of non-events.33 In cases of parental alienation, the false beliefs or false memories drive strongly expressed contact refusal and hostility. In most cases, parental alienation is created in the context of a highconflict separation or divorce by one parent's indoctrinating the child to unjustifiably dislike or fear the other parent. The former is referred to as the preferred or alienating parent; the latter as the rejected or target parent. In terms of severity, parental alienation may be mild, moderate, or severe.<sup>15</sup> Mild parental alienation means that the child resists contact with the target parent but enjoys the relationship with that parent once parenting time is underway. Moderate parental alienation means that the child strongly resists contact and is persistently oppositional during parenting time with the target parent. In cases of severe parental alienation, the child persistently and adamantly refuses contact and may hide or run away to avoid being with the target parent.

In some cases of parental alienation, the alienating parent induces the child to say, believe, and falsely remember that he or she was sexually abused by the target parent. In the following vignette, the child was induced by her mother and by psychotherapists to have a severe degree of parental alienation, including false allegations of sexual abuse.

Case 4. When Tom and Mary divorced, Mary received primary custody of their 3-year-old daughter. After 3 uneventful post-divorce years of normal visitation and

friendly relations, Mary initiated legal proceedings to deny Tom normal visitation and voiced suspicions that "something" had happened to their child. A courtappointed psychologist found no evidence of any abuse by Tom, and described a strong father-daughter relationship. Unhappy with the opinion of the courtappointed psychologist, Mary spent over \$25,000 on two therapists, whose progress notes indicated that their sessions focused on trying to get the child to accuse her father of abusing her. The child repeatedly refused to accuse her father of anything worse than making her eat vegetables. She repeatedly told the therapists that she loved her father. After 60 therapy sessions, the child finally began to make bizarre accusations of sadistic sexual abuse against her father, her father's friends, and other adults. The sexual abuse accusations led to the complete rupture of the fatherdaughter relationship and two serious criminal indictments against the father, which were ultimately dropped by the district attorney. Nine years later, at age 16, the daughter said she never wanted to see her father again.34(p126) Adapted from Bernet W, ed. Parental Alienation, DSM-5, and ICD-11. Springfield, IL: Charles C Thomas; 2010. Reprinted with permission of Charles C Thomas.

Children who experience parental alienation almost always fulfill the definition for CAPRD; that is, the child is affected by conflict between the parents, with the result of forming an enmeshed relationship with one parent and rejecting a relationship with the other parent. Depending on the focus of clinical attention, other *DSM*-5 conditions may be assigned in cases of parental alienation. If the focus of clinical attention is on the impaired relationship between the child and the target parent, the term "parent–child relational problem" may be used. If the focus of clinical attention is on the parent who caused the child's parental alienation through manipulation and indoctrination, the term "child psychological abuse" may be used.

When the DSM-5 was in development, there was a proposal to include parental alienation disorder as a new diagnosis.<sup>34</sup> In response, members of the DSM-5 Task Force never said that they doubted the reality or the importance of parental alienation. However, they concluded that parental alienation did not meet the standard definition of a mental disorder, that is, "the requirement that a disorder exists as an internal condition residing within an individual" (Letter from D.A. Regier, January 24, 2012). Task Force members said that parental alienation should be considered an example of a relational problem because it involves a disturbance in the child's relationship with one or both parents.

Parental alienation is a term more frequently used in forensic settings, where the psychiatrist or psychologist is asked to determine a more objective "truth" than what practicing clinicians are asked to assess. Practicing clinicians deal with the beliefs of the child and know that there may be distortions in those beliefs, but seldom are allowed the intense evaluation of forensic mental health experts.

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However, it is important for both clinicians and forensic practitioners to distinguish parental alienation (rejection of a parent without a good reason) from realistic parental estrangement (rejection of a parent for a good reason, such as a history of abuse or neglect by that parent). There have been concerns reported in the literature that acceptance of the "parental alienation" construct may lead some clinicians to discount a child's true fears of a parent who has maltreated him or her.<sup>35,36</sup> For this reason, the Relational Processes Work Group recommended that it would be better not to include parental alienation as a specific relational problem but instead to use the appropriate broader category, that is, CAPRD, parent–child relational problem (PCRP), and/or child psychological abuse.

## DIFFERENTIATING MALADAPTIVE FAMILY PATTERNS

Although the 4 maladaptive patterns of family interaction that illustrate the CAPRD diagnosis may overlap in features and may co-occur in some families, it is important to understand how they differ from each other.

Intimate Partner Distress Versus Intimate Partner Violence Although both IPD and IPV are commonly seen in clinical samples, they may or may not be on a continuum. Having verbal conflict with an adult partner or persistently avoiding the partner is a very different matter from escalating to violence. In addition, intermittent brief episodes of violence in the context of arguments are a different "type" of IPV than chronic, calculated, and pervasive control of the partner through violence. The first is more amenable to treatment, and the second is more likely to be associated with antisocial personality disorder and to be refractory to treatment.37 Obviously, IPV involves a more serious level of dysfunction. IPD usually refers to difficulty resolving conflicts, withdrawal of affection for the other person, or being emotionally overinvolved with each other. IPD is thought to range from 31% to 40% of the population in the United States, depending on the method whereby it is assessed.<sup>38</sup> IPV has several subtypes, which may or may not occur together: intimate partner physical abuse, intimate partner psychological abuse, intimate partner sexual abuse, and intimate partner neglect. Thus, IPV can involve physical force such as hitting, slapping, and biting; extreme psychological manipulation such as threats to harm a loved person or pet; or coercive sexual acts. Assessing rates of IPV in the population is complicated by variability in methodology, design, and definitions. The World Health Organization collated studies from more than 50 countries and found lifetime prevalence rates varying from 13% to 34%.<sup>37</sup> Both IPD and IPV are risk factors for maladjustment in the couple's children; both IPD and IPV may cause CAPRD.

#### Loyalty Conflict Versus Parentol Alienation

The difference between loyalty conflict and parental alienation is qualitative, that is, different methods of coping with

parental conflict. A child with a loyalty conflict puts mental and emotional energy into maintaining a good relationship with both parents. The child is not pretending but actually feels an attachment to both parents, who are intensely fighting with each other: when he is with his father, he loves his father but misses his mother; when he is with his mother, he loves his mother but misses his father. The child is tasked with loving two people who do not love each other. That scenario evokes cognitive dissonance, which causes discomfort and anxiety.<sup>39</sup> The child may resolve the anxiety by aligning with one parent against the other, especially if one parent is able to successfully manipulate the child into believing that the other parent was abusive or neglectful. Although that is not an adaptive or healthy solution in the long term, adopting a pattern of parental alienation does solve the child's immediate problem of being caught between warring parents. We describe the difference between these two conditions as "qualitative" because there is a clear difference between the two mental processes: maintaining two conflicting thoughts simultaneously (a loyalty conflict) as opposed to strongly endorsing affection for one parent and strongly denying affection for the other parent (parental alienation).

Both loyalty conflicts and parental alienation may be designated as CAPRD when they become a focus of clinical attention. However, it is critical to assess whether there is IPV and/or child maltreatment involved before designating a child as having parental alienation. A child may quite rationally decide not to have a relationship with a parent who perpetrates violence (either to the child or other family members), and this should not be designated as parental alienation. If there is no occurrence of IPV or child maltreatment, the primary distinction between a loyalty conflict and parental alienation is in the mental state of the child, that is, trying to maintain affection for both parents versus enmeshing with one parent and totally rejecting the other parent. There may also be a difference in the cause of those two conditions, in that the external stressor prompting parental alienation (active indoctrination of one parent against the other) is usually more intense than the cause of a loyalty conflict (e.g., both parents vying for the child's affection).40 If one parent does actively disparage the other to the child, and if the disparagement is distorted in magnitude or content, this may be designated as psychological abuse toward the child.

The idea that unusually intense loyalty conflicts may evolve to parental alienation was explained more than 20 years ago by a German child and adolescent psychiatrist. Klosinski wrote,

A child can figuratively become paralyzed when caught in a conflict of loyalties toward his or her parents and can no longer bear the ambivalence of power and helplessness and the accompanying feelings of guilt....[A] frequently observed defensive reaction of the child is a sudden and exaggerated taking of sides with one parent and a turning against the other: resorting to unrealistic black and white, good and bad dichotomous thinking.<sup>41(p561)</sup> Although Klosinski described the phenomenon of parental alienation, he did not use that term, which had been introduced several years previously by Gardner.<sup>42</sup>

#### Parental Alienation Versus Parental Estrangement

The primary symptom in both parental alienation and parental estrangement is the child's refusal to have a relationship with one of his parents, sometimes called contact refusal or visitation refusal. In parental estrangement, there is a good reason for the contact refusal, such as a history of abuse or neglect by the rejected parent. In parental alienation, on the other hand, the child's contact refusal lacks legitimate or rational justification, but instead is driven by the false belief that the rejected parent is evil, dangerous, or not worthy of his time and affection. Estrangement is considered a rational response to an unhealthy situation (avoiding a relationship with an abusive parent), whereas alienation is usually a maladaptive mental condition (extremely oppositional behavior due to a false belief). However, depending on the family circumstances, both parental estrangement and parental alienation may occur in the context of CAPRD.

In a clinical or forensic evaluation, it may be difficult to distinguish alienation from estrangement. Determining when a child's negative feelings about one parent are rational or irrational is more often than not quite challenging. In some respects, the process is similar to differentiating a non-bizarre delusion from a persistent, justified worry. Proposed methods for distinguishing alienation from estrangement (beyond the scope of this article) have been described by several authors.<sup>30,43,44</sup>

It is remarkable that abused children frequently remain attached to their abusive parents, whom they might perceive as charming and charismatic. Through various mental processes, maltreated children persist in fearing, loving, hating, being dependent on, and longing for the love and acceptance of their abusive and neglectful mothers and fathers.<sup>45,46</sup> As a result, a maltreated child may have ambivalent feelings toward the abusive parent; however, the alienated child almost always has highly negative attitudes toward a nonabusive parent. It is counterintuitive that an alienated, nonabused child may be more negative toward the rejected parent than a child who was actually abused.

#### Child Affected by Parental Relationship Distress Versus Parent–Child Relational Problem

Both CAPRD and PCRP are relational problems in the *DSM*-5. These relational problems may or may not occur together. The criteria for a PCRP are more fleshed out in the *DSM*-5, and indeed there has been a field trial of those criteria yielding good interrater reliability.<sup>47</sup> It is methodologically easier to establish criteria for a dyadic relationship, for example, a parent and child, than a triadic relationship, such as CAPRD. It is possible that a child may only have a difficult relationship with one parent and relate well to the other parent. It is also possible that the child may have a good relationship with each parent but still react to the conflict between them (e.g., in the scenario for a loyalty conflict). Thus, the clinician should choose either or both of those terms that help to identify risk factors for the child's symptoms when formulating a case. When billing, the clinician should choose the relational problem that they are focusing on in treatment with the child.

#### DISCUSSION

CAPRD is a concept that clinicians and research personnel will find useful once they become familiar with its meaning, scope, and implications. For research in this area to proceed, use of the more stringent definitions for intimate partner maltreatment and intimate partner relationship distress, found in the DSM-5, may be helpful in ascertaining whether either of those problems are occurring in the parents of children presenting with health complaints. The World Health Organization is currently testing these definitions in a large, multinational field study to assess cultural relevance in low-, middle-, and high-income countries, as well as whether these definitions add additional clinical utility.48 Clinical treatment studies for children with specific disorders, for example, anxiety, depression, or disruptive behavior disorders, can assess outcomes using the occurrence of current or past IPD or IPV in parents as covariates, to see whether presence of CAPRD affects treatment outcome. Further treatment studies may contrast the treatment of the parental relationship problem in addition to treatment of the child, as compared to treatment of the child alone. In adults with major depression, the presence or absence of IPD has been shown to affect treatment outcomes and has led to recommendations for couples therapy in addition to individual therapy or medications if IPD is present.49 Finally, screening for parental distress or maltreatment may be accomplished preventively during well-child checkups. If there are relational problems involving the parents, randomization to couples therapy or treatment as usual and tracking child mental health outcomes could test whether changing this risk factor may prevent onset or progression of child mental health problems.

With regard to clinical practice, CAPRD can be used to identify several different responses that a child might have to interparental conflict, interparental violence, or parental efforts to triangulate a child into taking his or her side against the other parent. Children faced with these parental difficulties may develop or have exacerbated psychological symptoms, physical reactions, an internal conflict, or an unwarranted behavioral rejection of a relationship with a parent. Unlike the more familiar DSM-5 diagnoses that focus solely on symptoms exhibited by children, CAPRD identifies the context, often the precipitating cause, of the child's symptoms. Identifying this contextual component to the child's presentation can lead to a more comprehensive treatment plan. Prevention programs may well target reduction of exposure of the child to interparental conflict as a way of minimizing a variety of adverse outcomes for children.

CAPRD, like other conditions included in the section on "Relational Problems" in the DSM-5, purports an additional paradigm for mental health practitioners to consider. This section tries to define reliably common environmental contexts of key relationships that appear to lead to or exacerbate a variety of adverse mental health outcomes. Coding this context in a standardized and reliable manner is one method of helping to understand heterogeneity among individually based disorders. For example, a child suffering

#### CG Clinical Guidance

- "Child affected by parental relationship distress" is novel terminology for a mental condition in the DSM-5. This term may be used for four troublesome family circumstances that are distinct but interrelated.
- A child might experience anxiety or depression when exposed to intimate partner distress (e.g., frequent arguing) between the parents, or posttraumatic symptoms when exposed to intimate partner violence (e.g., physical abuse) between the parents.
- A child might develop somatic or psychological symptoms in the context of an intense loyalty conflict (trying to maintain affection for both parents, who are in conflict with each other), or false memories in the context of parental alienation (gravitating to one parent and wrongly believing that the rejected parent is dangerous).

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from major depression in the context of CAPRD may have a different illness from a child who is depressed within a calm and supportive home environment. Coding CAPRD when it is present may help to distinguish differential outcomes for children with similar symptom constellations. Although CAPRD is new and not yet well understood, it deserves the attention of mental health professionals who work with children, adolescents, and families.  $\mathcal{E}$ 

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### **Bibliography Regarding Parental Alienation**

William Bernet, M.D. - January 2017

There are hundreds of books, book chapters, journal articles, and doctoral dissertations regarding parental alienation. A comprehensive online resource is the Parental Alienation Database, (<u>www.mc.vanderbilt.edu/pasg</u>), which is located at the library of the Vanderbilt University School of Medicine. That international database contains citations to the mental health and legal literature of 38 countries on six continents.

The following annotated bibliography consists of scholarly books that address various aspects of parental alienation. This is complicated topic, and a given book may be more appropriate for a student (of social work, family counseling, psychology, or psychiatry), an experienced clinician, a forensic expert, an attorney, a judge, a legislator, or a member of the general public.

Baker, A. J. L. (2007). Adult Children of Parental Alienation Syndrome: Breaking the Ties that Bind. New York: W. W. Norton. Describes seminal research on how parental alienation in childhood affects adults later in life.

Baker, A. J. L., & Andre, K. (2015). *Getting Through My Parents' Divorce: A Workbook for Children Coping with Divorce, Parental Alienation, and Loyalty Conflicts*. Oakland: New Harbinger. This is a workbook that school counselors can use in helping children of divorced parents.

Baker, A. J. L., Bone, M., & Ludmer, B. (2014). *The High-Conflict Custody Battle: Protect Yourself and Your Kids from a Toxic Divorce, False Accusations, and Parental Alienation*. Oakland, CA: New Harbinger Publications. Dr. Amy Baker, a prolific researcher and author, and her colleagues wrote this book for parents at risk of experiencing parental alienation.

Baker, A. J. L., & Sauber, S. R. (Eds.) (2012). *Working with Alienated Children and Families: A Clinical Guidebook*. New York, NY: Routledge. This book is primarily intended for clinicians who are providing treatment for alienated children.

Bernet, W. (Ed.) (2010). *Parental Alienation, DSM-5, and ICD-11*. Springfield, IL: Charles C Thomas. This edited book, with about 70 contributors, explains why parental alienation should be included in DSM-5.

Childress, C. A. (2015). *An Attachment-Based Model of Parental Alienation: Foundations.* Pasadena, CA: Oaksong Press. This book presents a model for parental alienation that explains the underlying psychological issues of the family members.

Clawar, S. S., & Rivlin, B. V. (2013). *Children Held Hostage: Identifying Brainwashed Children, Presenting a Case, and Crafting Solutions* (2nd ed.). Chicago, IL: American Bar Association. This classic book describes the authors' research on alienating behaviors in 1,000 divorced families.

Darnall, D. (2010). *Beyond Divorce Casualties: Reunifying the Alienated Family*. Lanham, MD: Taylor Trade Publishing. This book is intended for both clinicians and the general public.

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Gardner, R. A. (1998). *The Parental Alienation Syndrome: A Guide for Mental Health and Legal Professionals* (2nd ed.). Cresskill, NJ: Creative Therapeutics. One of the publications by Richard Gardner, in which he defined parental alienation syndrome.

Gardner, R. A., Sauber, S. R., & Lorandos, D. (2006). *The International Handbook of Parental Alienation Syndrome: Conceptual, Clinical and Legal Considerations*. Springfield, IL: Charles C Thomas. An interesting book with contributions from Australia, Canada, the Czech Republic, Germany, Israel, Sweden, the United Kingdom, and the United States.

Gottlieb, L. J. (2012). *Parental Alienation Syndrome: A Family Therapy and Collaborative Systems Approach to Amelioration*. Springfield, IL: Charles C Thomas. A detailed explanation of the outpatient treatment of parental alienation.

Harman, J. J., & Biringen, Z. (2016). *Parents Acting Badly: How Institutions and Societies Promote the Alienation of Children from Loving Parents.* CreateSpace. An important sociological perspective regarding parental alienation.

Johnston, J. R., Roseby, V., & Kuehnle, K. (2009). *In the Name of the Child: A Developmental Approach to Understanding and Helping Children of Conflicted and Violent Divorce* (2nd ed.). New York: Springer Publishing. A summary of the authors' extensive research regarding parental alienation.

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Symptoms of Parental Alienation

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To prevent the devastating effects of Parental Alienation, you must begin by recognizing the symptoms of PA. You will notice that many of the symptoms or behaviors focus on the parent. When the child exhibits hatred and vilifies the targeted parent, then the condition becomes parental alienation syndrome. After reading the list, don't get discouraged when you notice that some of your own behaviors have been alienating. This is normal in even the best of parents. Instead, let the list help sensitize you to how you are behaving and what you are saying to your children.

1. Giving children choices when they have no choice about visits. Allowing the child to decide for themselves to visit when the court order says there is no choice sets up the child for conflict. The child will usually blame the non-residential parent for not being able to decide to choose whether or not to visit. The parent is now victimized regardless of what happens; not being able to see his children or if he sees them, the children are angry.

2. Telling the child "everything" about the marital relationship or reasons for the divorce is alienating. The parent usually argues that they are "just wanting to be honest" with their children. This practice is destructive and painful for the child. The alienating parent's motive is for the child to think less of the other parent.

3. Refusing to acknowledge that children have property and may want to transport their possessions between residences.

4. Resisting or refusing to cooperate by not allowing the other parent access to school or medical records and schedules of extracurricular activities.

5. A parent blaming the other parent for financial problems, breaking up the family, changes in lifestyle, or having a girlfriend/boyfriend, etc.

6. Refusing to be flexible with the visitation schedule in order to respond to the child's needs. The alienating parent may also schedule the children in so many activities that the other parent is never given the time to visit. Of course, when the targeted parent protests, they are described as not caring and selfish.

7. Assuming that if a parent had been physically abusive with the other parent, it follows that the parent will assault the child. This assumption is not always true.

8. Asking the child to choose one parent over another parent causes the child considerable distress. Typically, they do not want to reject a parent, but instead want to avoid the issue. The child, not the parent, should initiate any suggestion for change of residence.

9. Children will become angry with a parent. This is normal, particularly if the parent disciplines or has to say "no". If for any reason the anger is not allowed to heal, you can suspect parental alienation. Trust your own experience as a parent. Children will forgive and want to be forgiven if given a chance. Be very suspicious when the child calmly says they cannot remember any happy times with you or say anything they like about you.

10. Be suspicious when a parent or stepparent raises the question about changing the child's name or suggests an adoption.

11. When children cannot give reasons for being angry towards a parent or their reasons are very vague without any details.

12. A parent having secrets, special signals, a private rendezvous, or words with special meanings are very destructive and reinforce an on-going alienation.

13. When a parent uses a child to spy or covertly gather information for the parent's own use, the child receives a damaging message that demeans the victimized parent.

14. Parents setting up temptations that interfere with the child's visitation.

15. A parent suggesting or reacting with hurt or sadness to their child having a good time with the other parent will cause the child to withdraw and not communicate. They will frequently feel guilty or conflicted not knowing that it's "okay" to have fun with their other parent.

16. The parent asking the child about his/her other parent's personal life causes the child considerable tension and conflict. Children who are not alienated want to be loyal to both parents.

17. When parents physically or psychologically rescue the children when there is no threat to their safety. This practice reinforces in the child's mind the illusion of threat or danger, thereby reinforcing alienation.

18. Making demands on the other parent that is contrary to court orders.

19. Listening in on the children's phone conversation they are having with the other parent.

20. One way to cause your own alienation is making a habit of breaking promises to your children. In time, your ex-spouse will get tired of having to make excuses for you.

# **Clinical Decision Making Errors**

Dr. Steven J. Miller, MD, who has previously taught clinical decision making at Harvard Medical School, has stated that :

- 1. <u>In January 2014, Steven Miller, MD, an expert in clinical reasoning and a specialist in alienation and estrangement, testified in front of a legislative task force that was investigating the family court system. Among other things, he pointed out that "this field is highly counter-intuitive to anyone who does not have extensive training and experience dealing with it . . . most people will usually get it wrong."</u>
- severe parental alienation cases are the most <u>profoundly counter intuitive diagnosis in</u> <u>clinical science</u>, even surpassing borderline personality disorders cases (which is ironic because BPD/NPD is just one of the pathologies involved in <u>pathogenic parenting</u>). [Talk given on 2/21/2015 at Family Access]
- 3. "non-experts almost always get it exactly backwards". [Talk given on 2/21/2015 at Family Access]
- 4. <u>severe cases tend to be clinical in the medical sense of the word the underlying</u> <u>psychopathology is often associated with severe cognitive distortions including shared</u> <u>delusions and other psychotic or quasi-psychotic thinking, profound emotional</u> <u>dysregulation, and extreme or bizarre behavior</u>
- 5. "cases of severe alienation are likely to be highly counterintuitive"
- 6. <u>"studies show that many mental health practitioners lack adequate training to properly</u> apply scientific principles (Baker, McFall, & Shoham, 2009; Begley, 2009;"
- 7. <u>"Clinicians who attempt to manage them without adequate skills are likely to find</u> themselves presiding over a cascade of clinical and psychosocial disasters."
- 8. In how PA Cases Go Wrong, why Most Peopled get it exactly backward: <u>"Most professionals and other people get PA wrong and say the alienating parent is a great parent"</u> or see a shortened version below.

See also: <u>How To Choose An Alienation Expert</u>, in press for a peer reviewed publication, lead authors Amy Baker, Dr. Miller.

Dr Miller, who has taught clinical decision making at Harvard Medical School, lists common clinical decision making errors frequently made when mis-diagnosing parental alienation, as noted in <u>Working with Alienated Families and Children : A Clinical Guide Book</u> : The availability heuristic, the representative heuristic, the affect heuristic, the anchoring effect, confirmation bias, premature closure, framing errors, the fundamental attribution error, base rate neglect, the ecological fallacy

# Steven G. Miller, M.A., M.D., discusses why so many court "experts" fail to recognize Parental Alienation. Dr. Miller is a Clinical Instructor at Harvard Medical School with over 30 years of experience in forensic medicine, and for 15 years directed a consulting group in forensic psychiatry.

Unofficial transcription by Howie Dennison 2/27/2016 (The <u>full length video is here</u> and should be consulted to obtain fuller and more accurate context and to check the accuracy of the transcription):

What you need is a sub specialist in alienation and estrangement who sees it all the time, not the best psychologist in the world who rarely sees it. And, so very briefly, the short answer to this

question "how does this happen", is this field is highly counter intuitive to anyone who doesn't have extensive training and experience dealing with it. They - most people will usually get it wrong. When I say people, I mean attorneys, psychologist, other mental health experts. The majority of the time they will not only get the case and the evaluations and the recommendations wrong they will get it exactly backwards.

First of all, and think how counter intuitive this is, in an alienation setting, most children will align with the abusive parent. It's like these kids that you find who have been living with their abductors for years and then they resist capture, or Stockholm Syndrome. Very counter intuitive. Number two, what we would call pathological enmeshment, an I will define that briefly, it means that the alienation parent has an unhealthy enmeshment with the child, to the point where the child has lost his or her individuality. A severe erosion of critical reasoning skills, boundary violations, sleeping with the other parent, or at least doing the bidding of the other parent, inappropriate sharing of information, which all the lawyers have heard of, pathological enmeshment is a very serious psychiatric problem, and to a non expert it looks exactly like a warm close loving healthy relationship. The non-expert comes in with perhaps Phd or an MD in Psychology or Psychiatry, and what they see is - let's just say the mother and father for simplicity ... it is about about a 50/50 spread of who does what these days. The two little girls are tightly bound to the mother "Oh I love you, I love you, I love you" and they look at Dad and say "I don't want to see him, he's are a bad man, she's perfect, he's rotten". The non-expert says "wow look at that great relationship". They don't really know how to probe to see if we have ... there are three types of of pathological enmeshment: infantalization, adultification (making them adults .. "why don't you decide if you want to see dad") ... right there that's adultification right there, that's pathological enmeshment ... so I repeat pathological enmeshment, to a nonsubspecialist, to an experienced forensic psychiatrist, looks just like a warm health relationship.

The fundamental attribution error means, you look at behavior ... if you see an angry man, you say "see he is an angry man, you think it is his character. In general, he is an angry man. Never mind that the reason he is angry is that someone just stole his car or his wallet". We are hardwired to say "oh, I am going to stay away from that guy, he is displaying anger". So, if the anger is situational, then it is an error. Now the relevance to us is that when an interviewer sees a sever case of alienation, the alienator is cool, calm, and collected. He or she has probably a borderline, a sociopath, or a narcissist, or all 3, and is a master manipulator, has learned to convincingly mimic normal behavior, and presents very well. "Oh yes, I encourage the child's relationship with his father, or his mother". By contrast, the targeted parent has PTSD, has not seen the child in god knows how long, maybe years, has been told that he is the one who is the problem, or she is the problem, and comes

in all intense, all angry, and all stressed out. Now I personally sat through a whole course at an AFCC meeting where the person teaching the

course, said to the people in the group "go by what you see. If the parent presents anxious and intense, you can be sure that is how they parent." No that is an elementary error in clinical reasoning and decision making. Not if it is a fundamental attribution error.

The severe cases are fundamentally different than moderate cases. In a moderate case, it is very reasonable to try to educate the parent to be cooperative. But in a severe case, where you have what one expert calls an obsessed alienator, that person with almost 100% certainty, has a severe personality disorder. Normal people just don't do that to their children and one clue is that they block access for years on end for trivial, frivolous reasons that you would never block access to your children for. Another indication or indicator would be the repeated breaching of court orders, which a normal person would never do. Just to give you a glimpse of the pattern,

when you see excuses like "They don't like him, and they don't want to see him, and I am not going to force them", you should sit bolt upright in your chair.

Normal psychotherapy makes these cases [or severe parental alienation] worse. So if it is a skilled psychotherapist who thinks you can come in and do dyadic therapy of "why don't you find something to apologize for" or "Johnny how did that make you feel", that is a disaster. Don't try that, even with a medium case. They will almost always get catastrophically worse. So you have to match the therapist with the kid. That's my answer.

There are two places, one in Canada run by Kathleen Ray and another in Texas run by Richard Warshak. Give them day days with the kid, and the kid returns to the rejected parent happy as a clam to be reunited. But they require a change in custody and no contact with the alienating parent for 90 days. Other than that, there is no hope for a severe case, don't even think of doing it with office therapy.

# Taking Parental Alienation Seriously - Brazil's New Law

http://warshak.com/blog/2010/11/04/taking-parental-alienation-seriously-brazils-new-law/

Posted on November 4, 2010 by Dr. Richard A. Warshak

In the wake of the Sean Goldman episode, Brazil's President has signed legislation defining parental alienation and arming judges with powerful remedies to assist alienated children.

The law defines an act of parental alienation as "the interference in a child's or adolescent's psychological training promoted or induced by either parent, by grandparents, or by those who hold the child or adolescent under their authority, guardianship, or surveillance to reject one of the parents, or that hampers building or maintaining bonds with them." A better translation was posted on March 28, 2011.

Law No. 12,318 , ON 26 AUGUST 2010

Provides for parental alienation and amending Art. 236 of Law No. 8069 of July 13, 1990 .

THE PRESIDENT OF THE REPUBLIC

makes it known that the National Congress has passed, and that he enacts the following Law:

Art. 1. This law rules on parental alienation.

Art. 2. An act of parental alienation is deemed the interference in a child's or adolescent's psychological education promoted or induced by either parent, by grandparents, or by those who hold the child or adolescent under their authority, guardianship, or surveillance to reject one of the parents, or that hampers building or maintaining bonds with them.

Sole paragraph. Illustrative forms of parental alienation, in addition to those so determined by a judge or ascertained by experts, either directly committed or with the aid of third parties are:

I - to carry out campaigns for disqualifying a parent's behaviour upon exercising his/her parenthood;

II - to obstruct the exercise of parental authority;

III - to obstruct the contact between a child or adolescent with one of their parents;

IV - to obstruct the legal right to exercise family life;

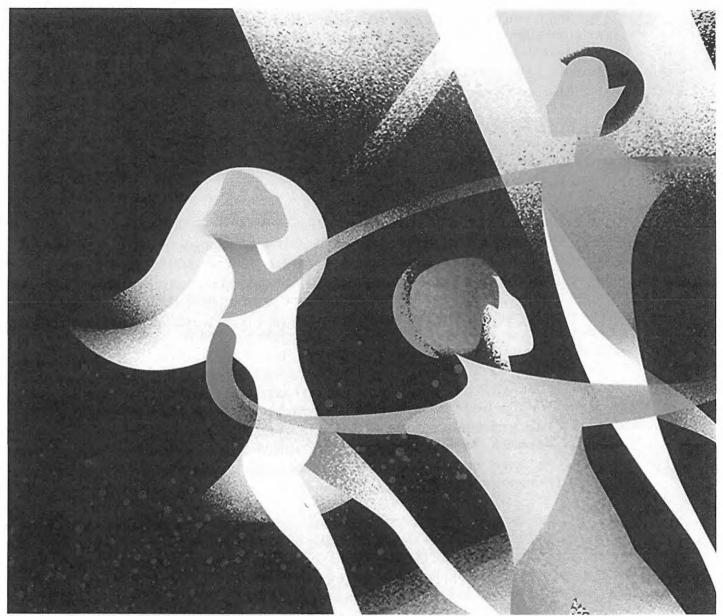
V – to deliberately withhold from a parent relevant personal information on the child or adolescent, including school-related, medical, and address changes;

VI – to file false charges against a parent, their family members, or against grandparents, to obstruct or prevent their presence in the child or adolescent's life;

VII – to change residence to a distant place, without justification, in order to make it difficult for the child or adolescent to live with the other parent, their family member, or grandparents.

# Karen Woodall

Supporting children and their families affected by Parental Alienation



Uncategorized

## The Particular Problems of Hearing the Voice of the Child in cases of Parental Alienation.

Posted on 13 Days Ago by karenwoodall

The Voice of the Child has become a world wide phenomenon in which the wishes and feelings of children are sought in the family courts, in matters concerning the care of a child and in areas of health and well being which affect the child. Article 12 of the United Nations Convention on the Rights of the Child states that -

You have the right to an opinion and for it to be listened to and taken seriously.

children and young people have the human right to have opinions and for these opinions to matter. It says that the opinions of children and young people should be considered when people make decisions about things that involve them, and they shouldn't be dismissed out of hand on the grounds of age. It also says children and young people should be given the information they need to make good decisions.

In the UK, it is incumbent upon those delivering public services, such as social workers, to implement this into their work with children. In the field of family separation, this often leads to disastrous results when a child is in the care of a parent who is influencing the child and who may have an undetected mental health condition.

Where does all this focus on the voice of the child come from? Sometimes in my work with families, particularly those in public law cases, I feel as if the common sense button has been paused in favour of handing over all power for decision making to children. I see the same patterns of behaviours in parenting these days, in which children are seen as friends or 'little mates' or 'mini me's' instead of children with unformed brains and unfocused needs and wants, who are very much in need of adult guidance and supervision. At times it makes me want to scream in frustration when yet another professional says that we need to ask the children what they want. Why bother with parenting I wonder, why bother at all with adulthood, why don't we just hand over all of the decision making power to the children because they are somehow considered to be wiser and more aware than adults. I have even seen it written, by the <u>children's commissioner for England</u> for goodness sake, that children should be allowed to decide whether they want to have a relationship with a parent after separation. I give up. Let's just let the children decide on their future wellbeing in difficult situations, after all, they have inherent wisdom so their voices must always be listened to and in the case of public law at least, usually followed slavishly to the letter.

Hello UK.....are there any adults left with the moral courage to stand up and argue against this madness? Children's wishes and feelings, in a case of parental alienation, are not their own wishes and feelings but those of the psychopathology of the parent they are enmeshed with. The voice you hear is not the child but the unwell parent speaking through the child. That is why they speak in borrowed words and phrases. That is why their speech pattern is odd and often adult sounding. That is why their reasoning is poor and brittle, that is why when you have an alienated child in the room it is as if the influencing parent is being channelled. When you hear that and witness that, are you really going to act upon those wishes and feelings. When you hear a child telling you that she doesn't want to see her mummy because she puts broccoli in the lasagne, are you really going to uphold that decision, or are you going to stop, think and wonder why a child is so vehemently opposed to seeing a parent on the basis of such frivolous reasoning. Are you going to be brave enough to turn over the stone and see what is underneath. If you are truly concerned about children you are, if not then the surface voice is all you will hear and act upon and the child will remain stuck in the horrible trap unable to speak anything other than the dysfunctional narrative of the controlling parent.

There is a truly bizarre juxtaposition in the UK of over reliance on the voice of the child and the ignoring of the reality of parental alienation being all about coercive control. That is because for

five decades we have been taught by political ideologues that coercive control only means men controlling women and that the voice of the child must always be believed. In the shadow of the child abuse scandals, it is very tempting indeed to believe that the voice of the child must always be believed and this underpins, in my view, an increasing over reliance on asking children their wishes and feelings. However, in the case of parental alienation, the asking of children about their wishes and feelings can lead to the entrenchment of false allegations of abuse, which are a very strong feature of alienation cases. It can also lead to children who have not been abused, being left believing that they have because of the reinforcement of the false allegations which become located as false beliefs within the child's memory. This in itself is abuse of a child and in my experience it is an endemic risk throughout UK family services because of the over reliance upon the voice of the child which is listened to without any analysis whatsover.

In cases of parental alienation the voice of the child is enmeshed with the psychopathology of the influencing parent and should be interpreted in its meaning and analysed to determine the pressures upon the child. This should be set against an analysis of the child's needs which in turn should be assessed within the capability of the rejected parent to provide for the child the healthy parenting that they are in need of. Analysis of coercive control should be undertaken utilising not the political ideological framework which is located within a patriarchal analysis (Duluth Model), but a psycho-social model in which current and past behaviours, familial influences, capacity for understanding the need to change and the level of control exerted, are assessed. Intervention should be planned based upon this complete assessment in which the child's expressions are analysed against the reality of the framework in which they are vocalised. Only then should a planned intervention take place and when it does and it is properly matched to the case, the voice of the child will be seen to shift dramatically from 'I hate you' to 'I love you', often within a matter of hours.

Those who have no real idea about this work will express shock when this occurs and will be unable to understand which voice is speaking the truth. The issue being of course, that for children, there is no one truth but many and they are capable of holding many different feelings all at once, which shift and change like the wind. That is because they are children, their brains are not hard wired yet and they do not possess reasoning in the same way as adults. That is why they require adults to do the work of analysing and guiding them to the best care possible.

The reality for children who are trapped in an alienation reaction is that their feelings are mutuble, manipulated and managed by the influencing or alienating parent. That parent, who is the source of the child's angry and self righteous rejection, can often not see the link and so plows on believing that the child is speaking their own mind when in reality they are speaking in the mirror of the parent's psychopathological responses to the separation. Children in these circumstances are being harmed because their right to an unconscious childhood is being taken from them. It is vital that they are protected in these circumstances and the correct interventions offer that. We may not like what we have to do to protect the child – removing a child who is protesting love and faithful allegiance is a very difficult thing to do – however when we know that the child is being harmed, that is what we must advocate. When we see the child's changing reactions from feral fear and hatred to re-emergence of love and normal responses to a rejected parent, we know that we have acted in the best interests of that child. Our task then is to reconnect the child safely to the previously alienating parent, always the most difficult part of the work but always essential to the wellbeing of the child.

The voice of the child is over relied upon and under analysed in my view and the failure in both of these respects lies with the way in which things like the UNCRC is interpreted and delivered upon. Until we do the work of ensuring that the scientific facts which separate adults from children and place adults in the role of guide and mentor and safeguarder to children are the

driving force in what we do, children will continue to risk being trapped in the mirror of the alienating parent's beliefs and behaviours, aided and abetted by unaware practitioners who believe they are helping when in truth they are furthering the harm already done.

It is time this stopped. The tools and training are available, the research evidence is significant, the model of work of intervention is demonstrated to be successful right across the world. The only thing standing in the way are the adults who refuse to take the responsibility for giving children back, the unconscious childhood which is rightfully theirs.

1

## Off-putting relationships: the essentials of Child Alienation

By Nick Child - Rtd Child Psychiatrist & Family Therapist, Edinburgh

(You may prefer to download PDFs of slides covering the same material. http://tinyURL.com/NickChildStuff > 'plus' gives you more!)



#### No joke

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Berger and Wyse's custardy-battle cartoon is an exception that proves the rule. There is no room for humour in the distress and tribal warfare of high conflict family separations. No one would choose this if they could avoid it. It is no fun for families or for those who ride the wild waters of family separation to help them. Demonic and tragedic thinking both vie for validity (Alon & Omer 2006) as everyone struggles to find nondemonic ways forward (ibid Chapter 4). Unless you're only in it to make money, life jackets are essential.

New research and international practice on shared parenting has overtaken many old views of what's best for children after separation (FNFS 2106 http://tinyurl.com/BothParentsMatter). That's important since past patterns of parental separation have been shown to be worse for children than is parental death (Otowa, 2014). We need to reduce the range of psychologically harmful challenges of different severity that children otherwise face when parents separate (Baker 2005; Bernet 2015). We need every discouragement for one of the extreme patterns, often called Parental Alienation. We know that this suppression of authenticity is particularly harmful to children (Baker 2005; Ben-Ami & Baker 2012; Baker & Verrocchio 2013). Parental Alienation is a real and epidemic global pattern that affects society as a whole, not just individuals, couples and families (Harman & Biringen 2016). Yet by-standing and ignorance is the default for those on the sidelines (von Friesen 2012).

This overview is an invitation to learn about a dismissed part of an important field of high conflict family separation. The first half is an introduction with case examples. The second half summarises essential general points and issues, a life jacket to keep afloat. I start with the benefits of describing a spectrum over defining a syndrome, and end with how changing court practice might make the biggest difference. For a short summary of Parental Alienation, see http://tinyURL.com/SueWhitcombePA. The best short book for all purposes is Harman & Biningen (2016).

#### Engaging with alienation

The word alienation by itself tends to alienate people. If we add capital letters, plus the pointed word parental in front of it, and the static word syndrome after it, it becomes Parental Alienation Syndrome (Gardner 1985). For sensitive British professionals this foreign label may cause severe allergic reactions. I was only cured recently. Yet several broader perspectives show that it shouldn't be any kind of a surprise to us – they give us bigger maps that show it very clearly.

We will come later to the broader spectrums of meanings and of patterns of alienation, of closeness and distance, of attachment and its disturbances. Other maps come from: undue influence, understanding the diverse use of labels, putting abduction and alienation together, looking at the whole spectrum of high conflict family separation, the historical uses of social alienation, and those who describe the pattern without the term alienation.

It helps to realise we are in the domain of emotional abuse, of harm to children. That links to realising that Parental Alienation is just one of many harmful coercive and controlling family and non-family relationship patterns, all of which use similar kinds of undue influence. Undue influence includes: cults, terrorism, confidence-trickery as well as domestic abuse and child abuse (Child 2016; OpenMindsFoundation.org). Undue influence of all kinds takes people in and cuts them off from their normal family and friends. That is also alienation. Baker (2005; 2007) draws compelling similarity between the undue influence of Alienation in separated families and in the alienation from families by the mind control of cults.

A fair reason to avoid an off-putting term like 'alienation' is to cut down any more alienation. But that is to forget that labels have various purposes that we use in a discriminating way. And anyway off-putting things often have off-putting names. For example, apart from being quicker, note that child abduction by a parent may be no different in outcome to severe child alienation, yet the negative term 'abduction' has no detractors because we know it is harmful and wrong. If we routinely bracketed the two terms together – Parental Child Abduction and Alienation – that would trigger the best framework for thinking about Alienation on its own (Child, 2015; Faulkner, 1999). See later for more on diagnosis and labels.

'Social alienation' – individuals alienated from society – has been widely studied for centuries (for a good summary, see Wikipedia). Here our focus is on patterns that are more interpersonal and more recently named. But for old and new, the meanings contained in the concept are the same. People with more power are not sensitive to others with less power in relationships that could be or actually had been more satisfactory. They do something that distances the less powerful person from their due sense of social connection. The alienated person is left at a loss – a loss of power, of connection, meaning, and norms (Seeman 1959).

#### Growing awareness

Some resistance to the word is natural. But we can explore and think that through rather than dismiss the whole topic as is commonly the case. Social psychologists have shown how socially engrained gender stereotypes help explain major mistakes in presumption and assessment of high conflict family separation (Harman & Biringen 2016 & TED talk https://youtu.be/v3YdldNXZnQ). Many cognitively-dissonant counter-intuitives challenge even the experts (Miller 2013) – over sixty have been listed (see http://tinyurl.com/PACounterIntuitives).

We urgently do need to get over the allergy against what is now an important established international field of study of one troublesome family pattern. Very slowly indeed Child and Parental Alienation has indeed been accepted in English case law now (Bellamy 2010) thanks to a few expert witnesses, past and present (Lowenstein 2007; Weir 2011; Cameron 2014; Woodall in press) as well as in guidance for Scotland's Child Welfare Reports (Scottish Government, 2016).

Pitcher (2010) gives a wise British account of quiet but effective family court social work. In Holland, van Lawick & Visser (2015) describe a substantial last-ditch group approach to working with children and families in enduring high conflict. All about Alienation, these important approaches succeed while avoiding the term. But without the label, this wisdom is hard to find when you need it. A welcome recent UK exception to the 'don't mention the war' culture around Parental Alienation is DeJong & Davies' paper (2012) describing carefully what a specialist multidisciplinary team might do in the way of assessment and therapy.

Growing awareness leads to a lot of updating of the present general literature, policy and guidance in UK family law, risk and child protection that does not mention the pattern by name or in any other way except to dismiss it out of hand. These deficient resources need to be updated urgently so they can become a better basis for evidence, practice, research and training ... and for the real safety and welfare of children. We need to make sure that our systems solve problems rather than add to them.

Deceptively the core concern of Child and Parental Alienation is not for the parents even though they are most vexed. It is that the children involved can suffer from serious emotional abuse and long-term harm. Our collective professional involvement or ignorance is evidently failing families and their children. This overview is to raise awareness for those as resistant as I was once.

I have tried here to modify off-putting aspects. For example, the Parental Alienation pattern is not fixed to gender, so that cannot be the main premise for understanding or rejecting it. Attachment-based understanding (Crittenden 2008) and proactive family court practices help more (see later).

Where many are put off from the hard work of engaging with the pattern of Alienation, one set of newcomers have no problem gaining their awareness: those who have been thrown into the deep end of it. Yet somehow their cries for help only feed into the wider culture of dismissal.

3

#### A spectrum of meanings

Resistance is eased further if we set out a spectrum of meanings of the word alienation, ranging from ordinary meanings of alienation with an 'a' to more defined forms of Alienation with an 'A' (Child 2014c). Social alienation grows unintentionally between two parties – society and the individual. Even in that ordinary more passive sense, alienation has to carry some off-putting qualities – for example, negativity and duration. It wouldn't be alienation if it didn't put people off and last for a while.

More specific descriptions based on the features of an active three-party situation give us more examples of Alienation. The broad pattern is that: One person (or party) turns a second person against a third in a lasting way without good reason.

Child and Parental Alienation is the most famous hard-end Alienation in its special context of high conflict separated families. Warshak describes a broader spectrum of familiar influence and alienation experiences in which to set *Divorce Poison* and badmouthing (2010 and in the DVD *Welcome Back Pluto*, see www.warshak.com). Softer less famous examples of alienation might be: the familiar pattern of divided loyalties between spouse and in-laws; a grandmother forcing her daughter to have an abortion she didn't want; someone having an affair with a married person who leaves for the new partner. Pick up almost any narrative – real ones in families, communities, media, history or therapy; or fictional ones in mythology, drama or literature – and you will find this three-person pattern by any other name. In imposed or chosen situations, of loves, jealousy, conflicts and secrets, all kinds of triangular predicament and divided allegiance, enrich or drive the story.

Mostly we all hope connection with our significant others continues while we work something out. That hope is destroyed when push comes to shove, when it gears up to all or nothing, when undue influence makes attachment into a weapon. What was a process of differences being worked through turns into an inescapable possessive conditionality: "Accept my ideology now and I'll still love you; reject it and you are persona non grata." The key to undue influence or alienation is being taken in and cut off. Reasoning and discussion, from this point on, won't work; they become evidence of non-acceptance and a reason to banish you. If you give in and are taken in, one of the conditions is that you too must now cut off any others who resist the ideology. This grim nightmare of alienation is found in serious undue influence from cults to intimate partner abuse and child abuse to Parental Alienation. From the outside the best you can keep saying may be: "We love you and miss you. We look forward to when we can meet again."

With the reservations about terminology, the specific pattern we're interested in is mostly found under the heading 'Parental Alienation'. Gardner's description (1985; see footnote) is still a useful checklist even if the use of 'Syndrome' has faded (see Using Labels, p18). For a thorough prize-winning account of the DSM debate, read Whitcombe (2013). O'Sullivan's clear overview (2013) for family lawyers includes Andre's (2004) even more useful checklist of questions to ask. In some countries, unless it is officially categorised as a psychiatric 'Disorder' or at least under a relationship label, it will not be taught to mental health and other helping professions, cases are weakened in courts, and health insurance won't pay for therapy (APA 2013; and see footnote). Professionals will then remain unaware, only the rich will pay for help, and Alienation will continue to be dismissed as insignificant or invalid, especially in family courts. As the missing DSM label is equated with a lack of science, using the Syndrome tag attracts criticisms of 'junk science'. Parental Alienation on its own as a 'pattern' is accepted better.

Harman and Biringen (2016) review Parental Alienation's status as science and rate it as equivalent to, and following in the tracks of, the longer established sister science of domestic violence. Bernet et al (2016) propose that the new DSM 5 category fits well: Child Affected by Parental Relationship Distress. It's defined in the chapter of the DSM-5 under "Other Conditions That May Be a Focus of Clinical Attention." This parallels Childress's argument (2015) to use the several DSM categories for emotional child abuse and attachment-based disorder.

The simpler purpose of calling a pattern a 'syndrome' – as in 'baby battering syndrome' – is often to mean just: "Seriously everyone, we're not making this up – this pattern is important and it really does keep happening." Once it's taken seriously, the label is less important. Professionals and family courts (in the UK at least) prefer more nuanced thinking about each case in its own right and in terms of the child's welfare. Rather than argue DSM labels, a focus on the child and on the one specific context of family separation means other terms like 'the alienated child' (Kelly & Johnston 2001) may be preferred. Even more neutrally a term like: Children Who Resist Post-separation Parental Contact (Fidler et al 2013) more explicitly leaves it to further assessment to determine the disputed underlying reasons. Any label may be more of a door or chapter-heading or Google search we go through to complicated situations, and much less a specific individual diagnosis.

To summarise so far: Our allergy is eased, and our work with all families better informed, if we look at several bigger perspectives that clearly put these patterns on the map. Alienation is actually an ancient and really good word for it. In particular we can consider

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the family Alienation pattern to be at the hardest-end of a longer relationship spectrum between more ordinary alienation and patterns of active three-party Alienation. For the present overview the term Child Alienation will be used for that hard end pattern.

Evidence and literature for an emerging field cannot be very robust, but the field is now substantial and collected accessibly in recent textbooks (Fidler et al 2013; Baker & Sauber 2013; Lorandos et al 2013; Harman & Biringen 2016) and in webpages listed at the end. Unless otherwise stated, readers should refer to those sources. I will write in the first person to indicate my own less evidenced thinking.

#### **Definition of Child Alienation**

A typical definition of Child Alienation is that it is a family pattern most strikingly (but not only) found in the context of high conflict separations, where a child is shaped into totally rejecting the other parent and their tribe, even though the child previously had, and could still have, a safe and valued relationship with them.

The chief concern is that serious and long-term harm for the child is the result. This deeply evidenced concern is counter-intuitive given the child's superficially very clear and different view on where the source of harm lies.

'Tribe' refers to how side-taking grows and exacerbates the conflict. Van Lawick & Visser (2015) call this side-taking a 'village'. Each side contributes to the pattern whatever they do. Pure forms of Child Alienation happen but are rarer. But uncertain professionals and lay people immediately understand the concept when you explain that it is "when one parent turns their child against the other for no good reason". Often people then say they know someone affected. Given greater awareness, the pattern may not be so rare.

'Shaped' is a neutral word chosen to include a range of more or less intentional behaviour that affects and influences the child. Everyone everywhere assumes that children are, by definition, immature, vulnerable and influenced by adults and others. And we also think they have their own capacity to judge what and how much they say to whom. Surprisingly then, some authorities hold strongly that, in the field of family conflict, children are reliably honest and unsullied participants whose views are independent, reliable and sacrosanct. So it is important to note that, as we all are, children are 'shaped' and influenced by those around them, and that this will be more likely – not less likely – in the middle of family strife.

Typically, in Child Alienation, the child strongly rejects one parent on a flimsy basis – eg "s/he slammed doors, made me eat cabbage". Of course we need to look more carefully at what's going on - remembering that poor practice by the professional system may be what fans these embers into flames. In Child Alienation we find that what drives the child's rejection is the favoured parent, not the deficiencies of the rejected one. The favoured parent may be able and convincing given their controlling parental role and their strong personality. But they may be emotionally and overwhelmingly strong and needy as well. Unsympathetic and negative labels are given to their personality in the literature, eg Narcissistic or Sociopathic Personality Disorder. Others give them complete sympathy for their views and allegations – which is, of course, also what their child does as part of the Alienation pattern. So this is the standard picture we have of Child Alienation.

#### The relationship spectrum

A more general spectrum of closeness or distance in families is familiar to professional and lay people alike. People may say they're inseparable, loyal or close to a parent, or that they are distant or worse. Normal family relationships fall along a spectrum of affinities, alignments and alliances (Kelly & Johnston, 2001). Child Alienation combines around the child a pair of relationships at both extreme ends of that familiar spectrum of attachments gone further awry than usual – one worryingly close relationship and one worryingly distant. Kelly & Johnston's (2001) spectrum only showed the distant Alienation end, placing Positive Relationship at the other end to imply that being close is always good. To show both extreme ends that impinge on the child, the spectrum should be extended so that Positive Relationship is in the middle where it should be. The extended rearranged spectrum might look like this:

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Abducted/Coercive - Enmeshed - Inseparable - Aligned - Positive Relationship - Detached - Disengaged - Estranged - Alienated

In fact Abduction and Alienation belong at both ends - the concern in both cases arises from the closely Coercive relationship. Excluding the distant parent is incidental – and normal in any pattern of undue influence. The harm a distant parent does is an imagined one where there is no contact. But that fear is real and may or may not be justified – which is where skilful assessment not presumption is needed. Attachment-based approaches naturally make most sense of what's happening (Crittenden 2008; McIntosh 2011; Child 2014b; Chimera 2014; Childress 2015). Ed Tronick's 'still face experiment' youtube, http://youtu.be/apzXGEbZht0, shows the whole of Attachment theory in 3 minutes. These patterns happen in close relationships at all ages too.

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Such deeply hurt and disturbed relationships are given space and amplification in more developed countries by wider social factors and contexts. In all cultures, the extended family may play a big part as couples partner up. We don't know international prevalence, but I think it makes sense that, in more emancipated and Western-ised cultures, where couples self-select each other and children are more exclusively raised by their parents not by 'a village'; where parental separation is common and family law the place for disputes; where children's experiences are highly valued and researched and the child's view becomes the deciding factor in courts; then attachment loss and hurt will more readily get magnified into patterns like Child Alienation.

The centuries-long establishment of courts as the highest authority where family decisions are made is recognition of how important the matter is. Legal structures have changed slowly from when wives and children were still classed as men's property – and that's not changed yet in some less emancipated countries. So it is no surprise that the change from old patriarchal assumptions means that courts are not yet fit for the complex difficult high purpose they still claim should rightfully be theirs (Warshak 2015). A senior judge once playfully corrected my naive assumption that courts would be interested in being helpful. Their main function is to ensure the just application and interpretation of the law to determine and protect the liberties of individuals involved. This more abstract role helps us understand the legal profession's apparent lack of urgency over matters of more immediate human need and distress.

#### The tug of war and love

The simplistic image of a tug of war is often used of high conflict family separation as a tug of love with the child in the middle. In courts, indeed, the child's voice may decide the winner. This image certainly fits the pattern of escalating layers of adversarial adults on each side picking up the rope – family, extended family, friends, teachers, counsellors, therapists and other professionals, family lawyers, courts, and beyond them, organisations, government and academic discourses (Child 2014a). The image fits the picture of the child's real needs being ignored – the picture of a child being stressed and torn apart by the well-meaning but conflicted adults on at least one side. And it makes it no surprise when the child, like everyone else, cannot stand the strain and opts to cling to one parent, dropping the other one.

There is now some data on the prevalence of alienating behaviour and Alienation in separated families. A UK survey (2015) found that a third of children said one parent tried to turn them against the other during divorce; a quarter that they tried to involve them in their dispute (see http://resolution.org.uk). Harman & Binngen (2016) report their USA findings of a 'shocking' prevalence of alienating behaviours (including self-reports). A tenth of US parents surveyed report being targets of Parental Alienation. In the US population of 245 million adults, that means 22 million parents are being Alienated from their children at any one time. W hitcombe (personal communication) reckons that there are at least 5000 family proceedings in England and Wales each year that feature Parental Alienation, which means more than 10,000 children are affected.

Where the child's side-taking happens without good past or present reason to drop the other side, that approximates to Child Alienation. Anecdotally people reckon that nine out of ten separating families sort something out collaboratively without a tug of love perpetrated on the children. About one in ten are more enduring high conflict separations in that they come to family courts (Morrison, 2006). But we have to remember that personal and financial resources are required to pursue court action; many more will just have to suffer and give up. Pure Child Alienation features in perhaps one in ten of the court cases. Without better statistics, people will argue that one per cent of separations is either a huge over- or a huge under-estimate. More facts and figures are plainly needed.

Given the tug of war image, the surprising question from any starting point is: How come Child Alienation is so rare?! Children must have considerable resilience and tenacity in holding on to their strained relationships with both conflicted parents. The one thing everyone knows is that children do not want to choose between their parents (Baker & Andre 2009). Those who, without the wider context, over-promote the child's voice so much in family courts tend to set aside this principle in favour of one that no contact with an abusive parent is always best. Things are not so simple. Proper assessment and decisions in any particular case should not follow any over-simplistic principle.

Worse than this, some professionals confidently don't bother at all with basic good practice – maybe not even to contact let alone – to properly assess both parents to hear all sides of the full picture in order to determine what would be in the child's best interests (eg Roche 2014 and 1000s of other published anecdotes). Instead, the professionals suggest that the non-resident parent should give up their parental contact completely – even though the resident parent may be being harmful to the child and the non-resident parent may be the better carer. Arbitrary axing of one parent for the sake of peace is to fail to think through the child's best interests in the long term.

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The tug of war image does not fit where it implies that both parents are equally un-collaborative. It takes only one actively uncollaborative parent – in a conscious way or not – to create high conflict and harmful effects. In severe Child Alienation it is clear that one parent does a lot more than just to fail to collaborate with the other parent. For good or bad reasons, the parent/s are determined not to collaborate.

At its simplest, two attachment hurts often play their part. They happen with or without actual risk and violence to exacerbate them. Of course, allegations and risk are always a priority to assess promptly and well. One pattern is that the adults' hurt and anger from the break-up of their relationship may be acted out through using the children. The other pattern is that the hurt and fear is an extension of any parent's love for their child. One parent cannot bear to lose – even by sharing – their attachment to their child. This self-protection from hurt is so intense that they reframe and cannot see the inherent harm and losses to the child and to the other parent.

In most separating families, the child and others involved help each parent to see that a child's love and attachment to both will survive in tact. In Child Alienation instead the child and others are recruited into the cause of avoiding that parent's hurt. The courts don't see it either. They are supposed to prevent undue isolation of the child from a parent. But what they actually do can sanction it. Usually courts sanction a short-term option thinking that the immediate heat of the conflict is the most harmful factor. Where courts fail to get proper assessments, they will make mistakes one way and the other.

#### Children who resist contact

Taking all children who resist post-separation contact with a parent, the usual view now is that each complex multifactorial situation needs to be assessed fully and in its own right by those qualified to do that (Kelly & Johnston 2001; Miller 2013). In some countries – eg Scotland – there is hardly even any awareness let alone a system in place to call on to do this kind of qualified assessment when needed in family courts.

A key issue for expert assessment is to distinguish Justified Rejection from Child Alienation depending on what reasons there are for limiting contact or not. Many cases are a less straightforward mixture of both of those – that is, they're said to be Hybrid. Notably children who are justified in rejecting a parent may be genuinely anxious but often also wish for some (safe) contact. This contrasts with Alienated children who can be diagnostically unambiguous in their hate and rejection when there is less or no good reason for it (Gardner 1985; Amey 2014).

This reminds us that children wish for and benefit from a relationship with both their parents even when special measures are needed to make it safe. A common assumption is that risk means children should never again have any contact with that parent. That simplistic approach to safe contact does not attend properly to children's best interests, nor to their only real family relationships or hopes for them that will endure far longer than passing high-minded professionals do. As one set of agencies sends convicted abusers off to jail, another set have to work extra hard to keep family relationships alive – a key factor in rehabilitation and family well-being.

For Child Alienation in particular, the evidence and anecdotes show that it has more seriously harmful effects in the short and long term than mere lack of contact does. Roche (2014) tells a harrowing transatlantic story of her sons' sudden Alienation leading within weeks to quite new disturbances in the younger one. No legal or mental health professional did the most basic things like talking to the other parent, like checking out or reporting alleged abuse to the relevant local authorities, even like taking some basic history by asking: What was happening before this started – and when it started? This is gross incompetence even for those who know nothing of Child Alienation. Yet major mental health diagnoses, treatments and invoices were not in such short supply. Income, pride and avoidance of being sued ensure there is precious little chance of professionals admitting their mistakes, nor of anyone proving incompetence in (the same) courts or professions' complaints procedures.

To balance against this kind of tragedy, harrowing stories also abound of failures to assess and protect children and adults who are in genuinely risky situations. In both cases, open professional minds and basic good practice is the beginning of the way to avoic tragedy of all kinds

Two more case stories bring the picture of Child Alienation to life. Anecdotes, when collected, become statistics – 'anecdote is the singular of data' (DeLillo, 1997). An overview of an international field means these cases have an international context. This is not to imply any one country owns the right way to work. Any way of working needs local adaptation. For videos and other online case stories and resources, see websites at the enc

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#### Grown-up alienated children look back

Box 1 is an edited snippet of quotes from a video of adults looking back on their abduction and alienation as children (PACT now AAA 2012). Watch the whole video (35 min) here: http://youtu.be/9z-Tfs2C3hU Abduction is a quick way to separate children from the other parent. The abducting parent then has to keep constructing their children's Alienation. The excerpts here focus on the experience of how Alienation happens, and the long-term effects. Amy Baker (2007) provides more systematic research on adults looking back on their Alienation. Of many accounts online, Ryan Thomas most powerfully gives his own detailed story and a constructive experience-based approach (http://ryanthomasspeaks.com).

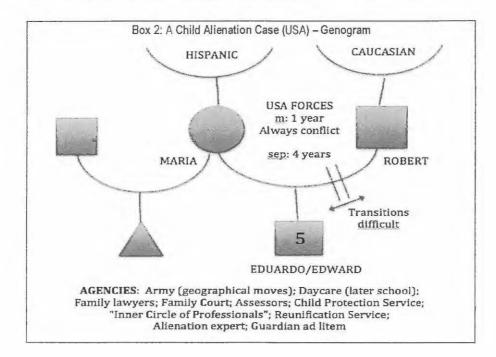
#### Box 1: Excerpts from video of abducted and alienated children grown up (AAA 2012)

Cecilie (Norway > USA): ... The sheer mental torture that I went through as a kid, the fear, and now looking back seeing that I was manipulated by my Dad in the way that I was for his own interests, I mean, this is pure child abuse. ... We travelled around for ten years – the most we stayed in one place was maybe six months if that long. I couldn't talk about my mother at all with my father during any of that time. Basically he'd just freeze up or get very angry or do something kind of scary like throw something on the floor or just get really really really angry, and really tense. So I couldn't say the M word, that was Mom, mother, I couldn't bring it up, and it was frightening. It reinforced her scariness to me, or it felt that she was the cause of that fear, it was her fault that my father would get angry and withdrawn. So it wasn't his fault it became her fault in my mind. ... I think back to that little kid and I feel so much pain. Even the fact that I had had one perception of my father and his role in my life and how selfless he'd been and for years how he'd put his child first and he did all this for my sake to protect me from this temble mother. And then when all that started changing it really screwed with my whole outlook on life and my own trust in my own perceptions on life. ... It led to a lot of depression, a lot of anxiety, trouble sleeping, nightmares sometimes ... It's caused a tremendous amount of upheaval and pain.

Thomas (USA > Scotland): ... My mother dished out a 20 year sentence to my father, one that had consequences for all of us. And I think now that she's maybe realising that the consequences of her actions are inescapable. Although I'm in contact with my father, basically he still is a stranger. And I've cut off all contact with my mother.

#### Working with a child and family

Box 3 is an adapted version of a case described by Weitzman (2013) in a book that describes other approaches too (Baker & Sauber 2013). The focus is on using a one-way mirror, but it neatly shows most of the other key points and issues in working with Child Alienation. Box 2 is the genogram with agencies listed. Note the number of agencies involved and compare with their equivalents in the UK or elsewhere. It doesn't say who paid for them all. At least the agencies were aware of Child Alienation and did something appropriate with it. In the UK most agencies are unaware and therefore do something wrong with it.



#### Box 3: A Child Alienation Case (USA) - Edward / Eduardo (from Weitzman 2013)

From the time their son, now five, was bom Robert and Maria, both in their 30s, have been in high conflict. She is Hispanic; he is Caucasian. They met and married in the army. They never agreed on their son's name nor what language to speak to him. They split up when he was one. At first neither parent sought a legal divorce or filed for custody.

For two years Robert agreed to Maria's terms because he loved her and wanted her back. To avoid conflict, he accepted her demands and unreliable plans over contact. He was very invested in Edward's welfare and took good care of him. Transitions were difficult.

When Eduardo was three, Maria decided to move. She said the army ordered a transfer but couldn't find the letter later in court. She had another partner now who would go with them. Realising his fate, Robert filed a motion to prevent Maria from taking Edward. He was an involved parent and wanted 50:50 custody. She wanted 100%. He detailed the many conflicts but did not criticise her parenting. She said he was an uninvolved and poor carer and used the transitions as evidence. She denigrated his family.

The court denied sole custody. During the three months assessment, conflict escalated. Maria insisted on having police stand-by at each change-over, ramping up allegations that Robert was causing conflict. Robert recorded each hand-over as proof that he was not.

The family court assessor gave 50:50 custody in alternating periods of three weeks. But on the first return to Robert, Eduardo was unwilling to leave Maria at the airport. Robert carried Edward protesting. Maria called security to help prevent him going. The officer read the custody order and let Robert carry on. Maria followed yelling to Eduardo in Spanish how mean Robert was.

Edward took a few days to calm down and cheer up. But he refused to call Robert 'Dad', mechanically saying "I don't love you" to him and that he had another father now.

Maria refused to allow the next visit and alleged abuse because of bruises on Eduardo's leg. Robert said they were from playing. Her lawyer filed for supervised visits. His lawyer got orders for phone calls and an assessment for alienation. This took five months with little other contact. Five months. Maria interfered with the phone calls too. Maria became pregnant. [For the exercise in Box 4, note where your sympathies lie at this point.]

Child protection confirmed there was no abuse. Maria insisted Eduardo was too frightened to see Robert at the hearing. The assessor said alienation was present and proposed a reunification plan. This was accepted under threat of Maria's custody being lost otherwise.

As planned, the maternal grandmother brought Eduardo from her house to the family court site for reunification. He was anxious but very curious about the one-way mirror set-up. When he saw his father from behind the mirror, he asked: "Who is that man? I don't like him. He is a mean man." At first he refused to be in the same room, but then became interested in the toys Robert had brought for him. Edward was soon in there playing with his father. Eduardo's fears subsided after the second session.

The inner circle of professionals decided they would not alter the time-share, but Mana was ordered to have help from an expert in alienation. A guardian ad litem plus phone and other access orders were added, delineating consequences of further alienation including possible loss of custody. Changing custody was thought premature, plus mother's supervised visits would probably have disturbed Edward.

With constant monitoring, Edward continues a good relationship with Robert. But a relapse threatens now as pressure mounts about where the child will live when school starts soon

The most recognised common factor in enduring high conflict separation is long delay in the legal processes and assessments. During this time, the lack of contact means that absence only makes the hate grow stronger. However Alienation may have started, the months or years apart allow it to build up to become irreversibly entrenched. Good practice ensures contact of some kind continues during the assessment of alleged abuse or whatever. To clarify what being child-focused means in these situations where the adults' distress is so compelling, Box 4 is an exercise based on the Edward/o case.

#### Box 4: Five months with no contact: An exercise

At the point in the Edward/o case story where the court process meant his father had almost no contact for five months, who were your sympathies with?

• Was it Robert – missing his much loved son, falsely accused of abuse, worrying about the court case, maybe losing contact forever? These are fair reasons to sympathise with Robert, but are they self-centred or child-centred reasons?

• Or were you sympathising with Maria – also worrying about the courts, wishing her ex- would give up, supporting Eduardo's obvious dislike of his father, maybe losing full custody even. She would say her worry was child-centred. Or maybe she would just be nervously pleased with hopes of legal progress?

 Or did you sympathise with Edward, missing his dad? Well Eduardo might be worried but he would say he was happy without contact – that Dad's a bad man, 'the cops' are after him; and now there are no nasty handovers, Mama is keeping him safe.

• Maybe you were relieved for all of them – a break from court appearances and stormy transitions? And anyway, you might think in gendered generalisations, that Eduardo is with his mother where a young child should be – and better that he stay with her when he goes to school?

• A systemic professional would be interested in all these points of view – and more – in the hope that the multiple views will promote understanding, provide options, and help everyone go forward. How far is that possible where the context and participants are not collaborative at all? Or where courts need clear assessment and direction, not lots of options?

If it was just a matter of counting the votes, the child-focus exercise in Box 4 might add up to leaving Edward/o's father out, until we recall what Cecilie and Thomas said looking back on their experiences of similar situations (Box 1) – how they experienced being conned by one parent and turned against the other, about the stress and emotions at the time, and the life-long emotional damage they suffered as a result. So, as the case story describes, a thorough child-focus will come to a different conclusion that, at least, includes and builds the relationship with the rejected parent. Children's views need to be taken seriously but understood in context. Children are the centre of concern, but their immature wishes and feelings and factors that influence them require careful mature assessment by responsible child-centred adults before decisions are made.

#### The bad and good of a long-term child-focus

Research on anything covert can only reach partial conclusions. But it is clear that, at least sometimes, things are as bad as this, that we always need to take it this seriously: Child Alienation can be the long-term soul-destruction of a child despite claims to be happy just now as a hostage in a well-meant but exclusive coercive attachment, required by and in support of the overwhelmingly strong and needy 'love' of the one parent who should be the child's carer, not dependent on their child's response to their needs. The child later describes being 'conned' to join in hatefully 'killing off' their other otherwise caring and loved parent and all their tribe without any recognition or space for grieving this loss.

Now, no child chooses their upbringing, so in a way children are always coerced into what their family and culture imposes. But that's ok because it is done in love and good faith – love for individuality and autonomy, love that endures even through rebellious phases. Ignorant of other truths, Alienated children may live their lives like the rest do. We don't know. But Child Alienation can be a matter of coerced love and bad faith despite the child's firm assurances. At least when the truth comes out, this can add up to emotional abuse with long-term harm (Box 1).

Put like that the possibility means that this is not just a case for therapeutic reflection, but for a different kind of system intervention and child protection, as we do with other child abuse (Gottlieb 2012 Chapter 24). The abuse of the power differentials in the family has crossed the threshold of tolerability. Once, other hidden abuses like baby battering and child sexual abuse were met with disbelief: "How could any parent do such a thing?" So the facts had to be underlined to get them believed and acted on. This disbelief may be the same now with Child Alienation (Harman & Bilinger 2016).

The good news is that high conflict and Child Alienation are not so hidden. They usually happen in full public view in family courts. And for now the abuse mostly gets public and legal sanction there. In which case this abuse may not be a parent's doing so much as the result of what the wider and legal system does that sustains it. We may need only to spot this pattern, and stop supporting it. That's nothing very complicated. It should be easy especially since the courts themselves know they have lost the plot (Munby 2004; Reed 2012). Huge systems and numbers of professionals and their incomes are dependent on keeping the present system going.

But there will continue to be ongoing and difficult high conflict cases to manage. So there may not be too many redundant lawyers, judges and allied professionals. They may just need to skill up (eg Scottish Government 2016).

#### Meanwhile for the family

For rejected parents, like Robert, note that their distress may contain parentally responsible concern for their children's welfare at the time and into the future. In that case, a court needs to listen closely to them. Even when a rejected parent is self-centred, it may remind us to look equally closely for a possible deeper unhappy truth inside the happy-looking unit with the favoured parent. If the court misses the point of what is going on, and especially if they side-line and denigrate the rejected parent – the parent who may be most on the ball – then this is not just injustice for the rejected parent, but a failure of the whole paramount duty of the family court for the welfare of the child. Imagine too the far worse plight of those parents (and their children) who have been shut out without good reason for many longer years from responsibly caring for their disappeared and at risk children.

On the other hand, let's not pillory favoured parents. They are just as troubled people and parents. They may fervently mean well too. They may not be able to help much of what they are doing. Crittenden (2008 Chapter 13) is even able to get behind the damning diagnostic labels to create a detailed specific understanding for two mothers who intentionally murdered their young children – the ultimate alienation. It is the courts' contribution that can build up the problems for family separations. Courts and others can and should be more responsible. The key is to remember what an older Edward/o would say: "I had to say those things for Mama [the favoured parent]; and my Dad [the rejected parent] should've known I didn't mean it" (Baker 2007). Warshak (2010) shows how *Divorce Poison* puts a child in a cognitive corner that a parent can induce in days and sustain for years. This trance may just as quickly be dissolved by simple challenge or by new information about influences on how we learn. Moira's lucid inside story (in Warshak 2010 pp xx-xxv) demonstrates how "children may act as if they hate a parent when they have merely buried their love beneath a veneer to please the other parent" (p 304).

So far we have introduced off-putting relationships and Child Alienation with the help of larger maps, including a spectrum of alienation meanings and patterns, a spectrum of attachment, closeness and distance of relationships, and a spectrum of high conflict family separation. Case examples bring to life the issues at work. We see how difficult separation and divorce are for parents and children, how layers of adults on one or both sides amplify enduring high conflict and Child Alienation, and the family courts then sanction it. We see how this can be seriously harmful to the children even though parents may be aware of what they need from them. The focus on couples and families is inevitable, but the wider system – particularly the legal system – and society as a whole actively contribute or stand by and do nothing (Harman & Biringen 2016; von Friesen 2012).

The rest of the paper summarises the field with all its essential general points – a life jacket to stay afloat in wild waters. Some of this applies to the wider group of high conflict and ordinary separation, while some just to Child Alienation.

#### Before the Courts

#### Awareness

Apart from avoiding marriage, kids or separating, there is no single or simple solution. Change is required in many parts of the whole system. So we need to all become aware and team up together. Since nothing will happen until people realise how serious this is, we need anecdotes to tell the world. But pain and rage, labels and blame, haven't worked well on their own. Here a broader canvas has been painted using a range of broader frameworks: 1 It is Abuse, 2 Pair up Abduction & Alienation, 3 Undue influence, 4 Broader patterns & meanings, 5 Counter-intuitives, 6 Attachment relationships, loss and hurt, 7 Shared parenting, 8 Diverse use of labels. These all help us see that Child Alienation should be no surprise, that we should not dismiss it, that it is harmful to children and very expensive. We can see how the legal system is important for serious cases, yet the law is inherently adversarial, slow to catch up with social change, and not yet reliably fit for this purpose.

Awareness is urgently required across the board. It is especially important if 'bodies' are to be prevented from being pushed in the river upstream not just increasingly pulled out downstream.

#### **Earliest Prevention**

Enduring high conflict means lawyers and family courts are needed but they may escalate things rather than resolve them. So obviously anything that constructively cuts short and prevents that is to be encouraged. Earlier than alternative dispute resolution (ADR like family mediation), education and awareness may ensure couple and family functioning that prevents major troubles later on. The 'pre-nup' in some cultures predicts that trouble from the start, replacing the older legal, social and romantic promise to love until death do us part.

The framework of undue influence focuses on recruitment to coercive relationships as the best place for prevention. In families recruitment happens when couples partner up. In Western-ised culture, that means separating out their falling in love from more coercive patterns. In a traditional culture, the focus will be more on the quality of the functioning of the extended families and their decision-making as they arrange marriages. The advantage of the undue influence framework is that it simplifies the education of the public and of young people, preparing them to spot and resist a range of coercive relationships including those in couples and families (see http://openmindsfoundation.org).

#### The Child-Focus

The process that leads high-conflict separated families up to family courts then finds many of the adults involved get even more angry and upset, increasing further the conflict and taking of sides. So it becomes even more important to keep a child-focus where many leave that aside as the conflict heats up. Rather cruelly we should set aside the parents' own suffering – or rather, we use it as a pointer to help attend better to their children's suffering and needs. The exercise in Box 4 explored more of what seriously child-focused thinking means.

The child's welfare is supposed to be paramount anyway. A child-focus keeps workers balanced and principled. While a parent in conflict may object to any priority given to the other parent, no parent can supportably complain if their child's welfare gets greater priority than their own. When it gets to courts, though, we see how courts may also fumble their paramount duty. And that then makes it very hard for anyone else to promote it and look after what the children need.

#### A Relationship With Both Parents

Research confirms that children mostly want and benefit from a relationship with both their parents. Research confirms, of course, that children are generally disturbed by parental conflict pre- and post- separation (Otowa 2014). What is debated is whether children are harmed more by ongoing conflict than by having no contact with one of their safe, loved and loving parents. But children are clear – both parents are all they've got and they want some kind of relationship with both. The decision about which parent to cut off is likely to be an arbitrary one. Without proper assessment, it is assumed that the resident parent is safe and the better carer, following powerful gender stereotypes (Harman & Bingen 2016).

Perhaps if both parents got more equally involved with their children before separating, then separation might be generally less likely or at least made easier for all. However, this involvement might be a threat to a parent with low self-esteem. So it might exacerbate rather than prevent Alienation. Even when a separated parent has behaved badly, children will usually want to repair some connection with them. This is what makes Child Alienation so remarkable an exception to this rule – the degree of expressed rejection and without good reason.

#### The Importance of Not Taking Sides

Most separating parents do prioritise their children's need for a relationship with both of them. Where they do not it is hard for others not to side with one parent against the other. Ordinary professionals too, when they meet a client in this situation, struggle to, fail to, or are even duty-bound not to balance 1. the need to hear and support the individual client's story at the same time as 2. leaving room for the other parent's perspective as well as 3. to consider the children's position and needs. Lawyers are bound to serve their parent-client even though they are supposed, in what are still basically adversarial family courts, to make the child's needs paramount. If the child's paramount need is for adults not to take sides, then what are the lawyers to do?

Many professions are now strictly taught to wholly believe every client they meet. That fits with what clients expect. It fits with the principle of encouraging those with a new major disclosure of abuse or risk to tell perhaps for the first time. Listening carefully is not the same as totally believing. Good practice in any profession is always to listen closely while remembering that the truth may lie elsewhere. It is easy but dangerously bad practice to merely accept one client's convincing awful tale as fact, and to dismiss or even forget there may be other clients and their accounts as well as the children to consider.

Especially in ordinary services of all kinds – where anyone can expect to be seen and workers may not have much time or support – all helping professionals must still learn to make space, when high conflict family situations emerge, to think about and equally hear the story from any other family members involved, including the children. That is very hard but important especially where risk is being assessed. There will always be two sides or more to any story that must be properly heard. Alleged or actual perpetrators are also family members and need to be someone's client. To plan well the whole picture needs to be understood as a whole in order to make integrated sense of what each individual says and does, their context and influences, and especially to make sense of the children and their safety and welfare.

Sometimes a parent cannot or does not prioritise their children's welfare. One or both parents may be dead set against any collaboration. Family mediation is now firmly recommended (Denny 2014). But that still requires a degree of motivation that one or both parents in conflict may not have, even when strongly encouraged. Nor may they want therapy or counselling which are also based on voluntary collaboration. That may anyway sound like it's about getting back together which neither wants.

#### Kids in the Middle

Of course, children play their part in the complexity too (Kelly & Johnston 2001). For example, they may have strong views of their own. They may take the initiative or resist taking sides between their parents. If they're naturally affiliated or not resilient, they may give in to one parent's perspective. As we all do, children may be convinced and hold on to memories and stories even when it can be shown they didn't happen. Transitions or handovers can be the biggest challenge for children. That is where they have to cross a minefield of feelings and loyalties on both sides.

Transitions are a special study on their own (Woodall 2014 and in press). Difficult handovers are a reason to sort things out. Troublesome transitions are not – on their own – evidence of bad relationships with a parent on either side. They are the visible peak of problematic or failed collaboration and planning for children. With adversarial courts in mind, both sides watch for trouble which each may attribute to the other. This creates intense pressure and blame across the no-man's land a child has to cross. If you watch the children, you can see how they gear up for the change over. Better transitions often take meticulous care and planning. Stressful handovers may be a good reason to cut down on how often they have to happen. Parents and others can be encouraged – or even be made – to help make transitions work better for the children – whatever other conflicts rage in the background. Staff at contact centres will have special expertise to use and share.

#### Emotional Abuse of Children

Separation is extremely challenging for parents and the emotional trauma makes it difficult for them to collaborate even if they know how important that is for their children. But the result is that no one – un-collaborative parents or slow moving court systems – is actually prioritising the children's welfare. Whatever the explanations and responsibilities for this failure of stated high principles, enduring high conflict separation and Child Alienation are emotional abuse of the children. I'll repeat that because it is seldom said: Enduring high conflict and Child Alienation are inherently emotional abuse of the children because their welfare is not given priority (Gottlieb 2012).

Instead of accepting this, in my experience many professionals cross our fingers, clutch comforting research results and ideologies, and fondly hope that any high conflict is somehow just between the parents and won't affect the children. We fall back on a bystander's rationale (Cohen 2000): We cannot do more anyway, we think, since the family courts are the highest authority and we must trust that they know best. Yet we have noted how even the judges themselves have declared this trust to be mistaken. And research strongly confirms the disturbing effect of conflict on children (Reynolds et al 2014; Otowa 2014).

#### Early Prevention

If one or both parents don't or can't put their children first on their own, then early prevention after separation is key. Often the wellintended reassuring advice is to 'give it time' and 'it'll be alright'. This is exactly incompetent advice in high conflict separations. Alienated parents – and their children when they realise what was happening – for years will carry rage and reason to complain about this (kindly meant) advice. But there is little chance of effective feedback and complaint against this well-intended incompetence of professionals. Uncorrected, it goes on.

More parents can do better given a firm push to go and get help to collaborate, for example, from family mediation or online guidance about how to get it right for their child (eg http://theparentconnection.org.uk). That is worth encouraging, but it still won't work if even one of the parents cannot get seriously interested. A basic aim in these early stages after separation is to prevent undue isolation of a child from one of their parents. The delay can add up to lengthy isolation.

#### Making Collaboration Work or Not

Whatever your profession, your agency or your interest and skills, you may not be the best person or agency for a particular family. If you are unaware of Child Alienation, and if you find it hard to manage the difficult side-taking issue or protect a collaborative phase of work from a possible later legal phase, then you may be a liability for these cases.

As well as awareness of Alienation – and even though the highest conflict cases will not come for collaborative ways of working – it is important and really useful for parents and all other professions to know enough about the forms of alternative dispute resolution

(ADR) and for whom they can work. Short client's guides for mediation (eg Denny 2014) and for collaborative divorce (eg Bishop 2012) are also excellent for professionals to quickly get the picture. These ADRs require superior collaborative capacity and (even more) money too from the parents.

Outside of ADRs, lawyers, as we've seen, are bound to advocate for their own client only. So adversarial legal systems and courts are the norm. They typically escalate family conflict and can cost much more. In the 1990s, Australia invested heavily in alternatives to lawyers and courts. Yet informal arbitration by collaboratively-minded family lawyers may be the best way forward for many conflicted separated parents. Two lawyers can advocate and support their own client and also negotiate sensibly with each other to guide and advise each client toward a better compromise instead of going to court.

Along with family mediation and collaborative divorce, more formal arbitration (eg http://ifla.org.uk) may be a third kind of ADR. Paying more for any of these ADRs can help motivate parents to get things sorted out. But it also means one law for the rich and another for the poor (and their children). Cheaper or free family mediation – based on similar principles – is widely available from qualified independent or voluntary sector mediators who are not lawyers, often alongside support groups for the children.

We will shortly be looking at increased structure to guide families in conflict (ie courts). There (eg CAFCASS) as well as at this more voluntary stage, mediators value different styles to help parents arrive at the best decisions. Strangely, given the strife that means collaboration is the last thing parents are capable of doing, there is a culture of respectful expectation that those parents are to negotiate solutions from scratch. There are logically only a handful of possible residence and contact patterns for separated families. The mediator who sensibly puts these templates on the table for parents to discuss can greatly facilitate their negotiation.

The progressive cutting of legal aid and public funding for even what there was, let alone for new developments, means that realistically we should welcome any radical effective and cheap options rather than dream about expensive ideals – especially if the cheap ones work better for more people.

#### Abuse as the Framework for Intervention

If and when we do accept that emotional abuse is a valid concern in enduring high conflict separations of all kinds, other steps logically follow bringing in appropriate other agencies and other approaches. In Scotland, you might think the unique Children's Hearing system could come into play, designed to attend more appropriately to referred children's needs separately from the adult courts. The historical role mentioned earlier (Warshak 2015) – of adult courts making the important family decisions even if they struggle to do that – means that Children's Hearings have lesser powers, although care and contact are routine questions asked by Children's Panels. Despite the harm the children suffer from the grown-ups' system, and despite that harm being a reason for referral to the Children's Reporter, lasting family decisions are not theirs to make. Anyway, other professions in services for children and families tend not to prioritise Child Alienation in their demanding workloads or CPD (DeJong & Davies 2012 is an exception).

The pattern is familiar – family decisions are so important that courts get to make them; courts struggle to do this as the law is not designed to move with the times; children's welfare is paramount but forgotten in the process; and if other agencies do see the concern they tend to keep quiet because courts know best, or because they are kept out. And on top of this serious general gap in looking after children who are being harmed by enduring high conflict separations, few if any agencies have begun to learn about Child Alienation and how to spot and stop it.

Those busy professionals who do assess more usual kinds of abuse can easily slip into minimising. When no physical or sexual abuse is found, they can relax into the conclusion that that's ok then. Everyone anyway knows how hard it is to prove emotional abuse or coercive control never mind thinking of Alienation. Yet we all know that the damaging factor – even for physical and sexual abuse – is the covering up, the abuse of trust; in other words, the emotional and psychological aspects of it. Even so, a worker has to remember the long-term effects of Alienation given how assertively happy the child appears. Incidentally, as we think of hard-end Alienation as part of a negative category – abuse or abduction – the word's negative connotations become more acceptable. When these challenging ideas are acknowledged more widely, we will be surprised that we didn't think them before, as has happened with past unbelievable truths like baby battering and child sexual abuse (Harman & Biringen 2016).

In summary, before courts, collaborative approaches are rightly promoted and ideal ways to prevent trouble from the start. They help separated parents who are able to use collaborative help, and who can put their children's welfare first. But voluntary mediation will – almost by definition – not be likely to work with high conflict and Child Alienation. Trying it is right and sensible, but going on with it regardless is not. Legal and court measures are called for. If ADRs have been well tried and fail before courts, the family courts need not spend too long trying collaborative measures again before moving to more robust approaches.

#### Courts

#### From Adversarial to Proactive Courts

Custom and practice in the UK courts is slowly learning from elsewhere. Traditionally, the judge is an observer of an adversarial process played out to impress the judge, before s/he determines an outcome. But family courts are less formal initially, not proving facts and guilt like other courts do. The intention is still to use the drama of the court to shape up some kind of collaborative result. The idea is to avoid doing what fans the flames.

So the judge should grasp the case and proactively lead the task at hand. S/he needs to read the reports properly beforehand and be there for all future hearings too. Whatever processes arise – reports, assessment, interim plans and continuing hearings – efficiency is required to ensure that children do not get unduly isolated with one parent for any length of time.

That courts fall well short in these repeatedly agreed standards is common knowledge. A passing judge -- who may have no interest in family law and has not read or grasped the case - may have no option but to sit back and watch the solicitors represent their clients in an adversarial process that is taken to be, but is not, the due process of a proof hearing. It certainly looks like that to the outsider. It also seems to be the default script for the solicitors too - even as they shush their clients from adding to the adversarial process. That judge, if not the solicitors too, are guilty of fanning the flames. They are not making the child's welfare the paramount concern.

In some legislatures, the family courts use routine guidelines with all cases before courts even start up (eg Pinella 2014; JofEW 2014). These work best when part of a fuller proactive approach. They help courts to set non-adversarial expectations for parents and their advisors, before moving on to ask the right team of people the right questions, require prompt reliable work and assessments where necessary, and take charge of setting aims and timetables for the work to be done and reported back on and followed through. The best UK example of effective proactive courts is the Family Drug and Alcohol Courts. And the best brief account is the BBC's coverage of them: http://bbc.co.uk/news/uk-31512532. It is easy to see how this kind of court would also work best to prevent and manage enduring high conflict and Alienation in families.

#### A Simple Principle for Residence Orders

Some legislatures operate a simple principle that neatly prevents at the earliest stage of serious conflict what otherwise escalates that conflict. Where parents cannot agree on main residence plans for their children, the child is placed with the parent assessed as most able to support the child's relationship with the other parent. This principle on its own transforms the whole scenario. Parents will focus on showing how well they could manage to be the parent best able to include the other parent in the child's life. That is the complete reverse of the usual direction of conflict.

#### **Proper Assessment**

Assessment plainly requires considerable skill, experience, care and application to the task (Pitcher 2011; Bishop 2014). Assessing must not be skimped or done by someone who is unaware of risk assessment or of Child Alienation. Scotland, for example, has been found rather below par (La Rooy et al, 2012) although a somewhat improved Child Welfare Reporters system has arrived (Scottish Government 2016). Professional assessors need skill and qualification in non-presumptive information gathering and interviewing of all the parties involved in the case, in understanding the overall family and context, and understanding children's behaviour and development in order to determine properly their needs, wishes and feelings (Miller 2013). Since what children say – their views – may not match how they behave and what they feel in action (Weir 2011), a key part of full assessment is a carefully set up separate meeting between the child and their rejected parent. A child then shows more clearly their genuine fear, or their sustained melodramatic programmed rejection – or else little or none of either of those as normal relations with a safe and loved parent switches in.

It is utterly clear that a court should appoint one single competent trustworthy expert to do an assessment. Most legislatures realise that one or more experts on both sides is not in the interests of the child or of due process. For decades good practice in other kinds of child abuse cases has been to ensure that children do not have to endure more than one competent joint investigative interview of children. This is at least as important a principle with Alienated, emotionally abused, children – especially when we've seen how the intense focus on the child's voice is a key factor of generating the Alienation pattern where the assessment does not take relationships, context and undue influence into account. Unfortunately Scotland continues with cases that employ as many as two expert witnesses on each side!

#### Prescribed Cooperation

For those cases that do persist, good practice elsewhere is for courts to team up and 'hold hands' more with the other agencies involved. In the UK, even if judges directed it, family mediation and therapy have not adapted to include the necessary reporting back. following-through, and collaborating with what the courts might then direct for the families. Mediators and therapists in the UK could gear up to the more empowered role of 'parenting coordinator'. This is a USA-grown blend of roles and skills backed by a degree of legal authority and reporting back to the courts (see http://parentingcoordinationcentral.com). Since 1993, the Cochemer approach in one area of Germany uses multi-professional networking and 'prescribed cooperation' for family conflicts (von Boch-Gelhau 2013).

Essentially then, even in courts, families should be encouraged in every way to find collaborative resolutions. Those who cannot manage this should not be expected to collaborate when it soon becomes clear they won't or cannot. Prescribed cooperation is then the obvious option. Prescribed cooperation is well-known in other settings in the form of court probation and supervision orders followed through by qualified workers. The UK legal system's silos of private and public law don't seem to allow this obviously sensible idea to cross over. "Without the intervention the court cannot act and without the court the intervention does not have teeth" (Woodall, in press). Unfortunately 'the obviously sensible' for high conflict families is widely not even an idea in anyone's mind, let alone an actual available resource to use.

#### How the Child's Voice Can Amplify Alienation

The opportunity for Child Alienation has grown during the decades that the child's voice has become highly profiled once parents take their conflict to courts – courts where there isn't enough awareness, assessment or resourcing. I think it is obvious how this factor works: If the child is going to be the deciding witness, the one to declare who has won the tug of love, then one or both parents and their tribes will inevitably put huge intentional or unintended pressure – undue influence – on the child in the middle to say the right things. When things do go tribal, whole family sides can be recruited in or blocked out. New partners and wider once-loved extended family can be cut out of a child's life to the consternation of all of them and to the detriment of the child. The two sides get amplified in stereo while the mono-child struggles to voice each side according to who is listening (Pitcher 2011). And finally the child gives up the impossible struggle and takes one side.

Clearly, when the child's voice is assessed for family courts, that has to be done well or else abuse may be promoted not prevented. Unlike most other countries, Australia invested in a sophisticated approach to working with the child's voice as gathered and fed back to the parents out of court with the guidance of several skilled workers. That was specifically set up to limit the courts from defaulting their decisions onto the child's voice. Less careful practice elsewhere unwittingly leaves this stressful responsibility to the children. The task may be given no more than an unqualified or time-constrained officer's brief meeting with the child (Amey 2014) or, even worse, getting someone to help them to fill in a proforma (Scottish Courts 2014).

#### **Developing Fairer Family Courts**

In all UK legislatures, the existing laws and family courts – at least, while the UK is part of Europe – could work well enough, focused as they are on children's welfare, simply by becoming more aware, by improved functioning, and by building up the case law. That is, there is no need for any new laws to be made about Child Alienation. It is all there now, ready and waiting for further changes of custom and practice in family courts. A harder-edged version of this approach in the different DSM-based USA context converts Child Alienation into emotional abuse of the child in attachment-based terms and other DSM categories. Some countries legislate specifically against Parental Alienation (eg Brazil, Romania). The benefits probably lie in the standardising of awareness and of assessments for all high conflict cases by designated, qualified professionals.

Present court custom in the UK is what can set endless legal proceedings going. A child welfare hearing is not a trial. Though in conflict, both parents are presumed to be safe and responsible carers. But often a resident parent – mother or father – may come to court having unwittingly used their position and influence with the children to make prior unilateral decisions about contact patterns. The court then (correctly) accepts without question the resident parent's motives, safety and qualities but proceeds (incorrectly) to accept the unilateral decisions about contact. In effect the court then uses this as grounds for treating the other parent differently, as if the other parent's qualities cannot be accepted without question. In effect the informal hearing becomes a 'trial' of an implicitly 'guilty' non-resident father or mother who has to prove their innocence and worth in a covert unfair process that was never meant to be a trial or proof of anything. This parody of a trial may only end its run when the child leaves childhood (Munby 2004). Family courts are liable to perform this parody of fairness repeatedly everywhere. A simple change in court custom could make the process work better.

To make informal family courts a more level playing field, the non-resident parent and their solicitor would not do the running as they are usually made to. The court would require instead the resident parent's advocate to open proceedings by leading their case for any prior unilateral decisions over the child's contact. Serious allegations offered would naturally be robustly pursued. Otherwise suitably fair or shared parenting contact orders would be firmly sustained and isolation prevented (Mackay 2014). If that did not happen, then the court would take one of several more robust steps (when skilled resources were available to them) and would follow them through – contempt of court, prescribed cooperation, assess for transfer of custody. Bearing in mind all we know of what best serves a child's welfare, and the equation of Abduction and Alienation, these steps are necessary when more voluntary steps have not worked.

It is worth noting here that Child Alienation can happen in families that live together and in families where there may be or dinary contact patterns set up. So even if the courts do establish regular contact, that may not always be the end of Alienation. Indeed it may provide greater potential for the most terrible processes to grow – for example, where a sibling-group together visits the rejected parent (Gower 2014). This then requires everyone involved – including the courts – to work even harder to assess and resolve the continuing destruction of the Alienation process.

Of course, real risks may be part of any high conflict separation and serious allegations made in Child Alienation too. We need to take all allegations seriously to find out reliably but promptly where they are valid – Justified Rejection – from where they are not. Remember that many cases are mixed or Hybrid situations and are more complicated to assess and manage. The allegations made in pure Child Alienation situations will by definition be trite or false, perhaps matters of ordinary parenting. Yet somehow, though trite, they often sound immediately compelling and believably serious.

We have seen how important it is to be aware of biases, to assess and distinguish the different underlying assumptions and situations for any children resisting contact with a parent (Miller 2013). We have seen how any long delays in legal processes can be fatal to important relationships. Where there are some sanctions for making plainly fabricated false allegations or other contempt of court orders, less harmful time and expense is wasted in dealing with them (Fidler et al 2013).

#### **Reversing Custody**

Finally, there is a natural aversion to the most drastic step that courts can take: reversing custody. In fact, evidence shows that, when properly assessed and skillfully executed, children quickly get over their Alienation and soon show clear benefits from the new family arrangements (Fidler et al 2013; Warshak 2010). If that is so, then maybe we should be readier to do it sooner in some cases. A change like that includes the expectation that the new residential parent can support a better relationship with both parents.

A consequence for the severely Alienated child when custody is transferred is that the previously favoured parent may tellingly lose face so badly that they give up and cut off. So the child still has only one relationship with a loved parent – but at least it is the healthier one. Again, if this transfer happened routinely as early as possible – see above: A Simple Principle for Residence Orders – it will be easier to do and more effective in every way than after years of everyone's entrenchment.

#### Before and In Court: A Summary

Drawing together these sections (about what happens before and in courts), it is obviously best for separating parents and everyone involved around them to find informal and collaboratively determined plans for child residence and custody patterns. In some countries and cultures, a cultural expectation of more shared parenting arrangements means that courts are not so often needed. Every way possible to engage that collaborative work is to be sought and encouraged. In most countries, the legal system of lawyers and family courts also start as another more structured way to reach a workable collaborative plan with minimal imposition.

But, where these options fail to engage both parents in the process and make a plan that works, professionals should be promptly ready to acknowledge that collaborative approaches are not going to work. Other steps are needed. Professionals should remember that children are suffering and that delays make things worse for the children – including the delay from being unrealistically hopeful. Proactive courts can be the best way to prevent the worst high conflict separation before it gets started. And a court mandate that prescribes cooperation or parenting coordination is part of most reported effective treatment approaches to Child Alienation cases. Effective therapeutic whole-family work to ensure the children have the benefit of a relationship with both their parents is likely to require court backing and continued court follow-through. "Without the intervention the court cannot act and without the court the intervention does not have teeth" (Woodall, in press)

In most countries, courts are going to be the key to preventing and intervening before things get entrenched. They authorise successful practical intervention in serious high conflict cases where one or both parents don't or won't come for collaborative help in

or outside the courts. Everything else outside of the courts is important, but courts will be necessary in the most extremely conflicted families and Alienation. A tautological definition of extreme high conflict might be when one or both parents are unable or unwilling or otherwise don't intend to collaborate in ways that others assess are needed for the welfare of their child. It is important to recognise this sooner rather than drag things on until it is too late.

#### After courts

So we can hope that prevention and early intervention will diminish the need for courts. But there will always be some high conflict family cases that have to come to the courts. Even so, 'after courts' can be taken two ways: 1. After courts as they are at present. 2. After courts might be when they become more reliably functional for high conflict cases and Child Alienation.

1. As courts are now

In general just now in the UK and elsewhere, if you have money and determination, court cases can run for years and years. Sometimes the court battles are how children know their other parent still cares for them. If you don't have money or determination, or because it seems wiser, the system and one parent become by-standers to a worrying custodial placement, having given up hope of active intervention working. That means agencies and parent wait and hope that children grow up eventually to see for themselves what has been happening to them. The literature focuses on how the Alienated child may come to this realisation, what the rejected parent can or should do during this long wait (Baker 2007; Warshak 2010; http://ryanthomasspeaks.com), and what help might look like during this life-sentence. It seems unethical to accept this status quo that supports child abuse. But it is necessary 'after courts' have fizzled out to put our efforts into supporting families suffering through this dysfunctional system. It is plainly better to improve the system – or at least to 'pick bodies out further upstream' if not to go right up-river and 'stop the bodies being pushed in' at all.

2. In an ideal future

In an improved world, all professional systems will spot and know how to prevent rather than escalate high conflict. Courts would be functional for those that do need them. Client's finances will also not be the deciding factor in whether child abuse is attended to or ignored. Then one can imagine proactive courts providing a more reliable prompt resolution (eg by prompt assessment and transfer of residence of the Alienated child) as happens now in some places (Fidler et al 2013). There will then actually be life 'after courts'. Some cases might need continuing authoritative follow-through from courts to ensure that constructive court orders are being sustained and appropriately adapted for children's welfare as they grow up.

Meanwhile we can summarise several kinds of work for helping professionals to be doing to help the families who are in the river – work with a part of the extremely separated family, and work with the whole of the family. For all of these we need to make all our services and ourselves more aware and welcoming of this clientele than most of us are at present. We need to be ready for all ages and stages and situations of Alienated children, their fathers, their mothers – rejected or favoured – and their wider family members and workers.

#### Working With Part Families

With awareness and care for the risks, there is a place for working with one part of affected families. But we need to be careful with individual clients lest our one-sided view and support escalates a wider polarised and harmful pattern (to the children, that is). A client lost in a well-established severe pattern may be helped a lot by learning about Alienation. But a separated parent on the edge of a collaborative solution for care of their children might not be helped by the idea of Alienation, lots of difficult reading, and no easy solution at the end of it anyway. At that point, the Alienation idea may destroy the collaborative prospects.

We need to understand how to give other agencies than our own their essential place. We / our own agency may not be the best service for the job. Evidence is needed to shape what works best. With those caveats, here are three kinds of help we can offer for individuals or part families suffering Child Alienation:

- Ordinary therapeutic shared learning, support and validation: Where professionals remain unaware and other experienced help is not yet available to refer to, it may still be helpful for client and professional to work on their shared ignorance together as long as they have open minds for that shared learning. At least we should not dismiss referrals through prejudiced assumptions. I almost did that with one client who then got me to share the learning – QED.
- 2. Professionally-aware individual help

As long as others are attending to the serious aspects and decisions, and as long as therapists are aware of Alienation and the need to think of all sides not swallow whole just the presented one, then therapists of all kinds can help a client understand the wider situation and help them find their way through it, or just to cope better. It is important to note that even the quietest nicest therapists who are not aware of Child Alienation are unwittingly liable to make the situation worse for the children just by adding to the undue side-taking. As individuals, we may all need individual support. Not taking sides is not to stop that provision of support but to ensure the individual support doesn't make the wider family system and the children worse.

3. Specific experienced long-term work with those in established Alienated families:

Sadly there are many resources for those facing the life-sentence of Alienation (Baker 2007; Baker & Sauber 2013). Woodall's (in press) is the UK's most experienced and developed service. Others help the rejected parent cope with continuing Alienation (Gower 2014) or to change it (Warshak 2010). Once children are of adult age, courts have no power over what happens. Generally the help is for doing the best things during the parent's exile to ensure that the child's hoped-for eventual return will go well. There may be ways, when working with part of the family, to facilitate both sides to engage differently, or to help increase the chances of the children thinking for themselves sooner (Baker 2007).

#### Working With Whole Family Systems

Given that high conflict separation is a troubled failure of an attempted happier family unit or its collaborative separation, and as long as we do not make it worse, workers in effect aim to hold the circle together as well as may be possible, especially for the children's sake. That means that wider agencies need to find ways to integrate their collaborative efforts around the families when the families cannot collaborate. Given the authority (from courts) and the skill (to take client families to a different place), there are already examples of effective whole family approaches under the heading:

#### 1. Unification or reunification work:

As workers accept that Alienation is a valid and serious matter, they can learn about, identify early Alienation patterns in separated families, and work skilfully to resolve the problem. With those special skills and with successful early engagement with the child and whole family, there may not be a need to make a big deal of what you call the pattern. The more we develop and use these skills and services, then more of what were going to be severe cases of Child Alienation will be counted as moderate cases ... or even just cases within the normal range of separated family and family work. We should encourage less severe or entrenched cases to be counted as Alienation – even though the work and the worker may not use that word explicitly. That then gives due credit to the huge importance of such work even though the worker presents their work in unassuming ways (eg Pitcher 2010). The more professionals and their literature who, even obliquely and critically, make some reference to their early and effective approaches as having a relationship to the pattern and field generally known as Parental Alienation, the better progress we will all make (Chimera 2014; Whitcombe 2014).

Re/unification work with enduringly high conflict or Alienated families also has to be skilled, robust and effective. Usually the work for more severe cases will be teamed up and overseen with the skilled followed-through authority of the courts. One example of this work is the reunification case described earlier (Box 2 and 3, Weitzman 2013). Other examples are in Baker & Sauber (2013) and Warshak (2010). In the UK, Woodall (in press) and the Family Separation Clinic (http://www.familyseparationclinic.co.uk) use this kind of principled and persuasive integrative whole family system approach to ensure that children have a relationship with both their parents.

#### 2. Court work

Legislatures and courts differ between and within countries. To be an expert witness requires considerable specialist learning of your own particular work context. The professionals who provide the whole family services will also be, or will be closely linked with, those who are the expert witnesses in courts. There is a great need in the UK and elsewhere for more fully aware and qualified professionals to become the expert witnesses for court-linked assessment of whole families as well as for the continuing family work and re/unification work.

#### Wider than courts

#### Using Labels

We can't do without words and labels. They have diverse functions and meanings. Shared meanings result in good communicator. Different or mistaken meanings mean misunderstanding or sometimes instant conflict. Because the labelling is a big issue in Chilc Alienation, I repeat some of what we covered earlier (see p 3)

My antipathy to psychiatric labels for 'problems of living' meant that I dismissed for decades the important field usually labelled: Parental Alienation. Although that describes a characteristic relationship pattern or syndrome, DSM has not accepted it as a diagnostic category or formal Syndrome for a child's mental health Disorder. DSM say that Parental Alienation is a relationship pattern not a child's mental Disorder. That means, in the USA, that it is left out of trainings and contested in courts. But it does not mean that Parental Alienation does not exist, is junk science, or that children are not harmed and suffer mental health trouble and Disorders as a result of what happens. That harm and those Disorders are in the DSM under other headings. Childress (2015) and Bernet et al (2016) use that in different ways – "Attachment-based Parental Alienation" and "Child Affected by Relationship Distress" respectively – as the basis for their recommended approaches, now that DSM 5 has arrived. However closely tied together in a syndrome-like way the relationship causes of the Alienated child's mental Disorder may be, the DSM systematically separates off the causes of Disorder. Many real things in the world exist but are not included in the DSM.

Using constructive words in practical situations helps constructive outcomes, so loaded labels or words like Alienation or Personality Disorder terminology may well not help possible collaboration happen. But where hope for collaboration has gone and harm is happening, that negative reality needs words that point to what is happening. Unattractive things attract unattractive labels.

There are many reasons why we need good words for a concerning pattern. Common and ancient usage means alienation is the best word for this pattern. Particular situations may need some moderation in how we use it.

The same considerations apply to using labels like Narcissistic or Sociopathic Personality Disorder to label, understand and work with a parent. Again these may usefully point to a valid recurring and concerning pattern of personal behaviour. Where we need to take things seriously, heavy labels may shape the best interventions. But the negative labels merit careful use remembering that, like the professional helpers, the child also has to 'work with' the same negatively labelled parent even more closely in pursuit of the ideal of having a relationship with both parents. Attachment theory has much to offer (Crittenden 2008; Chimera 2014) going beyond the blaming labels to a more useful understanding of ongoing disturbance and how to help.

#### Maturing Research

Progress is being slowly made on evidencing how best to identify, prevent and treat Child Alienation cases. A reason for this immature research is that high conflict and Child Alienation are complex covert multi-factorial situations where multidisciplinary and multiagency research and projects are hard to establish (Harman & Biringen 2016). In this early pioneering phase of a specialism's development, it can be hard to build consensus and collegial structures between the leading practitioners and thinkers. Notable exceptions to this are the leading team in Canada (Fidler et al 2013), and the US-based Association of Family and Conciliation Courts and their journal, Family Court Review (see www.afccnet.org). The international Parental Alienation Study Group is the nearest there is to a collegial structure so far (see http://pasg.info)

#### Gender

Gender always matters but it is important to say how. The evident facts for Child Alienation are that the pattern happens with all kinds of gender and relationship, not just with children choosing mothers and rejecting fathers. So other explanations than gender are needed. The best account of gender and Alienation is in Harman & Biringen's book (2016; see also TED talk https://youtu.be/v3YdldNXZnQ). They show how, even where gender stereotypes fit with patriarchy, they can give real power to wormen, not just to men.

This discussion assumes a binary view of gender – the view that there are just two categories of gender that reflect a binary view of biological sex. It will be interesting to see how the growth of the non-binary view changes families and the gender debate. Readers may wish to skim the rest of this section on gender if they are happy that gender is not the main factor in Child Alienation.

Confusion in the vast debate on gender arises from competing versions of the facts, of what is fixed in gender, of what can or should be changed, and of how far generalisation can impose on individual cases. Neutrality in the debate is almost impossible given that we all speak from some bias or perceived bias of our own gender. All of this boils over in the urgent flames of family conflict where, in any particular case, there is no doubt about gender.

For any particular individual in their own family and community, of course our experiences are strongly gendered, shaping our general expectations of ourselves and of others – of 'all men and fathers' and of 'all women and mothers'. When things go wrong, the gendered experience of abuse can be traumatically strong. To suffer – or even just to know individuals who have suffered in your

own family or circle – is a powerful confirmation or determinant of one's own generalised and gendered assumptions. This is especially true if you typically work where only one victimised gender is in your client group.

At present, 'authoritative' research can be based on a selection of subjects studied that is as biased as a gendered victim support service ... because that's where the research is done (eg Goldner et al 1990; James et al 2002). The results may bring valuable understanding for the selected group. But the results are not valid when taken as proof of a universal hypothesis about 'all men and all women and all families' or as reliable evidence of the universal effects of social structures like patriarchy. The limited results are authoritative in their limited way, but making them universal is not authoritative or scientific – it is more likely to breed and feed stereotypes and prejudice.

Any distressed victim or determined perpetrator of any gender is going to turn to anything that helps them defend or fight their corner. Harman & Biringen (2016) show how, even though a feminist would want men to play a more equal part in the home and in childcare, the traditional stereotype and power of women as better carers in families can breed reflex resistance to fathers who want to do that too. When it is family separation that triggers a new interest in gender equality or shared parenting, no wonder this adds fuel to the fire. Patriarchy is not the only social power and, within limited contexts, it can empower women. Harman & Biringen (2016) write: "Patriarchy puts fathers at a disadvantage to mothers in the domestic realm due to how it impacts perceptions of their parenting ability."

Both genders have characteristic strengths, weaknesses, opportunities and threats. Local and wider social systems, values and resources aid or hinder any man or woman too. There are different gendered options that the individual, their circumstance and society offer. Women and men will find different options and resources available around them. Each will be acutely aware of the power the other gender has or has access to – especially when conflict or abuse heats things up.

Bob Geldof (2003) clarifies that his embitterment was only caused by the legal system not by his separation ... he was in fact successful in the family court. He 'coherently rants' - in contrast to the more familiar emphasis on women's and children's rights - about how powerless men are. He says that the archaic and far from gender-neutral legal system closes fathers off from the children they had loved above all. But we know that being closed out is also the experience of many mothers too. The law and the courts may be imperfect – but it cannot be wholly a matter of gender, even if the gender-neutral law doesn't stop lawyers and judges in their gender-bias in custom and practice.

Of course overall societal and cultural patterns are also gendered in various ways that have changed through history. These patterns are reflected in population statistics. The feminist movement takes the lioness's share of the credit for much more gender equality in liberal societies now than before and than in other countries. That journey is only part way through.

Exploring the whys and wherefores of general patterns is fine, for example, to inform gender debate about inequality, patriarchy, differences between the experiences of men and women etc. But trying to impose a generalisation or ideology pre-emptively onto general or case-specific findings and debate is another. Science and natural justice require that we work hard so that the facts or the individual case can speak for themselves without undue influence on them. You can believe and campaign for gender equality and feminism without holding those ideals hostage to scientific findings of sex difference (Pinker 2005).

General statistics are not some kind of vote for a majority winner. Good practice in actually meeting individual people involved in a particular situation should be informed by, but not decided on, statistical assumptions or generalisation. No generalised assumptions should be imported and imposed willy-nilly on individuals or particular situations. To do that is prejudice and a categorical error of logic. The individual is neither the stereotype nor the statistical pattern. Every particular case may or may not be of the majority pattern. Each individual, victim or perpetrator, has stories to tell and to discover. Perpetrators need to stop or be stopped from causing harm. But everyone also has a past that helps or hinders, and a future they hope for (Crittenden 2008). To approach each person as unique and to do so without prejudice is the principle of equal opportunity, of due process, of expert assessment, and of being innocent until proven guilty.

In domestic abuse and family conflict, you cannot helpfully assume that all men are evil lying perpetrators. nor that all women are honest angelic victims, even if that might appear to be a much simpler way to go. It's seldom that simple (Farmer & Callan 2012; Perpetrators and victims can be of either gender. Both perpetrators and victims mostly have sad tales of oppression and abuse to take into account and rise out of. And whatever we may wish, men and women perpetrators are (in the UK) at most imprisoned. no: evaporated – they remain human beings best helped as members of their families and of communities. Read more about all this or http://equalism.org.ul

On all sides, avoiding categorical errors is essential for better understanding. The hardest step is for each side to hold their hands up to some truth in the other side's allegation. So, yes, some times abusive fathers use the cover of 'Parental Alienation' to continue their access for abuse. But just because some do it doesn't mean all of them do it (Harman & Biringen 2016). And some abusive mothers might do it too. From the other side, yes, some men do awful abuse to women and children but that doesn't mean that all men do it, nor that only men do it.

But we've already seen that Child Alienation is a pattern that can happen with any genders of parent or child (egs Box 1: Roche & Allen 2014). It happens with same-sex-parent families too. This is important to note because some detractors – who must have limited reading and experience – wrongly presume that Alienation only happens with one gendered pattern, that is (presumed) loving resident mothers and (presumed) suspect non-resident fathers. Stereotypes and common custody patterns after separation determine that we all tend to think like that.

However, the ways and the experiences of being Alienated will, for example, be different for mothers and fathers. Society gives greater gender stereotype importance to mothers looking after their children. It generally approves of mothers being with their children. But it does frown on 'unmotherly' things. Those are therefore the attributes that can be used against them. Mothers who have careers, or can be alleged to have other supposedly un-motherly qualities like mental health problems or personality disorders, are liable to decisions made against them that are based on gender stereotype (Harman & Biringen 2016).

Men more easily fit the common stereotype of fathers being absent from and unworthy of full family lives, less skilled at caring for home, relationships and children. Men's power is known to cause more physical harm more often when push comes to shove – against women or men (Renn 2012). Even when men are innocent, they are more easily fitted out with the worst gender stereotypes. The 'nuclear option' of making a serious but false allegation – usually of sexual abuse – against a father triggers processes that put the lid on the coffin.

The important overall conclusion of all this is that, in order to understand Child Alienation in general, we have to turn to other main frameworks than gender. We have to loosen our stereotypes for theory and for individual cases. Gender cannot be the main explanation of what is a diversely gendered pattern like Child Alienation. We've seen how useful Attachment theory can be in understanding family relationships, high conflict and separation (Crittenden 2008; Renn 2012). Being open-minded about theories is generally a good idea too (Child 2014b). Attachment theory helps us get past gender. It reminds us that men and women have all been babies and children once. Whatever shapes our mature functioning and our adult gendered behaviour and roles, we have all faced and still carry the same needs and vulnerabilities in us. And these play out in our adult intimate relationships in couples and as parents.

#### Understanding the Aligned Parent

In any Child Alienation case the favoured parent may behave with different amounts of unconscious emotionality and / or conscious strategy. In any case, it is a real and key puzzle to know how to engage the favoured parent. It is hard to know what to make of and what to do with their side of things. A first step is to go beyond the use of such nasty names if we can.

A second step – mentioned earlier – is to realise how close a healthy parental attachment is to the unbearable fear of loss that generates the exclusive attachment in Child Alienation. Often a parent's own earlier losses have sensitised them so that family separation triggers what they just cannot bear to face again. It is also important to note that the fight or flight survival reaction to this life-threatening kind of fear will have the same convincing visceral quality whether the fear is justified or just in the mind. As in other panicky situations like agoraphobia or school refusal, anything and everything provides the justification for the overwhelming feelings and actions that get etched into the brain's neural memory and physiological circuits.

The child's rejection of the other parent is more than enough evidence to validate the favoured parent's position – to the parent and to others – even though it is that parent's emotional state that first recruits the child's obliging and often obligatory devotion (Chimera 2014 applying Crittenden 2008). The literature suggests (eg Rappoport 2005) that some favoured parents can be deeply and privately negative about themselves, their self-esteem, and their lovability, only able to sustain relationships in subtly or openly coercive ways, and very scared of being found out. In other words, they need great understanding, find the prospect of help or change very scary, and so they work very hard indeed to avoid it.

**Big Systems Work** 

Big systems work looks for ways that family services, legal and wider systems (like governments) can help because the wider systems can be what escalate the family conflict that they could have prevented. This wider approach requires some quality thinking, effective discussion and learning with other agencies involved, and key consultation about how to make things work better. There are independent national legal systems and even smaller legislative areas, each area needs to find its own family court solutions. Here are some changes we have already covered:

Any way that family courts can become more aware, efficient, proactive, and teamed up, will help. Good examples of this in the USA and UK have been mentioned where all parents and their advisors are routinely provided with clear guidelines as part of proactive family court practice.

The tearning up of legal authority with professional help to form 'prescribed cooperation' is standard for many other kinds of individual or family problem that comes to courts (eg Weitzman 2013). A good model of an effective proactive court in the UK is the Family Drug and Alcohol Court (see bbc.co.uk/news/uk-31512532). The sooner family courts adopt this approach into their repertoire the better.

Other useful and simple changes of practice have been indicated. One is the principle of residence given to the parent best able to support a child's relationship with the other parent. Another change would make family courts a more level playing field with resident parents first explaining in court their earlier decisions.

#### Growing Awareness, Better Services and Information

We need to raise awareness across the board – for public, professional and policy-maker. Awareness means better understanding, better practice and better prevention. There is much scope to improve services, policy, research, literature and information for services and in general about separated families and risk.

An exciting prospect lies in the teaming together of all the different kinds of undue influence so that more effective preventative education can lead us all to spot and walk away at the very first point of encountering it (Child 2016; http://openmindsfoundation.org). Other examples include: requiring parenting classes at separation, other generalised learning, and Baker & Andre's (2009) information and programs for children in schools. The more that all families and workers know in advance, the more these troubled patterns can be watched out for and prevented.

Any relevant textbook, training, course or guideline that does not cover or otherwise attend to issues raised by Child Alienation cannot be considered authoritative or competent.

#### Why study Child Alienation?

The reasons for learning about Child Alienation are clear. Pure Child Alienation may be rare, but it has distinct features and may be enduringly serious for a child. It is in the category of emotional abuse with potential life-long consequences. There can be no ignoring it – though that is what we've done. It is also hugely expensive of time and money for courts and for professionals involved. We must find more effective knowledge, prevention and solutions.

If you're involved with separated families at all, you need to learn about it. If you don't know about it, or if you deny that this pattern happens with its harmful consequences, you should not be working with any members of any separated families with children. That s a challenging statement, so I'll repeat it. If you don't know about it, or if you deny that this pattern happens with its harmful consequences, you should not be working with any members of any separated families with the harmful consequences, you should not be working with any members of any separated families with children.

It is important to name this pattern firmly as part of general knowledge, and also for some clients. It is a huge relief and support for clients when they find that the Child Alienation idea fits their otherwise endless puzzling nightmare. It is important though to ensure that the new terminology and information does not get misunderstood as yet more ammunition to use in escalating conflict further. If the parents are engaged in a collaborative process, then it will be unnecessary and wise not to bring 'Alienation' into it.

If we spot and stop what the system does to make Child Alienation worse, and if we all learn to spot and stop it early. or at least no: make it worse, then paradoxically there will be a lot less need to start talking about it in those specific terms at all. Professionals need to learn when to use the language of Alienation and when to avoid using it. By learning about Child Alienation, we incidentally also learn a great deal about the full range of family separation and conflict. The good news is that this is one serious concern that will be much cheaper to solve than it is to continue. The most important step might be to refine a more minimal intervention. Where multifactorial work and collaborative integrative approaches across agencies are indicated, those agencies need to get their act together more. The present literature and policy guidance authoritatively sustains our ignorance, so it all needs essential updating.

#### Conclusion

In this overview my aim has been to reach a wider professional, organisational and lay audience in order to raise awareness in the UK and elsewhere for an important, previously ignored, international field, Child and Parental Alienation. To ease resistance to the terminology I broadened the spectrum or maps we use in several ways. Key sections we have covered include: definition, case examples, a child-focus exercise, key issues before, during, and after courts, as well as in wider systems too, reasons to study it, and ways to intervene earlier if not to prevent it.

What you can do depends on where you are. But everyone can and should become more aware and certainly not dismissive. For individual professionals this overview might only enable you to raise awareness and more reliably spot Alienation patterns. You might now avoid better unthinkingly siding-up and making it worse. The more daring might consider a more proactive whole family approach, including liaising with other agencies too. Directions for changes in the legal system and courts are clear.

To prevent, intervene and stop Child Alienation, the wider system with many subsystems will have to change in an integrated way. We need to try all kinds of approaches and get good evidence for what works with whom. The exciting prospect is that refining several key minimal interventions may make most difference. In due course, with good practice of all kinds, severe Alienation patterns may dissolve and the term become redundant.

For now and for more general purposes, we need a name for this field and pattern. The eradication of a terrible thing like polio or smallpox did not come about by refusing to name them. The label is at least useful as a doorway to a field of study. Alienation is the best descriptive label for this field and for the particular case. I prefer Child Alienation because it keeps the focus where it should be. But we need to use Parental Alienation because that's what the world has called it for decades.

This can only have been a sketchy overview. Luckily recent textbooks collate fuller accounts (Fidler et al 2013; Baker & Sauber 2013; Lorandos et al 2013; Harman & Biringen 2016). A small but surprisingly packed text is von Boch-Galhau's (2013 again – obviously a good year) with full and first-hand case examples and completely detailed references. Another lively resource for all those interested is the blog: http://thealienationexperience.org.uk To get emailed updates there click on: Follow the blog by email.

#### Footnote

Gardner's (1985) 'Parental Alienation Syndrome' describes eight characteristic behaviors of the child.

- 1. A campaign of denigration and hatred against the targeted parent;
- 2. Weak, absurd, or frivolous rationalizations for this deprecation and hatred;
- 3. Lack of the usual ambivalence about the targeted parent;
- 4. Strong assertions that the decision to reject the parent is theirs alone (the 'independent-thinker phenomenon');
- 5. Reflex support of the favored parent in the conflict;
- 6. Lack of guilt over the treatment of the alienated parent;
- 7. Use of borrowed scenarios and phrases from the alienating parent; and
- 8. Denigration not just of the targeted parent but also to that parent's extended family and friends.

The syndrome is not in DSM 5 by name. Prof Bill Bernet says it is present in spirit under five other categories – see http://tinyurl.com/BillBernetPAinDSM (2013). Bernet et al (2016) propose using the new DSM 5 category Child Affected by Parental Relationship Distress. Although PAS is accepted as legitimate to some, DSM 5 considers that more research is needed before it merits the category of a Psychiatric Disorder (APA 2013) of an individual child. The DSM does not dispute that the pattern exists and causes harm (cf that it is 'junk science'). For a thorough account of the DSM debate see Whitcombe (2013). Childress (2015) and others in their US campaign powerfully on an Attachment-based approach that distances itself from 'Gardnerian PAS'. As Bernet does, Childress relies on several emotional abuse categories that are in DSM.

Gardner suggests mild, moderate and severe degrees of PAS. These relate to resistance to help. For example, 'mild' PAS disappears with reassurance of a parent's unjustified fear of completely losing residence of their child. Since then we have developed more nuanced ways of thinking, assessing, labelling and helping each individual case. The debate has also moved on, but naturally there are many who will not have kept up with that.

#### Understanding Labels

In understanding labels of any kind, it helps to remember that labels have many different purposes. And a thing may have different labels for different purposes. A simple label may denote a complex thing – e.g. society, family, abuse. A label might be useful as a doorway or chapter heading even if it does not make a good specific diagnostic label. Some purposes may be best achieved without any particular labels. Professionals need a full knowledge of a field in order to judge whether, what and when to tell their clients about it. Clients may not need to know the specialist labels and knowledge in detail.

For example, the world-wide label 'taxi' is well attached to our mental image, to the actual vehicle, and to what we shout when we hail one in the street. But taxis come under many other names and colours in different parts of the world. To Google, we may choose 'car hire' not 'taxi'. And once we are in a taxi situation, none of those words play a part in the contracting or chatting with the driver.

A more relevant example here might be that psychotherapists or helping professionals may talk a lot with each other using specialist terminology – e.g. jargon and acronyms like 'DV or IPV', 'transference', or 'systemic' – but they would not use these words in session with their patients. Thus professionals do need to know enough about Child and Parental Alienation, but a client at a delicate point in collaborative work may become too distracted from the important task if they were given that label.

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#### Notes and acknowledgements

Nick Child retired in 2003 from a career as a Child and Adolescent Mental Health Service NHS psychiatrist in Edinburgh and Lanarkshire. Since then he has worked in the voluntary sector as a Family Therapist in Edinburgh. Raising the profile of family therapy in the non-statutory sector coincided, in 2010, with meeting a remarkable client, now colleague. No dient should ever have to teach their therapist first in order to get help. Roy Mackay mailed a textbook with his request to be seen. He helped Nick see and overcome his allergy to Parental Alienation.

To make up for his career long failure, Nick (and Roy) now works to raise awareness and reduce prejudice in the UK. Nick has mostly indirect clinical experience with high conflict separations or alienation. This overview started from the presentation at the AFT London day event, October 2014. Colleagues in the group for the systemic study of parental alienation (SSoPA) helped and presented at the event.

Since then the article has been continuously developed. It is a 'calling card' in Scotland to both raise awareness widely and to talk with key people and organisations in order to recruit their improvements and corrections. I am very grateful to all those who have helped along the way. I invite more feedback too.

More of this story and of the presentations and discussion arising can be found on: http://thealienationexperience.org.uk and on Nick's own website: http://www.forallthat.com > Children Resisting Contact

To ensure this paper's quality as a concise and comprehensive summary of an international field with a UK relevance, please feedback any constructive criticisms and suggestions for improvements, Email: Nick234678@mac.com Many thanks

Updated versions of this overview will be found online at: http://tinyurl.com/NickChildPA

## **Diagnostic Checklist for Pathogenic Parenting: Extended Version**

C.A. Childress, Psy.D. (2015)

All three of the diagnostic indicators must be present (either 2a OR 2b) for a clinical diagnosis of attachment-based "parental alienation." Sub-threshold clinical presentations can be further evaluated using a "Response to Intervention" trial.

## 1. Attachment System Suppression

Present	Sub- Threshold	Absent

 $\square$ 

The child's symptoms evidence a selective and targeted suppression of the normal-range functioning of the child's attachment bonding motivations toward one parent, the targeted-rejected parent, in which the child seeks to entirely terminate a relationship with this parent (i.e., a child-initiated cutoff in the child's relationship with a normalrange and affectionally available parent).

### Secondary Criterion: Normal-Range Parenting:

- yes no The pare
  - <sup>10</sup> The parenting practices of the targeted-rejected parent are assessed to be broadly
  - normal-range, with due consideration given to the wide spectrum of acceptable parenting that is typically displayed in normal-range families.

Normal-range parenting includes the legitimate exercise of parental prerogatives in establishing desired family values through parental expectations for desired child behavior and normal-range discipline practices.

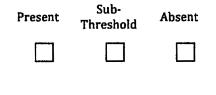
## 2(a). Personality Disorder Traits

Present	Sub- Thresh	Ahsent	
			The child's symptoms evidence all five of the following narcissistic/(borderline) personality disorder features displayed toward the targeted-rejected parent.
Sub-Cri	iterion N	let	toward the diffeted rejected parend
yes	no		
		inappropriate rejected paren	The child displays a grandiose perception of occupying an ly elevated status in the family hierarchy that is above the targeted- it from which the child feels empowered to sit in judgment of the ted parent as both a parent and as a person.
			<b>npathy:</b> The child displays a complete absence of empathy for the n being inflicted on the targeted-rejected parent by the child's hostility of this parent.
		the child expect the child's sati expectations t	The child displays an over-empowered sense of entitlement in which cts that his or her desires will be met by the targeted-rejected parent to sfaction, and if the rejected parent fails to meet the child's entitled o the child's satisfaction then the child feels entitled to enact a hishment on the rejected parent for the child's judgment of parental
			<b>Arrogant Attitude:</b> The child displays an attitude of haughty contemptuous disdain for the targeted-rejected parent.
		which the sup	e child evidences polarized extremes of attitude toward the parents, in posedly "favored" parent is idealized as the all-good and nurturing he rejected parent is entirely devalued as the all-bad and entirely rent.

## 2(b). Phobic Anxiety Toward a Parent

Present	Sub- Thresh	Ahsent			
			The child's symptoms evidence an extreme and excessive anxiety toward the targeted-rejected parent that meets the following DSM-5 diagnostic criteria for a specific phobia:		
Criter	ion Met				
yes	no				
		of the targeted	warranted Fear: The child displays a persistent and unwarranted fear l-rejected parent that is cued either by the presence of the targeted nticipation of being in the presence of the targeted parent		
		<b>Severe Anxiety Response:</b> The presence of the targeted-rejected parent almost invariably provokes an anxiety response which can reach the levels of a situationally provoked panic attack.			
			<b>Parent:</b> The child seeks to avoid exposure to the targeted parent due to ly provoked anxiety or else endures the presence of the targeted parent ress.		
3 Fixed False Belief					

## IXEU Faise Denei



The child's symptoms display an intransigently held, fixed and false belief regarding the fundamental parental inadequacy of the targetedrejected parent in which the child characterizes a relationship with the targeted-rejected parent as being somehow emotionally or psychologically "abusive" of the child. While the child may not explicitly use the term "abusive," the implication of emotional or psychological abuse is contained within the child's belief system and is not warranted based on the assessed parenting practices of the targeted-rejected parent (which are assessed to be broadly normalrange).

## **DSM-5** Diagnosis

If the three diagnostic indicators of attachment-based "parental alienation" are present in the child's symptom display (either 2a or 2b), the appropriate DSM-5 diagnosis is:

### **DSM-5** Diagnosis

309.4 Adjustment Disorder with mixed disturbance of emotions and conduct

V61.20 Parent-Child Relational Problem

V61.29 Child Affected by Parental Relationship Distress

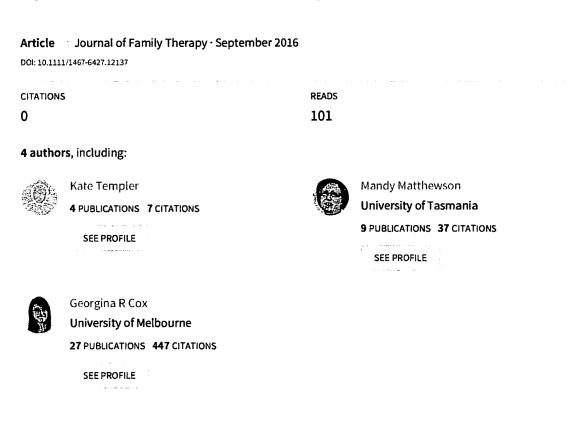
V995.51 Child Psychological Abuse, Confirmed (pathogenic parenting)

## **Checklist of Associated Clinical Signs (ACS)**

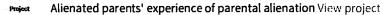
evident	not evident			
		ACS 1: Use of	the Word	d "Forced"
		ACS 2: Enhancing Child Empowerment to Reject the Other Parent		
		evident	not evident	
				"Child should decide on visitation"
				"Listen to the child"
				Advocating for child testimony
		ACS 3: The Ex	clusion E	-
		ACS 4: Parental Replacement		
		ACS 5: The Unforgivable Event		
		ACS 6: Liar - Fake		
		ACS 7: Themes for Rejection		
		evident	not evident	
				Too Controlling
				Anger management
				Targeted parent doesn't take responsibility/apologize
				New romantic relationship neglects the child
				Prior neglect of the child by the parent
				Vague personhood of the targeted parent
				Non-forgivable grudge
		ACS 8: Unwarranted Use of the Word "Abuse"		
		ACS 9: Excessive Texting, Phone Calls, and Emails		
		ACS 10: Role-Reversal Use of the Child ("It's not me, it's the child who")		
		ACS 11: Targeted Parent "Deserves to be Rejected"		
		ACS 12: Allied Parent Disregards Court Orders and Court Authority		
		evident	not evident	
				Child disregard of court orders for custody
				Child runaway behavior from the targeted parent

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# Recommendations for best practice in response to parental alienation: findings from a systematic review: Best practice...

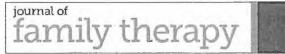


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Journal of Family Therapy (2016) 00: 00-00 doi: 10.1111/1467-6427.12137

## Recommendations for best practice in response to parental alienation: findings from a systematic review

## Kate Templer,<sup>a</sup> Mandy Matthewson,<sup>b</sup> Janet Haines<sup>c</sup> and Georgina Cox<sup>d</sup>

This study aimed to systematically review the literature pertaining to parental alienation to determine best practice for therapists and legal practitioners. Medline, Embase, and PsycINFO academic databases, the Cochrane Central Register of Controlled Trials and conference abstracts were searched. Included articles were peer reviewed journal articles or books published in English pertaining to a psychological or legal intervention for parental alienation. Ten articles were included in the review. It was found that changes in custodial or residential arrangements in favour of the targeted parent are effective in ameliorating parental alienation. Specialized family therapy addressing the alienation is effective in restoring family relationships and family functioning. A coordinated approach from therapists and legal practitioners is important in resolving parental alienation.

#### Practitioner points

- Parental alienation requires legal and therapeutic management to enhance family functioning
- Awarding primary parental responsibility to the targeted parent and providing specialized family therapy is effective in ameliorating parental alienation
- A specialized form of systemic family therapy for parental alienation can improve family functioning and prevent further parental alienation

Keywords: parental alienation; custody; residency; alienated parent; intervention; restorative.

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The term parental alienation is used to describe a process involving one parent (the alienating parent) teaching a child to reject the child's other parent (targeted parent), to experience fear when they are around that parent, and to avoid having any contact with them. The result of parental alienation is the breakdown of the relationship a child has with a parent or damage to that relationship (Darnall, 2011). There is currently no one definitive set of behaviours that constitute parental alienation; however, the defining feature is an attempt by the alienating parent to eradicate the relationship between the child and the targeted parent without reasonable justification (Meier, 2009). It is important to note that a child rejecting a parent on reasonable grounds, such as in response to parental abuse or neglect, constitutes estrangement (Garber, 2011) not parental alienation (Gardner, 2001; Reay, 2015). There has been considerable debate about the validity of parental alienation as a syndrome. There is a wealth of mental health and legal literature that debates the existence of Parental Alienation Syndrome; however, there is consensus that parental alienation does indeed occur (e.g. Kelly and Johnston, 2001; Meier, 2009; Rueda, 2004; Walker and Shapiro, 2010; Warshak, 2001).

Parental alienation can be a central issue in child custody disputes, with Baker (2010) noting the cluster of alienating behaviours being misinterpreted too often as indications of the parent's loving and natural desire to protect their child from the targeted parent. Meier (2009) argued that parental alienation cases are dominating the family court system in the US, wherein alienating parents often make false allegations of abuse against the targeted parent to ensure custody or residency decisions in their favour (Meier, 2009). Additionally, Darnall (2011) suggested that alienating parents place pressure on their children to publicly reject the targeted parent during court proceedings, thus causing further distress for the child. Although no official guidelines appear to exist, Sullivan and Kelly (2001) have suggested that alienation cases require both legal and clinical management, with professional roles clearly outlined in order to enable families to function more effectively.

Darnall (2011) explained that judicial interventions may depend on the severity of the alienation. Unfortunately, they are often based on an ill-defined notion of an appropriate outcome for the child. Relying on advice from mental health professionals with differing opinions, a number of different decisions can be made. In the US or UK, these decisions may include: (a) making orders leaving the child with the alienating parent while the parents undertake individual

and/or family therapy (Sullivan and Kelly, 2001); (b) setting in place strict visitation schedules; (c) threatening court sanctions to motivate parental compliance with orders; (d) altering custody or residency arrangements; and/or (e) making orders that the child live with the targeted parent (Darnall, 2011; Gardner, 2001). Further, mental health professionals may recommend to the court that no action be taken because of an expectation that the alienation will resolve without formal intervention (Bernet *et al.*, 2010; Darnall, 2011; Darnall and Steinberg, 2008).

Darnall (2011) reported that due to a lack of research and outcome studies on the impact of the child's adjustment to a change in family arrangements, many legal professionals struggle without guidance in deciding whether a change in custody or residency arrangements is to the child's advantage (Darnall, 2011). Without evidence-based best practice guidelines, mental health professionals have little assistance to offer their legal colleagues in identifying appropriate courses of action.

There are a broad range of short and longer-term negative outcomes for children exposed to a parental alienation process (Baker *et al.*, 2011; Bernet *et al.*, 2010; Johnston, 2005). As a result, there is a need for effective therapeutic intervention (Toren *et al.*, 2013). Interventions should aim to achieve positive outcomes for the child and the family, such as restoration of parent-child relationships (Darnall, 2011). Garber (2011) recommended using three guiding principles in treatment, namely, redirecting the alienating parents' needs, restoring the child's healthy role within the family, and avoiding blame. In doing so, Garber (2011) further suggested that similarly to legal interventions, psychological treatment should take into account the severity of alienation. To enhance the chances of an effective outcome, legal and psychology professionals should adopt a cohesive and collaborative approach to the management of parental alienation (Gardner, 1998). This requires a better understanding of best practice strategies.

## **Rationale and aims**

Although a number of legal and psychological interventions for parental alienation have been described in the literature to date (e.g. Darnall, 2011; Ellis and Boyon, 2010; <u>Gardner, 1998; Smith, 2016</u>). the evidence base for each intervention is unclear or undetermined. This study aimed to systematically review all available literature pertaining to parental alienation to determine best practice responses to

parental alienation from a psychological and a legal perspective. In doing so, the aim was to identify available interventions and determine their effectiveness in restoring relationships and resolving psychological symptoms.

Based on the outcome of this first aim, the second aim was to make recommendations about (1) therapeutic skills needed to achieve efficacious outcomes, and (2) effective intervention strategies for the restoration of relationships and the management of psychological maladjustment for all parties. These recommendations are relevant for Western English-speaking countries, such as Australia, the UK and the US, that have similar legal systems and psychological services.

## Method

### Design

A systematic literature search was conducted following the Preferred Reporting Items for Systematic Reviews and Meta-Analyses methodology (PRISMA: Moher, Liberati, <u>Tetzlaff and Altman, 2009</u>). These guidelines were selected as they are considered appropriate for systematic literature reviews, including evaluations of interventions (Moher *et al.*, 2009).

A narrative approach was applied in synthesizing the extracted data using Guidance on the Conduct of Narrative Synthesis in Systematic Reviews (Popay *et al.*, 2006). In this study, a meta-analysis was considered inappropriate due to the nature of existing literature containing a mixture of qualitative and quantitative approaches with a lack of randomized controlled trials (Garg, Hackam and Tonelli, 2008).

## Procedure and search strategy

Literature searches were conducted through the following academic databases: Medline, Embase, and PsycINFO from their inception to August 2015. The searches were repeated during July 2016. The Cochrane Central Register of Controlled Trials and conference abstracts were also searched. The following search string formed the basis of the search and was adapted as needed for each database: (parental alienat\* OR "parental separation" OR "parental conflict") AND (disorder\* OR family OR reject\* OR treatment OR therap\* OR interven\* OR outcome OR court OR custody OR divorc\* OR

depress\* OR self-esteem OR anxi\* OR well\*). Medical Subject Headings (MeSH) terms were used when searching Medline, keywords were used when searching The Cochrane Library and Subject Headings were used when searching Embase and PsycINFO.

The authors of included articles were contacted for additional information regarding any unpublished research. Additionally, reference lists of all included full text literature were hand searched in order to locate any additional studies that may have been missed by the database searches.

## Study inclusion criteria

For inclusion in this review, findings had to be peer reviewed journal articles or books published in English pertaining to a psychological or legal intervention for parental alienation. Studies had to investigate one of the following: the relationships of children with the targeted parent and/or alienating parent; attitudes or perceptions towards the alienating parent; changes of custody arrangements; or outcomes of therapy such as a reduction in psychological symptoms. There were no exclusion criteria in relation to the study design; however, articles describing hypothetical cases, or that were directly relating to divorce with no reference to parental alienation were not considered directly relevant.

### Data extraction

Data for included papers were independently extracted by one of three of the study authors and verified by another, with any discrepancies discussed with a third researcher. For each included study, data pertaining to the design, inclusion/exclusion criteria, participants, setting/context, specific intervention, time points, and study outcomes and results were extracted. Data were examined regarding the types of interventions discussed, with consideration given to the quality of studies in terms of limitations. handling of missing data, biases or withdrawals.

## Results

For the first search, one researcher retrieved a total of 3,006 results. removed 900 duplicates and screened the remaining 2.106 records by title and abstract for relevance. At this stage, 2.025 results not

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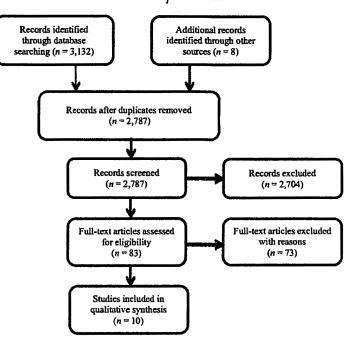


Figure 1. PRISMA flow diagram

meeting inclusion criteria were excluded. Full text publications were retrieved for the remaining 81 references, which were subsequently double screened by a second member of the research team. Any discrepancies were discussed with a third researcher. Of these, 72 were excluded for the following reasons: 37 did not refer to a specific intervention pertaining to parental alienation (recommendations or suggestions only); 13 did not refer to an outcome; 8 were published languages other than English; 7 were secondary publications; 2 were editorial/opinion pieces; 2 were hypothetical cases; 2 were not retrievable/published (thesis manuscript); and 1 article pertained to divorce. Following this, 9 separate studies met inclusion criteria and were subsequently included in this current review.

During July 2016, the searches were repeated. An additional 126 records were found. The titles and abstracts of these records were screened for relevance. The full text of one article was retrieved. This article was excluded because it was an opinion piece with hypothetical cases. No new articles met the criteria for inclusion in the analysis. The final search results are summarized in Figure 1.

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A total of ten studies met the inclusion criteria for the review, with publications between the years 1990 and 2015. Articles were either published in the United States of America, Canada, or the United Kingdom. The studies included in the review outlined interventions for parental alienation that consisted of changing custody in favour of the alienating parent, and specialized family therapy/mediation designed specifically to meet the needs of families experiencing parental alienation. Table 1 contains a summary of the findings.

The results showed that awarding primary parental responsibility of the targeted child to the targeted parent can ameliorate parental alienation (Dunne and Hedrick, 1994; Gardner, 2001; Rand et al., 2005). Further, separating the child from the alienating parent was not harmful to the child (Reay, 2015). Results also showed that damage to the targeted parent-child relationship as a result of parental alienation can be addressed through specialized forms of family therapy. A number of therapeutic programmes were identified, including Multi Model Family Intervention (MMFI), Family Reflections Reunification Program (FRRP), Overcoming Barriers Family Camp (OBFC), Parallel Group Therapy for PA and the Family Bridges workshop. Although these programmes have different structures and methods of delivery, they all aim to protect targeted children from further harm caused by the alienation and restore family functioning. These programmes are considered inappropriate for cases of estrangement where a child rejects an abusive parent. Results suggested that intervention for parental alienation needs to be court-mandated therapy with court sanctions for non-compliance (Lowenstein, 1998). None of the studies included in the review recommended waiting for spontaneous resolution of parental alienation, or letting the child decide custody or residency arrangement. Leaving the child with the alienating parent was found to exacerbate parental alienation (Gardner, 2001; Rand et al., 2005).

All but one study (<u>Toren et al., 2013</u>) included in the review were case series. In all case series there were no clear or defined outcome measures, no cases were matched with a control group and they were based on non-random samples, retrospective data analyses, and used only descriptive statistics. Toren *et al.* was a quasi-experimental study. This study included a treatment group and a partial control group; however, treatment allocation was not described. The sample size was small and there were some withdrawals prior to treatment commencing. As a result of the limitations of the included articles, the current authors were unable to determine which intervention was superior in

Author (year of publication)	Study design	Study population	Purpose	Intervention/methodology	Results
Dunne and Hedrick (1994)	Case series	21 children from 16 families who displayed behaviours consistent with Gardner's (1987) PAS	Aimed to analyse cases of PA and explore the characteristics of each case and how PA was addressed	Included cases were taken from the caseloads of clinicians working with divorcing families. Outcomes were based on clinical observations of changes in parental ali- enation. No objective outcome measures were used	PA was observed as "eradicated" in cases (n=3) when custody was changed in favour of TP Minor improvement or PA worse in cases engaged in traditional therapy with no change in custody
Friedlander and Walters (2010)	Case series	<ul> <li>55 cases consisting of children who were considered on the basis of clinical judgement to be at risk of PA and who completed MMFI</li> <li>The majority of cases were hybrid cases involved family enmeshment and/or estrangement that was not a result of serious abuse. A minority of cases did not involve family enmeshment and/or estrangement</li> </ul>	Aimed to describe MMFI and present prelimi- nary outcome data	Included cases completed MMFI – therapy involv- ing both parents and alienated child. Out- comes were based on clinical observations of changes in parental ali- enation. No objective outcome measures were used MMFI includes individual psychotherapy, family therapy, case manage- ment, education, and targeted intervention to reduce PA	Reduction of PA in some cases as indicated by an increase in time the TC spent with the TP or no further increase in PA post intervention In a small number of cases PA increased or therapy discontinued (number of withdrawals not provided)
Gardner (2001)	Case series	99 children who displayed behaviours consistent with	Aimed to describe cases of PA and compare outcomes of cases	TP was followed up 3 months to 19 years after the study author	In 22 cases custody was changed in favour of the TP. There was a

#### TABLE 1 Summary of Reviewed articles © 2

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Author (year of publication)	Study design	Study population	Purpose	Intervention/methodology	Results
		Gardner's (1987) PAS from 55 familics and their TP	where custody was changed in favour of TP to those where the AP had residential custody	made recommendations to the court pertaining custody. TP were asked if the alienation had changed. Outcomes were based on clinical observations of changes in parental alienation and feedback from TP. No objective outcome measures were used	decrease in PA in all of these cases In 70 out of 77 cases where custody remained with AP, PA increased In 7 cases PA decreased
Johnston and Goldmau (2010)	Case series	<ol> <li>37 adults who experienced PA as children, attended counselling for PA as chil- dren</li> <li>(2) Case records of 42 children from 39 families who attended counselling for PA</li> <li>All cases had resisted or refused visitation with one of their parents without legitimate justification in the context of a custody dispute</li> </ol>	Aimed to report out- come of a family counselling approach for PA	<ol> <li>Adults were followed up 20-30 years after therapy</li> <li>Therapy records of these cases were reviewed All included cases par- ticipated in a family counselling approached aimed at reunification between the child and TP. Outcomes were based on clinical obser- vations of changes in parental alienation and feedback from TP. No objective outcome measures were used</li> </ol>	<ol> <li>Almost all cases reunified with TP in adulthood. Some resented the court for being ordered to attend numerous therapy programmes</li> <li>Reduction in PA in half of these cases. In a minority of cases PA was resolved when intervention was early</li> </ol>

TABLE 1 Continued

Author (year of publication)	Study design	Study population	Purpose	Intervention/methodology	Results
Lowenstein (1998)	Case series	32 families experiencing parental alienation consist- ent with high conflict and Gardner's (1987) PAS	Aimed to compare the outcomes of families involved in adversarial litigation (n=16) to families who com- pleted mediation prior to litigation	Outcomes were based on clinical observations of changes in parental ali- enation for each group of cases Families gave satisfaction ratings of the intervention	Resolution of PA occurred in less than 3 years for mediation cases Resolution of PA occurred between 2 and 8 years for the adversarial case Mediation cases reported greater satisfaction with the intervention than did adversarial cases
Rand, Rand and Kopet- ski (2005)	Case series	45 children who displayed behaviours consistent with Gardner's (1987) PAS from 25 families	Aimed to examine the efficacy of therapeutic interventions for severe PA	Cases were divided into 3 outcome groups (inter- rupted alienation, mixed outcome, com- pleted alienation)and characteristic of each group described. No objective outcome measures were used	Alienation was inter- rupted when custody was changed in favor of TP Complete alienation or minimal reduction in alienation occurred when custody remain with AP and visitation with TP not enforced
Reay (2015)	Case series	22 children from 12 families who attended FRRP	Aimed to describe FRRP and present prelimi- nary outcome data	FRRP aims to reconcile chil- dren with TPs. Clinical observation of re- establishing and main- taining contact with TP was made pre and post intervention and up to 12 months post interven- tion. No objective	21 out of 22 children r established and main tained a relationship with TP Separation from AP wa not observed as harm ful to children

Kate Templer et al.

Author (year of publication)	Study design	Study population	Purpose	Intervention/methodology	Results
Sullivan, Ward and Deutsch (2010)	Case series	10 families attending OBFC between 2008 and 2009 These families unable to agrec on custody/residency and the children are resisting or refusing contact with a parent	Aimed to describe OBFC and present prelimi- nary outcome data	outcome measures were used OBFC is an intensive treatment programme for families experienc- ing PA. Self-report of satisfaction with inter- vention and changes in PA or custody arrange- ments post intervention were made	All were satisfied with the intervention 6–9 months post 2008 camp PA had decreased for 2 out of 5 families 2 out of 5 families reported minor reduc- tion in PA 1 family reported com- plete PA No follow-up data reported for 2009
Toren, Bregman, Zohar- Reich, Ben- Amitay, Wolmer and Laon (2013)	Quasi- experimental	<ul> <li>22 children and their parents who completed parallel group therapy for PA</li> <li>44 children who completed traditional individual and family therapy</li> <li>All children displayed behav- iours consistent with Gard- ner's (1987) PAS</li> </ul>	Aimed to assess the effi- cacy of parallel group therapy for PA	Parallel therapy is a short- term group programme for PA. Data were obtained from the Revised Children's Manifest Anxiety Scale (RCMAS); the Child- ren's Depression Inven- tory (CDI); and the Bell Object Relations and Reality Testing Inven- tory (BORRTI). Out- comes were compared	camp Anxiety and depression decreased from pre and post group inter- vention and coopera- tion between parents improved post inter- vention. Outcomes were significantly better for the intervention group compared with the traditional therapy group

Author (year of publication)	Study design	Study population	Purpose	Intervention/methodology	Results
Warshak (2010)	Case series	23 Children from 12 families who completed the Family Bridges workshop Children were included if they refused or were extremely reluctant to spend time with one parent. Children who were estranged from a par- ent due to abuse were excluded	Aimed to describe the Family Bridges work- shop and present pre- liminary outcome data	with the traditional treatment group Family Bridges is a work- shop aimed at improv- ing the target parent- child relationship after custody has been awarded to the TP and contact suspended with the AP Clinical observations of degree of the child's ali- enation were made. No objective outcome measures were used	Decrease in PA in 22 out of 23 cases post inter- vention Out of these 22, 18 main- tained these changes at follow-up (2 to 4 years) Increase in PA in 4 cases at follow-up when con- tact with AP resumed

Note: PA = Parental Alienation; PAS = Parental Alienation Syndrome; TP = Targeted Parent; AP = Alienating Parent; MMFI = Multi Model Family Intervention; FRRP = Family Reflections Reunification Program; OBFC = Overcoming Barriers Family Camp.

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terms of treatment outcomes. However, the results of this systematic literature review provide useful information on approaches to addressing parental alienation.

## Discussion

This systematic literature review aimed to identify all available interventions for parental alienation and determine their effectiveness in restoring relationships and resolving psychological symptoms. Based on the outcome of this first aim, the second aim was to make recommendations about therapeutic skills needed to achieve efficacious outcomes, effective intervention strategies and ways in which mental health professionals can assist the courts in their decision-making process regarding parental alienation. Ten studies met criteria for inclusion in the review.

A number of therapeutic programmes were identified in the review. Each programme is a specialized form of systemic family therapy. They all aim to protect targeted children from further harm caused by the alienation; improve the targeted child's psychological well-being; challenge the targeted child's distorted thinking and strengthen their critical thinking skills; improve the targeted parentchild relationship; prepare the alienating parent for an improvement in the quality of the targeted parent-child relationship and support them through this change; repair the co-parenting relationship; and strengthen family communication and healthy boundaries within the new family structure. Psychoeducation for all family members on the nature and treatment of parental alienation appears to be an important part of each programme.

Despite previous suggestions (e.g. <u>Darnall and Steinberg</u>, 2008), none of the studies included in the review recommended waiting for spontaneous resolution of parental alienation, or letting the child decide custody or residency arrangements. Additionally, leaving the child with the alienating parent does not appear to be an effective strategy (<u>Gardner</u>, 2001; <u>Rand et al.</u>, 2005) in addressing parental alienation as described by <u>Sullivan and Kelly (2001</u>). Leaving the targeted child in the primary care of the alienating parent appears to enable the alienation to continue and become more severe. The consequences of continued alienation are further damage to the targeted parent-child relationship (<u>Gardner</u>, 2001) and negative psychological and social outcomes for the targeted child, such as major depressive

disorder, low self-esteem, and insecure attachment styles as adults (Ben-Ami and Baker, 2012).

The weight of evidence from this systematic review suggests that leaving the child with the alienating parent exacerbates the alienation. Instead, the evidence supports changes in custody arrangements in favour of the targeted parent as an effective strategy for improving child-parent relationships and reducing distress in the child (<u>Dunne and Hedrick, 1994; Gardner, 2001; Rand et al., 2005</u>). Importantly, <u>Reay (2015)</u> observed that separating the child from the alienating parent was not harmful to the child. These findings are consistent with previous literature suggesting that courts should implement strict visitation schedules, changes in custody to the targeted parent or changes in child and target parent access arrangements (Darnall, 2011).

Lowenstein (1998) found that court-mandated therapy with court sanctions for non-compliance was effective in achieving a resolution to parental alienation. The evidence suggests that such interventions are most effective when implemented early before parental alienation is severe and the adversarial court process compounds the severity of the problem (Johnston and Goldman, 2010; Lowenstein, 1998).

Dunne and Hedrick (1994) and Rand (2005) suggested that traditional therapy alone was not effective in addressing parental alienation. The strongest evidence from the current review demonstrates that therapeutic programmes designed specifically to address parental alienation with court sanctions for non-compliance are most effective in addressing parental alienation (e.g. Friedlander and Walters, 2010; Reay, 2015; Sullivan et al., 2010; Toren et al., 2013; Warshak, 2010). Included articles show that such interventions can result in improvement in the targeted parent-child relationship as well as a reduction in psychological symptoms experienced by the targeted child. Specifically, this may be achieved via workshops, camps, retreats (Reay, 2015; Sullivan et al., 2010; Warshak, 2010), multidisciplinary family therapy (Friedlander and Walters, 2010), or via a parallel group therapy approach (Toren et al., 2013). Most included studies reported use of psychoeducation, parenting skills/coping skills, and therapy with all members of the family (Reay, 2015; Sullivan et al., 2010; Warshak, 2010), with the programmes being delivered by court-appointed psychologists or social workers and with the involvement of a parenting coordinator (Friedlander and Walters, 2010; Toren et al., 2013). Further, when these approaches were ineffective in resolving the alienation process and the effects of that

process, a change in custody in favour of the targeted parent was warranted.

Current findings are in line with Sullivan and Kelly's (2001) suggestion that interventions for parental alienation should include both a legal and psychotherapeutic response to facilitate restoration of family functioning when parental alienation is evident. Further, it is consistent with Gardner's (1998) recommendation that high conflict cases of parental alienation classed as moderate or severe require a joint effort between the court and therapist/s. It would seem that despite the controversy that developed as a consequence of some of Gardner's views (e.g. Houchin *et al.*, 2012; Waldron and Joanis, 1996; Warshak, 2001), his suggestion of a combined approach to resolution of the problem is a sound one.

## Practice recommendations

Where a child/children may be resisting or refusing contact with a parent in the context of parental alienation, a family approach in therapy with inclusion of all members, alongside legal interventions is recommended (Friedlander and Walters, 2010; Lowenstein, 1998; Reay, 2015; Sullivan et al., 2010; Toren et al., 2013; Warshak, 2010). Current literature shows that changing custody or residency arrangements in favour of the targeted parent can reduce and even ameliorate parental alienation. The available evidence suggests that the degree of change required may depend on the severity of the alienation. Awarding primary parental responsibility to the targeted parent when parental alienation is severe is an important step in ameliorating parental alienation. Research findings indicate that removing the targeted child from the care of their preferred parent does not harm them (Dunne and Hedrick, 1994; Gardner, 2001), even if transient distress is experienced. Indeed, removing the targeted child from the alienating parent will protect the child from further harm. It will also allow for an improvement in the targeted parent-child relationship without further interference from the alienating parent (Raey, 2015; Rand, Rand and Kopetski, 2005).

Inevitably, changing custody or residency arrangements will require adjustment for all the family members involved. Therefore. therapeutic support during this transition is important. Traditional family therapy, however, is ineffective and may cause further damage (Raey, 2015; <u>Warshak, 2010</u>). Instead the available evidence shows that systemic family therapy tailored to the needs of families

experiencing parental alienation is essential. The evidence indicates that specialized family therapy for parental alienation should occur as soon as parental alienation is identified (Johnston and Goldman, 2010). Specialized family therapy needs to be court ordered and noncompliance with court orders needs to be sanctioned. Such sanctions will provide alienating parents with an incentive to engage in therapy and, thus, make therapeutic change.

The current review identified a number of specialized family therapy programmes. These programmes have different delivery methods but share the same aims. When the shared characteristics of the intervention programmes are considered, a number of recommendations can be made. Firstly, any family therapeutic intervention for parental alienation must involve the targeted child, targeted parent and alienating parent. Further, any family therapy programme for parental alienation should:

- provide each family member with psychoeducation about parental alienation and its sequelae;
- protect the targeted children from harm caused by the alienation;
- use therapeutic intervention that reduces the targeted child's distress and improves psychological well-being;
- use techniques that challenge the targeted child's distorted thinking and teach them critical thinking skills;
- work to improve the targeted parent-child relationship;
- prepare the alienating parent for an improvement in the quality of the targeted parent-child relationship and challenge their distorted thinking;
- employ conflict resolution techniques to repair the co-parenting relationship; and
- establish healthy boundaries and communication within the family.

In order to achieve these outcomes, mental health practitioners working with families must adopt a non-judgemental approach. Therapeutic rapport needs to be built with all family members. This can be achieved by providing each family member with a supportive environment in which to explore their presenting problems while remaining neutral to each family member's views about these issues (<u>Rait, 2000</u>). Therapy should offer sessions with family members together as well as sessions with individual family members so that both individual and systemic concerns can be addressed (Lebow and

Rekart, 2007). Ultimately, the aim of family therapy is to achieve and maintain healthy parent-child relationships and to facilitate a new family environment that allows parents to maintain a healthy distance from each other with cordial communication on an "as needed" basis (Lebow and Rekart, 2007).

Of course, the challenge of implementing such therapeutic programmes lies in the reluctance of alienating parents to engage in a process that is likely to alter the nature of the parent-child relationships in a way that is contrary to their wishes. With successful therapeutic outcome being determined by the degree of engagement in the therapeutic process, it is essential that alienating parents be motivated to involve themselves in a programme that is aimed at improving their child's situation and commit themselves to actively participating in activities linked to therapeutic goals.

As these therapeutic goals seem to be contrary to the wishes of the alienating parent, it is necessary that the motivation to participate be externally driven. In this way, it is essential that courts adopt a strategy for managing non-compliance with therapeutic efforts that reflects a cohesive legal-psychological management approach. Rejecting court directions that are aimed at improving the child's circumstances should be met with clearly defined and consistently implemented sanctions. This is based on the notion that it is better for the child to live with the targeted parent and have limited contact with the alienating parent than to remain with an alienating parent unwilling to make genuine effort in achieving therapeutic goals.

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## Madsen, Kim@DCA

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From:Erin Meehan <meehanet@gmail.com>Sent:Tuesday, January 24, 2017 8:15 PMTo:Madsen, Kim@DCASubject:Re: Parent Alienation discussionAttachments:Board of Behavioral Sciences submission.pdf

Dear Ms Madsen

Thank you for the opportunity to address the Board via email from New Zealand. Child protections matters are international.

I belong to a facebook group for alienated parents. My attention was drawn to this Boards considerations. I attach my submission of personal experience. In the end all children want to be loved by both parents. It saddens me deeply to think that on the rare occasions professionals were engaged with our isolated family the cries for help were missed or misinterpreted.

I am not suggesting child support services pull out of their role, only that they fully inform both parties of their information from the get go. In my case the children had interaction with four registered psychologists, numerous social workers, had admission for surgery that was misinterpreted as torsion of teste but was posthumously reported by friends of the deceased as first recollection of sexual abuse experience, at the age of four years. The alienating parent had full mind control even in the safe environment of the counseling session and over a period of ten years the only person who recognized sexual abuse was the child support family carer chose to remain silent.

I think it is possible to improve the outcomes for children without disintegrating the current services. Training and teaching new recruits would be a good step in this vital change of approach.

Regards

Erin

On Wed, Jan 25, 2017 at 7:58 AM, Madsen, Kim@DCA <<u>Kim.Madsen@dca.ca.gov</u>> wrote:

Good Morning Ms. Meehan,

You may send your correspondence related to the upcoming discussion regarding the inclusion of parent alienation in school curriculum to the address listed below. Alternatively, you may email me your comments.

Best wishes,

Kim Madsen

**Executive Officer** 

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Submission in support inclusion of altering the 7-Hour Child Abuse course curriculum for Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, and Licensed Educational Psychologists to include the study of Parental Alienation and its diagnostic indicators.

**Dear Board Members** 

I have personal experience of parental alienation.

The toxicity level in my home was extreme.

There was weekly fighting between parents including swearing, screaming in response.

The children were at times afraid of both parents.

From my perspective I did not recognize parental alienation. I was constantly defending and vigilant for the next sneaky assault.

I was hospitalized with high blood pressure with first pregnancy for five weeks. I was terrified of returning home but unable to report this to the hospital staff, just having time away in hospital was relief.

The behaviours I experience go beyond the realm of parental alienation but I will list them all.

Sexual abuse of two of the children.

Unwitnessed physical abuse of the children however when male 8 yrs picked up female sibling 6 yrs and threw her into a glass ranchslider the child was about to me punished by myself. The alienating parent raced to the child first, the child vomited with worry the alienator slipped in the vomit and everyone laughed. But the source problem was never addressed.

The Child never spoke about it even at counselling for over a year that commences about a year later following suicide attempts in an eight year old.

The children suffered accidents all the time. Bleeding heads, being dropped on their head, burns to leg when on the farm motorbike and being caught in the paddock electric fence. Once the 9 yr old girl complained daddy opened a door onto her.

Their toys were damaged, run over by the tractor or pieces of doll house and other toys would mysteriously disappear. On one occasion a \$90 water slide birthday present - the equivalent of a \$900 toy in 2017 terms was ripped. No one saw it happen, it was stored and set up on a grass area beside the house.

When the children applied to go on school trips equipment on the farm would be damaged, the chainsaw fed out in the feedout wagon for silage, damaging both. Bulls were let out onto the main road, causing traffic accident; the bosses horses not fed. There were perhaps daily dramas.

Stock were injured in the milking shed and surrounds. Tails torn off, hips broken. Some had to be euthanized.

The children were told not to cuddle me because I had a prior injury - fracture to T 12. This was additional to spinal disc injury caused by the partner deliberately pulling a wash down hose from under my feet. Specifically if I winced with pain he would yell at the children to go away I did not want kids near me. When sent outside to play a 12 yr old told his father I did not want him in the house – probably because of prior comments from his father. The father built the 12 yr old a home in the farm hayshed for 3 nights and left the 12 yr old alone by himself with no lighting or power in that shed. On day 3 the 12 yr old ran away from home.

If the partner went into town he would buy Kentucky Fried chicken for the children but nothing for me. Messages of exclusion were always being prompted to the children.

When the 12 yr old boy ran away from home the partner was sent to look for him. Police then social workers were involved. He told the police I, the mother did not want the son. Social services acted on this advice and I did not see my son for six months. I only found out this when an ex parte custody order was issued 13 days later. By the time I convinced my partner to retract his lie, which he did, my son had stated he did not want contact with either parent. He was placed with my husband's family.

I obtained a no contact order but this was overridden by the Child Services custody order. Despite the younger two children not being under child services he disobeyed the order and regularly went to my daughter's netball games. He gradually built a relationship with her whilst continuing to undermine me, and blatantly disregard Court orders. All unbeknown to me.

Financial constraints continued and I did not recognize the depth of the alienation.

The effects of parental alienation, like any illness not treated compound.

My son committed suicide at the age of 26.

His sister who had a strained relationship with me, had moved out of home at 16 to live with her father. After the funeral of her brother she mentioned I was just trying to control her and I wondered if that was a message that had been drilled into her whilst a cunning plan to take her was underway once the age of 16 and the protection or non-contact order expired.

The dangers of not recognizing parental alienation were in this case that criminal behaviour was covered up by reinforcing the idea that the children could go to no one else, that their mother didn't want them. A simple test by the social workers of interviewing both parents separately with full disclosure of what had been said by the other parent alongside and parallel to the normal processes of child processing could have brought the real problems into the open when the children were of an age to help them. This need not traumatize the children but bring the alienated parent up to speed with secret or undermining processes that are often missed with the volume of self-protection required in deflecting a parental alienator.

E Muchen

Erin Meehan 25/01/2017

# RECEIVED

# JAN 23 2017

Dear Ron Berglas M.Ed. Via Lynn Steinberg, PHD BOARD OF BEHAVIORAL SCIENCES January 18, 2017

First I would like to thank you for taking on the challenge to change the 7-Hour Child Abuse course curriculum for Licensed Clinical Social Workers, and Licensed Educational Psychologists. Parental alienation is a huge problem. Unfortunately, there's not much that can be done about it at the current time. Parental alienation is abuse not only to the parent being isolated but to the child/children. I am assuming that the parent removing the child is usually angry with the other parent and wants some type of control. Problem is it hurts everyone. The legal system will do something about physical and sexual abuse because these are things that can be proven. The legal system, however; does nothing as it relates to mental, verbal, spiritual, financial or any other type of abuse that cannot be proven with concrete evidence so the people and including children go on without any safety protection. This is not ok and should not be accepted in today's society. This is my goal for writing to you and I will begin reaching out wherever I can. This is only a beginning with you. Although, I don't know you I appreciate you as now I know what I want to do with my life!

I am going to share some of my story so you can see what people go through, although; I am sure you have some idea already. I will start with my ex-husband is also narcissism.

The father I am going to describe had two children with me. One son and one daughter. I will refer to this son as son one. My ex-husband and I were married August 3, 2002 only a short six months after meeting him. We stayed together until 2008 when I had finally had enough of his abuse. I took son one, son two (my son with a different father) and our daughter and moved into our own apartment. While my ex-husband and I were together there was lots and lots of arguing. A lot of times the arguing was done in front of the children. At time I didn't realize how detrimental this behavior was. I am glad I know today though. The arguing was so terrible that son two age 4 after an argument said to me "mom why don't you just move away"? Now, this was a lot coming from a small child to state and I knew I couldn't just ignore it. A few short weeks later we moved into our own apartment. I ended up with custody and the father got visitation rights. I even allowed son two too go on the visits due to the relationship the father and son had built over the years.

Now, let me back up a little. I will mention I am in recovery and did have some slips, but always found my way back to recovery. My ex-husband is also in recovery and thankfully during our marriage he did not relapse/ He continued going to meetings which is good the problem is that he would go there and act like a victim and talk down about me. This made it harder and harder to keep going back to the meetings because I felt I was being isolated by everyone. My ex-husband would talk to anyone and everyone wherever he would find someone to listen and give him the attention he was seeking by being a victim. So, one we did separate it doesn't surprise me that his behaviors of talking down about me would continue. No surprise! The problem is that he was now talking to the young children about me, but I did hope he wouldn't. When he was talking to the children about me I feel that's when the abuse started which would

get worse over the years. Manipulation was a tool my ex-husband used a lot. I cannot say for sure, but I think he used manipulation in order to attempt to get people to see things the way he wanted them to see them. I also believe he had no mercy on who he used manipulation with including the children.

During my children's visits with their father I am assuming they must have heard a lot of negative talk presumably about myself. After one visit son number one came back and gave me a hug and said "but, I love my mom". One time my son told me "you never tell me anything". He knew about child support and that his father has to pay it. It seemed like anything his father didn't like he knew about. I did tell my son in response that I do tell him things just not adult business. I told him his job was to worry about what he was going to play with and what he's going to wear to school. He was nine at this time. I didn't want to let my children go back to their father's house as I could almost guess what they were enduring during their visits.

Son number one and I always had a good relationship, but I could tell that he was a" daddy's boy" and I was ok with that because I was always a daddy's girl and I understood that. The day came when son number one was allowed to go live with his father due to the courts. I was sad, but I knew I would at least have our daughter. For some reason my ex-husband never tried taking her he just wanted our son. On the day my son moved out he told us (me and his sisters) that he loved us and would miss us. He also said "well, at least I will still be able to visit", little did he know at the time that most likely would not happen as his father had other plans.

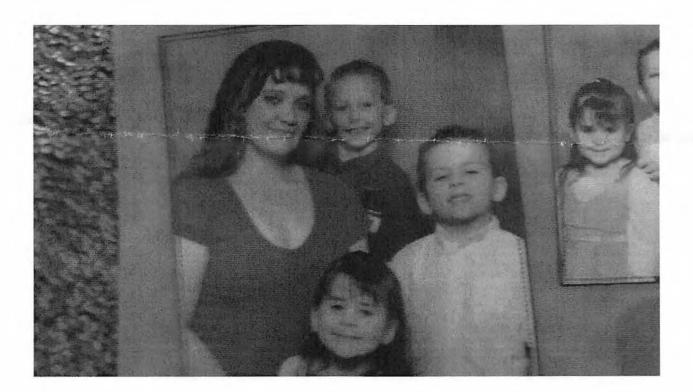
My son number one never did come for a visit, although; I tried, the first time I tried my son started calling me names and pounding on the car. This event was so horrible that he scared his two sisters to the point they were crying. I finally gave up and he didn't come for his visit. His father was standing there watching the whole thing and never once did anything to correct our son. Not only was this harmful to me and girls, but harmful to himself because he will grow up thinking this behavior is ok.

This behavior did continue over the years and still continues today. Son number one will be fourteen in March. There have been times when my ex-husband would come around because I still had our daughter and occasionally he would want to see her. My ex and my son knew I should be having visitation and yet they would stand and stare at me and tell me our son wasn't coming with me. I finally gave up because I got tired of fighting and feeling so small when I should be walking with my head high knowing I am his mother. I don't have a relationship with him today and very rarely talk to him because it doesn't feel good anymore and I know my ex is happy about this. Now, he has taken our daughter and I have to fight through the courts to try to get her back before he does the same thing to her.

Well, that's a portion of my story and how Parental Alienation ended up in my life. I hope this helps.

Best. un Bunng 386

Karyn Buning Buning.karyn589@outlook.com





PAS Intervention www.PAS-Intervention.com PASIntervetnion@aol.com Info@PAS-Intervention.com Federal Tax ID: 27-4382600 C/O Joan T. Kloth-Zanard 320 North George's Hill Road Southbury, CT 06488 203-770-0318

# RECEIVED

January 7, 2017

JAN 1 2 2017

Board of Behavioral Sciences 1625 N Market Blvd., Suite S-200 Sacramento, CA 95834 BOARD OF BEHAVIORAL SCIENCES

Dear California Board of Behavioral Sciences:

My name is Joan T. Kloth-Zanard. I am an expert in psychological abuse and in particular, during high conflict divorces. The type of psychological abuse that we see in high conflict divorces has many names. The most prevalent name is Parental Alienation.

After 2 decades of research, study and work with victims of this form of abuse, I can categorically tell you that the professionals are not properly trained and/or educated in this type of domestic violence, especially those working in the courts. I strongly advocate for the inclusion of Parental Alienation and its diagnostic indicators in the training curriculum for any and all of the professionals working within the court system, but especially the family court system, this includes, judges, attorneys, family court representatives, DCF workers, therapists, GALs and more

I have seen far too many mistakes made at the expense of the children. Far too many children destroyed emotionally, psychological and permanently. The damages cannot be undone. These children live with the PTSD of this form of abuse for the rest of their lives. It is not a good prognosis. In fact, the statistics are staggeringly dismal for these children. See the attached statistics from my book.

I guess what I am trying to say is this. What is the worst-case scenario if you include this in your training? The professionals do not need to use it? Well, isn't that better to have them prepared and knowledgeable, rather than ignorant of this severe form of domestic violence in the form of psychological abuse?

I also implore you to go out to the following website page and click to download the first few chapters of our book for free. Pay close attention to Chapter 3 of my book on Parental Alienation as I think this best sums up the importance of providing proper training and education to all professionals who want to work with the family and juvenile courts. <u>http://www.pas-intervention.org</u>. Click on Education and then books. The first book on the left, has a link below its introduction to the book.

Best regards,

Joan T. Kloth-Zanard, MFT, GAL, RSS, ABI, LC

## **CHAPTER 13**

## STATISTICAL INFORMATION FROM MASSACHUSETTS GENERAL HOSPITAL

## RESEARCH, DR. AMY J. BAKER AND DR. LOWENSTEIN, DR. KRUK OF CANADA March 2009

Recently, Massachusetts General Hospital (MGH) conducted a research project on the effects of High Conflict Divorce on the children. What they discovered was an overwhelming and profound impact on the emotional wellbeing of the children. The age of the child did not matter. The anxiety of the high conflict divorce was devastating. In their minds, no matter the age, they think, "If Mommy and Daddy no longer love each other, then will they stop loving me too?" This fear ultimately leads to anxiety, which invariably can cause an emotional meltdown at various levels. MGH also discovered that the more the parents fought or were at odds with each other, the more intense or disturbed the children became mentally and emotionally. And the more disturbed and upset the children became, the more their emotional wellbeing was affected. The following are the statistical results from MGH's project on the Impact of High Conflict Divorce on Children:

- 65% had anxiety severe enough to require therapy
- 56% Developed Attachment disorder;
- 48% had abnormal fears and phobias;
- 44% of both boys and girls became physically aggressive;
- 31% had sleep disorders
- 29% withdrew from activities including ones that they loved to do
- 24% developed opposition defiant behavior, including temper tantrums and uncontrolled outbursts
- 21% prematurely became involved in sexual activity
- 13% began bed wetting
- 10% developed dissociative personality disorders (once known as multiple personality disorders)

Amy J. Baker, Ph.D backs this up with her research in her article, *The Cult of Parenthood: A Qualitative Study of Parental Alienation, Cultic Studies Review* and in her book, *Adult Children of Parental Alienation Syndrome – Breaking the Ties that Bind (2007).* Dr. Baker's research and interviews of 38 adults who were victims of PAS as children revealed seven (7) precedents about the effects of PAS. Furthermore, as Baker points out, these abused interviewees suffered lifelong pain as a result of being alienated from a once loved parent (36). Ms. Baker's results from her interviewes are as follows:

• High rates of low self-esteem to a point of self-hatred

- 70 % of the adults suffered with serious depression episodes in their adult life.
- 30% had substance abuse problems with drugs and alcohol
- 42% had trust issues with themselves and/or others
- 50% were alienated from their own children, thus proving that PAS is multigenerational
- 66% had been divorced and of those, 25% were divorced more than once
- And the last pattern was Identity issues

Dr. F. L. Lowenstein of Southern England Psychology Services also describes the problems that the child of PAS suffers. His list includes:

- Anger
- Loss or lack of impulse control in conduct
- Loss of self-confidence and self-esteem
- Clinging in separation anxiety
- Developing fears and phobias
- Depression and suicidal ideation
- Sleep disorders
- Eating disorders
- Educational problems
- Enuresis
- Encopresis
- Drug abuse
- Self-destructive behavior
- Obsessive compulsive behavior
- Anxiety and panic attacks
- Damaged sexual identity problems
- Poor peer relationships
- Excessive feelings of quilt.

According to Dr. Edward Kruk, associate professor of social work at the University of British Columbia, whose three-year study is now in the hands of Canada's justice minister, "Some 85 per cent of youth in prison are fatherless; 71 per cent of high school dropouts grew up without fathers, as did 90 per cent of runaway children. Fatherless youth are also more prone to depression, suicide, delinquency, promiscuity, drug abuse, behavioral problems and teen pregnancy", warns the 84-page report, which is a compilation of dozens of studies about divorce and custody, including some of his own research over the past 20 years. I believe that this statistic about the Harm of Fatherless Families will soon include Motherless families where PAS is concerned, thus making these statistics ominous and of serious concern. Though the stats on Motherless families related to PAS have not had a chance to be studied, I can almost guarantee that the stats would be quite similar where PAS is involved. It is not just the lack of a father or mother, (think families where a father or mother has passed away in an intact family), but instead think about the psychological abuse from PAS which pushes these kids to react so horribly.

What this means is that these children are losing the battle to have a normal life. Because of the anxiety disorder, which leads to attachment disorders, they never learn how to have a normal emotional relationship with others. If the fighting continues, the child has no choice but to spiral out of control, becoming more and more anti-social in their behavior and responses. Ultimately, if the war is not ended, the weaker of these children can and will end up with personal and mental problems for the rest of their lives. This is why it is so important for parents to put aside their differences, angers and need for retaliation/revenge. This is why a program like PIPI, Prevention and Intervention Program Initiative is so important. If we can get to these parents before this happens, then we can stop the ravages of high conflict divorce on the children.

For more information go to the following websites: http://paao-us.com/StatsandCharts.asp http://www.prevent-abuse-now.com/stats.htm

## Citations:

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Baker, A. Accessed March 2005) The Cult of Parenthood: A Qualitative Study of Parental Alienation, Cultic Studies Review, Vol. 4, No. 1 http://f4.grp.yahoofs.com/v1/kGNgQpS2btksTX7hfl\_BAGMbqPtYtOeMa4RdGXV1vXRdH 4R58xD3bmeG0R6ObDPj\_bvMvSaYayJczdsEcTxu/CultofParenthood%20final%20versio n.doc

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Kruk, E. Children harmed by sole custody, report says. Canadian judges rarely use voluntary arrangements in which kids live with each parent roughly equally Apr 03, 2009 04:30 Am.

http://www.thestar.com/article/612728

Lowenstein L F: The Psychological Effects and Treatment of Parental Alienation Syndrome. Justice of the Peace Vol. 163. No... 3 January 16, 1999 p 47-50.

2072 Thornhill Drive Akron, Ohio 44313

Tel.(330) 864-2033

STATE OF CALIFORNIA

Friday, January 6,2017

Board of Behavorial Sciences

625 North Market St., Ste.S-200 Sacramento, California 95834 RECEIVED JAN 0 9 2017 BOARD OF BEHAVIORAL SCIENCES

Re: Proposed chenge to 7-hour Child Abuse curriculum for Pyschologists, Marriage, Family & Child Counselors, and Social Workers to include "Parent Alienation"

Dear Sirs,

I understand that you are considering adding "Parent Alienation" to the course on "Child Abuse" at your March 7, 2017 meeting.

I urge you to do so because it was the Number One obstacle I encountered in instigating joint custody.

The clinical observation I bring to you is over 1,000 cases.

It began on June 18,1981 when 174 men gathered in the Airport Hilton Hotel in Houston, Texas. They came from all quarters of the country representing "fathers rights" groups. We began the national fathers rights movement with those 174 groups. Today, that movement is international with more than 20,000 groups.

I had 23 lawyers sent out each day to courts all over California. In Orange County, alone, we had 47% of all the custody cases . . . fathers were so desperate to be able to see their children following divorce.

"Joint custody" was the answer. And "parent alienation" was the obstacle. Divorcing mothers wouldn't share.

In Orange County it took a woman judge, Sheila Sonenshine, who insisted upon cutting through this to get ex-wives to be more reasonable . . . on penalty of losing custody. She was tough! But, it worked.

Therefore, consider adding "Parent Alienation" to the course.

Koehler IV

cc. Honorable Katarina Cook, Domentic Relations Judge, Summit County, Ohio Swearing in Ceremony Honorable Katarina Cook Summit County Domestic Relations Court

January 5, 2017

Master of Ceremonies – Scott Gale, Chief Deputy Clerk Akron Municipal Clerk of Courts

Procession of the Judiciary

Invocation......Honorable Annalisa S. Williams Administrative Judge, Akron Municipal Court

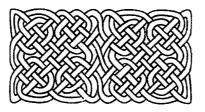
Pledge of Allegiance.....Christian, Noah & Jacob Cook Thomas, Madeline, & Keira McLaughlin Jordan Wear

National Anthem.....Eve McCarty

Welcome......Margaret Andreeff Matejkovic, President Akron Bar Association

Introduction of the Judiciary.....Jim Laria Clerk, Akron Municipal Clerk of Courts

Speaker.....Honorable Julie Schafer Judge, Ohio Ninth District Court of Appeals



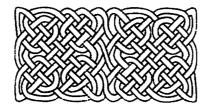
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SpeakerAttorney Don Hicks
Special MusicCheryl Wear, Judicial Attorney Judge Katarina Cook
Administration of OathHonorable Ted Schneiderman Ret. Judge, Summit County Common Pleas Court
Holding of the BibleJacob Cook
Donning of the RobeKevin Cook
AddressHonorable Katarina Cook Judge, Summit County Domestic Relations Court
BenedictionPastor Mark Ford, Executive Director Love Akron Network

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Registered in Ireland No. 458246

### RECEIVED

JAN 17 2017

BOARD OF BEHAVIORAL SCIENCES

9 Heywood Village, Ballinakill, Co. Laois Ireland. 06/01/2017.

The California Board of Behavioural Sciences, 1625 N Market Blvd., Suite S-200 Sacramento, CA 95834.

### Re: Inclusion of Parental Alienation onto the Curriculum.

#### Dear Sir / Madam,

I am contacting you in relation to the above and to advocate that the phenomenon of parental alienation would be included onto the curriculum of training for allied health professionals registered and / or accredited by your organisation.

To this end I have attached:

- A brief biography of myself.
- A summary of the points I wish to advocate to the board.
- An outline of the phenomenon of parental alienation to include a definition, impact on children, need for practitioners to be aware of and informed of the dynamics of parental alienation among others.

I remain available for any queries or clarifications that the board may deem appropriate.

Yours sincerely,

Brien O'Sullivar

Brian O Sullivan, Dip EMS, B.A. Psych & Psych Testing, M.Sc. Systemic Family Psychotherapy.

### Brian O'Sullivan

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Registered in Ireland No. 458246

Brian O Sullivan is a fully licensed, accredited and registered Consultant Systemic (Family) Psychotherapist with the Family Therapy Association of Ireland (www.ftai.ie). He is entitled to full accreditation with the European Association of Psychotherapy (www.europsych.org). He is a member of faculty, academic and programme leader for Post graduate Family Therapy Programmes at a private university in Dublin, Ireland. His primary undergraduate award was in Emergency Medical Science from the faculty of medicine at University College Dublin in 1999. He then earned a B.A. Degree in Psychotherapy and Psychometric Testing before earning a M.Sc. in Systemic (Family) Psychotherapy from the Family Therapy Training Programme, Department of Child and Family Psychiatry, Mater University Hospital and University College Dublin, Ireland.

He has been published in peer reviewed journals nationally and internationally. His area of interest, research and practice is the phenomenon where children refuse or resist contact with a previously loved parent in the context of a high conflict separation or divorce often referred to as Parental Alienation.

He has completed the only Interpretative Phenomenological Analytic Irish study regarding parental alienation with permissions and ethical consent from the Human Research Ethics Committee at University College Dublin. He has delivered a presentation and summary of his research findings regarding parental alienation to the British Psychological Society's Annual Conference in Nottingham, England in April 2016 with Dr. Sue Whitcombe of Teeside University, U.K. and Dr. Maria Verrachio, Forensic Psychologist at Chieti University, Italy who made presentations regarding their own research in this area.

He presented his paper titled "The Alienated Child" published in the Irish Journal of Family Law (2013) at the International Parental Alienation Awareness Day conference in Ireland during 2015. He delivered seminars, clinical case examples and strategies for working with families experiencing parental alienation to child protection social workers in Ireland and he continues to provide educational seminars to post graduate students throughout the third level sector in Ireland regarding parental alienation. Brian acts as an expert witness to the Irish Family Law Courts where parental alienation is considered a factor in complex family law cases.

Brian has recently completed the design and delivery of two post graduate Masters Programmes. The first, a Masters in Child and Adolescent Psychotherapy validated and accredited by Middlesex University in London and the second, a Masters in Family Therapy currently undergoing the accreditation / validation process with Middlesex University in London (delivered in Ireland). Brian has incorporated the phenomenon of Parental Alienation onto the curriculum of both of these programmes.

He is the only Irish member of the Parental Alienation Study Group (pasg.info). This international organisation is comprised of over 240 legal and mental health practitioners in over forty countries dedicated to the study of parental alienation.

### Summary of points to be advocated to the Board of Behavioural Sciences:

I believe that the placing of parental alienation onto the curriculum is important because:

- The phenomenon of parental alienation has been identified in the empirical and clinical literature since the early 1950's.
- The Diagnostic Statistical Manual (DSM) task force committee explicitly stated that parental alienation is a relational difficulty. They have placed the spirit of alienation into a variety of categories of pages 716,718 and 719 of their current fifth edition.
- A process of training and accreditation of professionals working with parental alienation ensures that ethical, evidence based best practice becomes available from practitioners to families experiencing parental alienation.
- It is crucial that practitioners working with families and children be informed and educated regarding the dynamics of alienation as well as being well positioned to differentiate alienation from true estrangement.
- It is imperative that practitioners be mindful of the signals indicating the emergence of parental alienation in families and acquire the knowledge and skills to intervene effectively at these times.
- Children come into contact with a range of professionals every day. It is crucial that these professionals are informed to convey the message that children should not be forced or encouraged to reject one parent to please another.
- Parental alienation has significant detrimental psychological, emotional and physical effects on children and families for their lives. Additionally, it is intergenerational that is, the dynamics continue on into the families that the children create in their own adult lives perpetuating the alienation into a further generation of families.
- Practitioners must become informed and educated about the dynamics of alienation to effect change for the children and families that they engage with professionally.
- This education and informed positioning of professionals may facilitate early intervention with children and families before they progress along the spectrum from mild to severe alienation.
- Informed practitioners could work with children in age appropriate ways enabling them to navigate in a healthy way the pressures placed onto them to take sides in their parent's conflict.
- Informed practitioners could work with parents, extended families and communities to enhance awareness regarding the current and future negative impacts of alienation on the children.
- Placing parental alienation on the curriculum would result in more empirical research being conducted regarding the phenomenon.
- Severe and strategic parental alienation is psychological and emotional child abuse. It needs to be seen as such.

### Why do children reject a previously loved parent?

The literature provides us with a number of terms to explain this phenomenon such as Parental Alienation Syndrome, Parental Alienation (no syndrome), post-separation parental rejection (Clarkson & Clarkson, 2006) intractable contact, implacable hostility (Munby (2006) over- burdened child, Medea syndrome, Parental Alignments, programmed and brainwashed children (Rand 2011).

More recently the current edition of the Diagnostic Statistical Manual 5 (DSM) and the European equivalent, the International Classification of Diseases 9 (ICD) defines this phenomenon as "Child affected by parental relationship distress" (CAPRD) Regardless of what label is chosen the challenge of this phenomenon remains the same.

Parental Alienation can be defined as "a child, usually one whose parents are engaged in a high conflict divorce, allies himself or herself strongly with one parent (the alienating / preferred parent) and rejects a relationship with the other parent (the targeted / alienated parent) without legitimate justification. The primary behavioural symptom is the child's refusal to have contact with the targeted parent" (Bernet et al 2010).

The concept of Parental Alienation is not new, psychoanalyst William Reich (1949), wrote of parents seeking revenge on their partners by robbing them of their children. (Fidler & Bala, 2010) Gardner (1985) claimed an increase in the incidence of Parental Alienation during the early 1980's as Courts began to change the way in which custody was decided. Gardner described the concept as the resident parent implementing a variety of direct and indirect techniques, designed to alienate the children from their non-resident parent. Consequently the children recruited by one parent against the other become preoccupied with unjustified criticism and hatred towards the non-resident parent.

Johnston & Roseby (1997) use the term "aligned" parent, "rejected" parent and "children in alignments". They argue, the alienating parent might be jealous of the other parent or might want to obtain leverage in divorce settlements regarding property distribution or payments such as maintenance. He or she turns the child against the parent, motivated by revenge, guilt, fear of losing the child and losing the primary parent role or control over the child.

More recently Andre (2004) describes alienation as an observable constellation of hateful behaviours on the part of a child who venomously rejects and directs undeserved anger towards a previously loved parent during or following a separation or divorce.

Godbout & Parent (2012) point to a number of researchers that describe alienation as an alliance between a parent and a child that isolates the other parent.

It is important to distinguish alienated children from those who demonstrate differential preferences for one parent based on normative and expectable reasons (Kelly & Johnson 2001). Some children have good reasons to be avoidant and hostile towards a parent. Examples would include witnessing domestic violence, experiencing sexual /physical abuse or inept parenting by the rejected parent (Fidler & Bala, 2010). This is considered realistic estrangement whereas an alienated child is described as expressing freely and persistently unreasonable and negative beliefs that are disproportionate to the child's actual experience with that parent. On the other end of the spectrum sometimes, children have an affinity towards one parent as a result of age, gender, temperament or shared interests. In divorcing families this can take on new alarming meanings for some parents, however this is considered a developmentally normal ebb and flow of preferences and is not considered alienation (Kelly & Johnson, 2001).

### What does parental alienation look like?

- The following characteristics are provided by (Andre, 2004) in considering the presence or absence of parental alienation.
- Is there or was there a high conflict divorce, separation or a protracted battle in relation to custody or access?

- Is the child's anger, hatred or rejection disproportionate to any "crime" that the parent is accused of?
- Did the child have a loving relationship with the now rejected parent?
- Is the rejection accompanied by extreme resistance to visit the rejected parent?
- Does the child shun the parent in public?
- Do the child's perceptions lack duality, is there only black and white?
- Does it seem that there is only "bad" in the parent with no gratitude or affection for the parent?
- Are the child's reasons for rejection of a parent scripted, lacking substance and accurate detail?
- Has the child added to or embellished the script with his or her own contributions to the rejected parent's badness?
- Does the child insist that he or she has not been influenced by anyone, but that he or she has independently chosen his or her own behaviours and opinions?
- Does the child protect and idealise the aligned parent?
- Do the actions of the aligned parent suggest an agenda of anger, negativity or destructiveness towards the rejected parent?
- Does the child appear to be functioning normally in other settings, but upon closer inspection, has other problematic inter-personal relationships?
- Is there a distinct outward lack of guilt or remorse on the part of the child?

Additionally, Kelly & Johnston (2001) provide us with a typical presentation of alienation.

There is extreme disproportion between the child's perceptions and beliefs about the rejected parent and the actual history of the rejected parent's behaviours and the parent child relationship (Wallerstein & Kelly 1980). The Alienated Child freely expresses hatred and an intense dislike for the rejected parent. This contrasts with most estranged children. They demonise and vilify the rejected parent, they frequently point to frivolous reasons to justify their hatred and they are usually not shy about broadcasting the perceived failings of the rejected parent to others.

Common behaviours that have been described as consistent with that of an alienated child are, their strong resistance to contact with the rejected parent, their absolute refusal to see the parent in any setting and their determination to terminate the child / parent relationship. These children strongly articulate their right to choose not to see the rejected parent. They insist that this decision is theirs and theirs alone.

Other common behaviours are around the child's story. Their allegations about the alienated parent are mostly identical to those of the aligned parent's. Their story is scripted and repeated endlessly with little or no underlying detail to support the allegations, unlike children with true histories of abuse or neglect. The alienated child has adopted the allegations. The alienated child's story sounds rehearsed with frequent use of adult language and phrases. There is no obvious guilt as the child continues to denigrate the alienated parent.

Alienated children have been given permission to be powerful, hostile and rude to the alienated parent and his or her extended family. Previously loved pets living with the rejected parent are discarded and denigrated, with proud descriptions of their new perfect replacements provided by the aligned parent (Kelly & Johnston, 2001).

The aligned parent may believe that the child does not need the alienated parent in his or her life. The aligned parent may insist that the child is free to contact the alienated parent, However attempts to contact or meet with the child are viewed as harassment. Phone calls, messages or letters are not passed onto the child. Information about school, communions, confirmations, sport days and special events are not passed on to the alienated parent. All references to the alienated parent are removed from the child's home, including pictures which may be torn up in front of the child. The surname of the rejected parent is discarded and references to this parent are by their first name only. They stop using the names of mum or dad. Most children quickly learn not to speak of the alienated parent. The alienated parent is effectively shut out of the child's life. The aligned parent will strongly support their angry child's right to make their own decisions in relation to contact with the alienated parent.

The behaviour of the child within the home of the rejected parent may be severely problematic. They may destroy property or act in obnoxious ways. They prefer to be in contact with the aligned parent constantly, frequently speaking in code and whispering hostile observations about the alienated parents behaviours, meals, personality and words. When the child is refusing contact with the alienated parent, all efforts to communicate directly with the child may be to no avail. The child may demand that the alienated parent never contact them ever again. They may demand that the alienated parent stop "harassing" them with presents and cards, which likely remain unopened and are discarded. They may demand that the alienated parent stop their useless legal efforts and court appearances.

Bone & Walsh (1999). Provides us with four criterion that may be used as a guide in the process of considering the presence or absence of parental alienation.

The first is around the blocking of access and contact between the child and the targeted parent. Sometimes the aligned parent will cite that access is "unsettling" on the child. Any deviation to schedules is used as a reason to terminate access. Access between the child and the target parent is relegated to the status of a "chore". The alienated parent is to be treated less like a key family member.

The second criterion is in regard to unfounded allegations of abuse. The author's suggest that it is easier to allege emotional abuse as there is no physical evidence or third party witnesses. They advise caution where one parent is eager to hurl allegations rather than a parent who is careful or reluctant to do so. They argue that the latter approach is one of a parent who is mindful of, supportive of and encouraging of, a relationship between the child and the non-resident parent. Bone & Walsh point out that a responsible parent will only allege abuse, after he or she has tried to rationalise why the issue at hand is not abusive. They conclude that the alienating parent will not miss an opportunity to hurl allegations at the targeted parent.

The third criterion is referred to as the deterioration of the child – parent relationship since a separation or divorce. They advocate for a close evaluation of the pre-separation relationship between the child & parent. They suggest that if this evaluation is omitted, there may be an assumption made by professionals that the current child-parent relationship is a reflection of the true child – parent relationship. This may result in professional's recommending reduced contact time between the targeted parent and child. This may add to the alienation process albeit unwittingly so on the part of professionals.

The final criterion refers to the child's intense fear reaction. They suggest that the child is frequently being put through loyalty tests, forcing the child to choose a parent. Bone & Walsh (1999) suggest that this is characterised by a child who loudly protests at the appointed time of access. The aligned

parent will present as bewildered in relation to the child's sudden change in feelings. For the child this is an opportunity to act out their loyalty towards the aligned parent.

### A Systemic Family Perspective:

From a systemic perspective we can be curious about the patterns of interactions and the coalitions within the family system. We can understand that there is a reciprocity of behaviours among family members or what Minuchin (1971) referred to as complimentarity. From this perspective we can be curious about how each individual member of the system (including extended and intergenerational family members, legal, mental health and social professionals) are involved in the maintenance of the alienating dynamic within the family system.

While Gardner has been credited with providing one label titled "Parental Alienation Syndrome" in the 1980's. This phenomenon has been independently observed and documented by a number of founders of the family therapy approach as far back as the 1950's where child psychiatrists Ackerman (1958), Bowen (1971 & 1978) Don Jackson (1971) and Minuchin, (1974), (1981) and (1993) were treating child patients for schizophrenia and psychosis as in-patients in hospitals and residential placements. These psychiatrists, documented an interactional pattern within the family. Bowen, (1971 & 1978) referred to it as the pathological triangle, J. Hayley, (1963), (1968), (1973), & (1990) referred to it as the prverse triangle that in extreme circumstances caused severe emotional and behavioural disturbances in the child. Subsequently, Andolfi, (1983) & Boscolo, (1987) and Thomas & Nichols (1992) have confirmed the existence of this triangle.

### The Pathological Triangle:

Bowen (1978) described the triangulation process as that which permits tension between the parents to be diffused by a child who is either hired by one of the parents as an ally in a coalition against the other parent or else the child volunteers for the assignment after being co-opted in. It becomes pathological when it becomes repetitive, routine, rigid and a predictable pattern that, has the destructive effect of dis-empowering, demeaning and excluding of the other parent.

### The Perverse Triangle:

In 1959, Hayley, Independently observed dysfunctional interactional patterns among hospitalised patients and their families. What he observed was the occurrence of a cross generational coalition that he termed the perverse triangle. For Hayley, this was characterised by one parent co-opting a child to collude with him or her to the isolation of the other parent. Hayley believed this led to highly symptomatic and dysfunctional behaviours as a result of the double bind that a child was placed into. He noted that there are no good options here for the child, either he / she rejects the other parent or pays the penalty of losing the love of the co-opting parent. Hayley pointed out one further characteristic, that he observed which refers to as the covert nature of this coalition. Neither the alienated parent nor any professional involved would be privy to the existence of this coalition. In fact it would be vehemently denied.

### **Boundaries & Role Corruption:**

Garber (2011) provides a further systemic exploration of parental alienation that focuses on the types of enmeshed parent – child dyads that may be associated with a child's rejection of the other parent. Garber introduces the three dynamics of Adultification, Parentification and infantilization that characterise an aligned parent-child dyad that is often associated with parental alienation.

### **Enmeshed Parent – Child Dyad:**

Garber (2009b) points out, the development of interpersonal boundaries and intra- familial roles are a necessary and natural process as we grow towards healthy adult autonomy. In fact clear and flexible parent – child hierarchical boundaries and roles are considered important for healthy child development. However these can break down at times of prolonged parental conflict and divorce (Cheng & Kuo, 2008) Resulting in parent – child enmeshment.

### **Parentification:**

Parentification is most commonly associated with role corruption in the context of divorce, Boszormenyi & Spark (1973) and Johnston, Walters & Olsen (2005a). The parentifying adult enlists the child to fulfil his or her needs. (Valleau, Raymond & Horton, 1995). The failure of the adult relationship increases the risk of parentification within the aligned dyad. Parentification interferes with the child's development, peer relationships and his or her ability to make and maintain a healthy relationship with his or her other parent. This

dynamic remains destructive, regardless of whether the enmeshed parent actively enlists the child, is passively accepting the child in his or her new role or the personal, practical or cultural motivations. In the context of adult conflict, separations or divorce this role corruption is a "double whammy" for the child because in addition to witnessing parental conflict, they are called upon to comfort a parent concerning adult distress rather than their own distress. Kerig & Swanson (2010) provide a succinct summary when they say

A parent-child alliance that is fuelled by anger at the spouse is a relationship that:

"Is serving a function for the parent rather than providing for the development needs of the child. Secondly, an alliance with one parent likely exists at the cost of a distant or conflictual relationship with the other parent".

### Adultification:

Childhood adultification involves contextual, social, and developmental processes in which the child is prematurely and often inappropriately exposed to adult knowledge and they assume adult roles and responsibilities within their family system (Burton, 2002).

### Infantilisation:

Garber describes this as the third dynamic that is commonly seen within an aligned parent – child dyad. He describes the infantilising parent as experiencing a loss of self when the child is spending time with the other parent resulting in anxiety, depression and anger for that parent. When these emotions are communicated to the child, this results in a child's resistance and refusal to return to the alienated parent. The child feels responsible for the enmeshed parent's well- being in absentia but not in a care giving capacity. The infantilised child is implicitly aware that his or her dependency fulfils the enmeshed parent's needs.

### What is the impact of alienation on the Children?

Understanding the short and the long term effects of alienation on children is crucial when considering if, when and how there should be intervention. Qualitative studies, case reviews and clinical observations have demonstrated a number of aspects in this regard such as the potential for fractured identities, depression, substance abuse, deliberate self-harm, suicidal ideation, attachment difficulties and insomnia and relationship difficulties.

Additionally, Johnston, Walters & Olsen (2005) found alienated children to have more difficulties with information processing, coping, self and other representation, affective functioning and more emotional and behavioural problems than their non-alienated counterparts in normative samples. Alienated children are more vulnerable with social incompetence. They (84%) had difficulties forming secure intimate relationships.

Baker (2007a) found these difficulties continued into adulthood for the alienated children. She found that the alienated children internalised the negative attributes of the targeted parent that, had been communicated directly and indirectly by the alienating parent. The alienated children reasoned that since they were genetically similar to the targeted parent that they too must be "bad". The respondents ultimately accepted their alienating parent's campaign of assertions that targeted parent did not love them and had abandoned them. Self-hatred and self-blame were common among these respondents resulting in feelings of guilt for rejecting the parent.

Interestingly, a Canadian study conducted over a ten year period found, that the participants who rejected a parent post separation secretly wished as children and adolescents that some professional would have recognised that they did not mean what they said when they were rejecting their parent as a child (Fidler et al 2013).

One final important point regarding this is that once the child-parent relationship has been fractured in this way, it is unlikely that a bond would be re-established later in life. Simply put, after many years of little if any contact the whole foundation of the child-parent relationship becomes eroded to the point of non-existence.

### The voice of the child:

The voice of the child has rightly become privileged in proceedings that affect them in Ireland however, caution is advised in these circumstances. Please find below a number of considerations regarding the voice of the child when navigating parental alienation within a family provided by Gottlieb (2016, <u>http://www.endparentalalienation.com</u>)

Firstly, a child's judgment, insight, perception, reality testing, and emotions only barely reach maturity by the END of adolescence. This evaluation of the child's cognitive development has been carefully and thoroughly documented in the epistemological research and studies undertaken by Jean Piaget, Ph.D. philosopher and developmental psychologist, who wrote the "Bible" upon which educators rely to understand the cognitive development of children. Children do not have the emotional and cognitive abilities to evaluate for themselves what is in their best interests, to theorize what it would be like to have a parent marginalized or eradicated from their lives, to be able to discriminate what is rational, truthful, and moral amidst all the information their parents and other significant adults impart to them. Children, for example, think very concretely until the age of 8. Not until much older can they discriminate reality from fantasy, which is why they should not see horror films until they are much older. The ability to think abstractly begins in the early stages of adolescence and is still only marginally mature by the age of 18. Children younger than 18 years of age can therefore not comprehend the consequences of their decisions, particularly when it comes to the momentous decisions about family relationships.

Our knowledge about child development dictates that we do not delegate to children the responsibility for making momentous and complex decisions, decisions that must remain on a parental and / or professional level. We do not ask the child, "How often do you plan to attend school?" or "Are you willing to comply with medical treatment?" or "Have you determined your dietary habits?" "Would you consider relinquishing your dependency upon illegal drugs?" There is

logic for not allowing children to vote, serve in the armed forces, smoke cigarettes / alcohol, or seek employment. How is it, then, that we so freely abrogate our professional and parental decisionmaking responsibility to a child in such a critical area as family relationships, specifically the relationship with the non-residential parent?

Secondly, children generally do not have the emotional capacity to contradict and defy the alienating parent. Many professionals who work in the area of divorce have observed and written copiously about this family dynamic. One such esteemed professional is Christopher Barden, psychologist and a lawyer who graduated with honours from Harvard Law School. Barden, Ph.D. states "There can be no credible controversy about the power of parents to influence children." And especially in cases that have reached the point of an adversarial court proceeding, it is impossible to separate the child's expressions from the influence and coaching of a parent who is engaging in strategies designed to turn the child against the other parent. The child will invariably mimic the thoughts, feelings, and wishes of the brainwashing parent. Why should we expect otherwise when children are so dependent upon a parent? Because in adversarial cases children are generally not shielded from exposure to the claims put forth in the legal proceedings, claims that are frequently frivolous, malicious, fanciful, and deprecating of the targeted parent and because of the child's dependency upon parents, these children will regurgitate exactly what their alienating parent has influenced them to believe about their other parent.

Children of high conflict divorce are caught and trapped by their feelings versus their situation on the one hand, they love and crave their relationship with their targeted parent, but on the other hand, they are terrified of betraying their alienating parent by expressing their true feelings. The professionals who impact child custody especially, the Judge must release these children from this trap by relieving them from making the decisions about custody and the relationship with their parents, including contact or access when the non-residential parent is the targeted parent. We must assume the responsibilities for which we were charged when we were accredited by our respective professions that is, we must assume our responsibility of guaranteeing a child's right to a meaningful relationship with both parents. This begins with the enforcement of a meaningful relationship between the child and the targeted / alienated parent.

Thirdly, asking children of high conflict divorce about their wishes with respect to custody and the nature of their relationship with their targeted parent is tantamount to asking them to choose between their parents. These children incontrovertibly understand the choice that their brainwashing parent wishes them to make. The result is a double bind / no-win situation for these children, and this situation has led to numerous, documented psychotic outcomes for the child. This double-bind situation has been thoroughly documented beginning in the 1950s by the child psychiatrists who later founded the family therapy movement. These psychiatrists observed their psychotic child patients on the psychiatric ward during visits with their families when one parent would request the child's allegiance in that parent's battle with the other parent resulting in the deprecation and rejection of the other parent. The child could have no good outcome from the coopting parent's request because the relationship with one of the parents would be severed: either the child joined with the co-opting parent to reject the other parent or the co-opting parent would likely reject the child for failure to join the coalition. Child psychiatrist, Murray Bowen, labelled this family dynamic the "pathological triangle," and its concept was adopted into the family therapy practices of virtually all of Bowen's family therapy contemporaries including but not limited to, psychiatrists Nathan Ackerman, Don Jackson, and Salvador Minuchin.

Fourthly, when alienated children comprehend, generally as adults, the incongruous, disturbing, and inexplicable choice that they had made to reject a parent based solely upon the programming by

one parent, they will likely suffer a lifetime of guilt for having made that decision and for having maltreated their targeted parent. If that parent is no longer living when the child comes to understand the family dynamics of the divorce, it is impossible to make amends and thereby assuage the guilt.

Fifthly, we need to consider how unhealthy it is for a child to linger with anger for a parent. Time and again children are sent by the schools to therapy to resolve anger management issues expressed in the classroom, parents voluntarily bring their child to therapy when anger is inappropriately handled and Judges repeatedly order that juvenile offenders obtain help to mitigate their anger. So why would we permit a child to remain angry with a parent who is so meaningful and irreplaceable to a child? We will be waiting for the smoking gun if we allow a child to remain with unresolved anger and hostility for a parent, however much implanted by the brainwashing parent. The anger can be resolved only with meaningful, intensive, and corrective interactions with that parent. It can certainly not be resolved by permitting the severing of the relationship between the parent and the child.

Sixthly, it is anti-instinctual for a child to hate, fear, and reject a parent. We know that truly abused children do not express enmity for, or refusal to visit with their biological parents. Some may fear being alone with their severely abusive parents, these children still crave contact via supervised visits. "You have to be carefully taught to hate and fear." I would add the caveat "especially a parent."

Seventhly, I have repeatedly experienced with alienated children that they will flip as quickly as a light switch from aversion to their targeted parent to enthusiastically embracing that parent as soon as they have been relieved of having to make the decision about their relationship with that parent either because the Judiciary had made the decision or because their alienating parent gave them permission to do so, the alienating parent having done so generally, only as a result of the fear, of Judicial reprisals for failure to having supported the relationship, between the other parent and their child. The rapidity with which these children flip their emotions is an indication of the spuriousness of their expressed enmity for and rejection of their targeted parent.

In summation, it is my opinion that the child of high parental conflict / divorce needs to be extricated from the aforementioned triangulation process by eschewing our traditional approach in these situations to inquire of the child as to her / his wishes regarding custody and the relationship with her / his parents. Instead, the professionals who intervene in this area must instead make these momentous family decisions. These professionals are charged with protecting children from their detrimental decisions and for facilitating the best interests of the child. When it comes to custody or access decisions, we must recognize that joint custody is in the child's best interests when both parents are fit, the better parent generally, is the parent who is more likely to facilitate the relationship with the other parent. And when determining the contact or access arrangements with the non-residential parent, it should be decided based exclusively upon an assessment of that parent's competency, commitment, availability, intentions, and desires to parent the child.

### **Mental Health Professionals Training:**

Working with families is a specialised area within mental health practice. The Systemic Family modality is well established and integrated within public health systems throughout Europe and the Nordic countries as well as Canada, U.S, Australia and New Zealand. In Ireland this modality is practiced within the Mater University Hospital. To be considered theoretically and clinically competent and accredited to work with families throughout Europe one must complete a structured

four year clinical M.Sc. regardless of previous training in psychology, psychiatry or social work. This is because these other programmes of study do not provide a focus, training or education on relational and behavioural family dynamics.

### Mental Health Professionals - Counter intuitives:

One of the hurdles in Child and Parental Alienation (PA) is that it is counter-intuitive in so many ways. We have to set aside lots of the stereotypes that shape our thinking.

Steven Miller (2013) describes how PA's counter intuitive's may defeat even an expert. Not only does a newcomer have to resist being put off by their first reaction, but they have to work harder to see what's happening behind first appearances.

The challenge to be counter-intuitive is similar to the challenge of cognitive dissonance. As Leon Festinger described in 1957 those, who invest heavily in a belief may, in the face of disconfirming evidence, go to great lengths to justify their old assumptions. We use the word 'stereotype' to describe engrained generalisations we impose where we shouldn't.

Consider, our ability to conjure up a mental picture of a person and ascribe qualities to them based purely on words and labels. For example think 'Mohammed Emwazi. Got a picture of him? I would suggest that we might ascribe certain characteristics to him. There is no logical reason why, but it is almost impossible not to do.

Once you assemble the counter intuitive's it becomes a very long list (there are 55 of them). It helps us see what an uphill struggle awareness-raising is.

Of course, our assumptions and intuitions might well be generally true for many or most situations. That is, they may be true for a statistical majority of cases. The key is to remember that 'being generally true' does not mean something is always true. An open unprejudiced mind means being open to the exceptions to a rule. False beliefs about the genesis of parental alienation and about appropriate remedies shape opinions and beliefs that fail to meet the needs of the children. Warshak (2015) provides some examples of these counter intuitives such as:

- Children never unreasonably reject a parent. If a child rejects a parent, it is assumed that the
  parent must have done something terrible to warrant it. We simply tend not to think of
  another explanation. But when the alienated child is compared to foster children children
  who have been removed from their parents due to actual abuse and neglect. A stark
  difference is noted, that is that truly abused children crave a relationship with their parents
  of whom they are protective not accusatory. Such assessments of foster children reveal just
  how anti-instinctual it is to reject a parent
- Each parent contributes equally to a child's alienation.
- Alienation is a child's transient, short lived response to the parent's separation.
- Alienated children's stated preferences should dominate contact decisions. My mentor Ludwig Lowenstein (2007) points out that it is crucial to be certain that what a child wants is being truly reflected in what the child says. Children who state that they do not wish to have any contact with a parent unless there has been proven sexual, physical or emotional abuse should be strongly encouraged to have contact with the other parent.
- The pathological enmeshment between an alienating parent and child appears to be healthy bonding but as a result of this dysfunctional relationship, alienated children lose their individuality, they must repress their natural feelings of love and need for a parent and are manipulated to do the bidding of the alienating parent to deprecate and reject their other

parent. Pathological enmeshment is a severe boundary violation in which the child's heart and mind is hijacked by the alienating parent to assume that parents feelings, beliefs and attitudes towards the targeted parent.

 Anchoring effect, this phenomenon occurs when judgement is unduly influenced by initial information that is often accompanied by inadequate adjustment in assessment when new, contradictory information becomes available. This results in confirmation bias where there is a tendency to focus on evidence that might confirm a hypothesis or opinion while neglecting evidence that might refute it.

Moreover, as a result of these counter intuitive errors and many more, the non-specialist professional frequently succumbs to common cognitive and clinical errors. These errors often result in the assessment that the alienating parent is the better, often superb, parent while the targeted parent is assessed to possess sub-standard parenting skills.

Reliance on false beliefs compromises investigations and undermines adequate consideration of alternative explanations for the causes of a child's alienation. Most critical, fallacies about parental alienation do a disservice to children and parents by supporting outcomes that fail to provide effective relief to those who experience this phenomenon.

In summary, professionals who are met with an angry or upset child who is insisting that they do not wish to have any contact with a targeted parent may feel that, they must listen to the child and concede that what the child wants is right for the child. However, children often want things for themselves that are not good for them in the short term or the long term. A close evaluation of the parent – child relationship is important otherwise professionals may assume that the current parent – child relationship is a reflection of the true parent – child relationship resulting in professionals recommending reduced contact time between the child and the targeted parent. This may lead to perpetuating the alienation process by professional's albeit unwittingly so.

### Finally, there are a number of points to emphasise at this time:

- Alienation cases require specialised training and experience by professionals who have undergone specific training and accreditation regarding the relational and behavioural dynamics within families to properly diagnose and treat.
- We must take very seriously any attempt to marginalise and eliminate a fit parent from a child's life and prevent this from happening.
- Failure of the alienating parent to cooperate with the reunification process requires the setting out and the carrying out of clear consequences.
- Treatment must focus on all members of the family.
- Alienation cases are not ordinary custody or access cases. Alienation is a form of child abuse and requires court intervention as for any other case of child abuse.

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Brian O Sullivan.

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То:	Board Members	Date:	February 15, 2017
From:	Kim Madsen Executive Officer	Telephone:	(916) 574-7841

# Subject: Alternative Option to License Surrender in Disciplinary Cases Involving Neuro-Cognitive Degenerative Disorders

On December 28, 2016 the Board received an email from Steven Frankel, Ph.D.; J.D. regarding a proposal to provide retirement with dignity to licentiates whose capacities to practice become impaired, due to neuro-cognitive degenerative disorders (e.g. dementias). Mr. Frankel stated he is a licensed marriage and family therapist (inactive) and psychologist and has served both as a board expert and defense counsel regarding BBS licentiates.

Mr. Frankel expressed a growing concern about the increasing number of licentiates who fall into the age range during which these types of disorders increase. Mr. Frankel noted several cases involving licensees from the Board, Board of Psychology, Medical Board and the Registered Nursing Board. Mr. Frankel indicated his primary concern is the information contained in the Accusation, which is placed on Board websites. This information may be viewed negatively and not be an actual reflection of the licensee's, otherwise, violation free career.

The Accusation contains the list of alleged violations the licensee has committed as a result of dementia. Mr. Frankel included a copy of one of his recent cases, which became effective on November 13, 2016, to illustrate his point.

Mr. Frankel also included a letter to Board of Psychology Board Members Stephen Phillips, Ph.D. and Jacqueline Horn, Ph.D. In the letter, Mr. Frankel makes the following requests.

- The Board of Psychology consider not posting the Accusation on the Board's website for licensees who agree to surrender their license and have submitted to evaluations and are found to be suffering from a neuro-cognitive disorder that not subject to healing.
- > Allow the licensee to "Retire" from practice.

In Mr. Frankel's email to the Board, he requested his message/concern to be shared with the Board for consideration. Due to a scheduling conflict, Mr. Frankel is unable to attend today's Board meeting.

### Discussion

### Retire License History

During the January 23, 2010 Board meeting, the Board discussed the proposal to add a "retired license" status. Board staff noted that in 2007, a proposal to add this license category was approved by the Board. However, due to other Board priorities, the legislation proposal was not initiated. Board staff explained to the Board Members and stakeholders that many licensees requested a retired status in lieu of the existing options – active or inactive. Further, a retired license status was not uncommon among other healing art professions.

The Board and stakeholders discussed the time period a retired licensee would be allowed to reactive the license in the event the retired licensee wished to return to practice. Additional requirements such as continuing education, fees, and assurance that the individual had not committed any crimes or acts that would constitute grounds for discipline was also discussed. The Board voted to approve the legislation proposal, as amended and directed staff to submit the proposal to the Legislature. Assembly Bill 2191 (Emmerson) was introduced in early 2010 and was signed by the Governor on September 29, 2010. The retired license status became effective on January 1, 2011.

### Request to Offer a Retired License and not Post the Accusation on the Board's Website

The process to retire a license and the discipline process are very different.

The intent of the retired license status is to provide the licensee an option if the licensee no longer wishes to practice. Under this option, the licensee is permitted to submit a one-time fee to the Board. A retired license honors the years of service in the mental health profession, but does not permit the licensee to practice. Under current law, a licensee may not have committed a crime or act which would constitute disciplinary action in order to qualify for the retired license.

The disciplinary process entails an investigation of alleged violations of the Board's laws. Once an investigation substantiates a violation of the law, appropriate action is determined. This action may include the issuance of a citation and fine or initiating the formal discipline process. Once the action is initiated, the licensee is afforded specific rights under the Administrative Procedure Act. This Act is carefully constructed to ensure specific procedures are followed and an individual's rights are protected.

As a state regulatory agency, the Board is mandated to protect consumers. The publication of disciplinary actions on the Board's website is one way to protect consumers. Consumers may view a licensee's record to determine if they wish to seek services from the licensee. Additionally, formal disciplinary actions are also reported to the National Practitioner Data Bank (NPDB). The NPDB provides a mechanism for states and other entities such as hospitals, to verify a licensee's history should the licensee apply for licensure or employment. Under federal law, the Board is required to enter all disciplinary actions.

If the Board were to adopt Mr. Frankel's suggestion and offer a retired license to licensee whom is the subject of an Accusation; a neuro-cognitive disorder is confirmed; and fail to post the Accusation on its website, it is likely that the Board would be perceived as noncompliant with its consumer protection mandate.

Moreover, years ago, some healing art boards utilized a loosely similar practice for impaired licensees. This activity essentially offered the licensee, who was determined to be impaired, the option to enter a recovery program in lieu of discipline. The licensee's enrollment in a recovery program was not made public, nor was the enforcement action posted on the Board's website. Often if the licensee successfully completed the program, the enforcement and/or discipline was never made public. This lack of transparency resulted in legislation to discontinue this process and the implementation of the Uniformed Standards Related to Substance Abuse.

### **Recommendation**

Conduct an open discussion regarding Mr. Frankel's request.

### **Attachments**

Mr. Frankel email and documentation

# Blank Page

### Madsen, Kim@DCA

From:	Steve Frankel <drpsylex@gmail.com></drpsylex@gmail.com>
Sent:	Wednesday, December 28, 2016 10:34 AM
То:	Madsen, Kim@DCA
Cc:	Yu, Pearl@DCA
Subject:	Please distribute to each member of the Board of Behavioral Sciences
Attachments:	Letter to Phillips and Horn re- Retirement with DIgnity.docx; Kelly, Pamlyn DEC.pdf

Season's greetings to you/yours, with hopes for a happy & healthy 2017.

Attached, please find a letter I have sent to two members (one is the Chair) of the Board of Psychology regarding a proposal to provide retirement with dignity to licentiates whose capacities to practice become impaired, due to neuro-cognitive degenerative disorders (i.e., dementias, primarily). I'm a licensed MFT (3343 - inactive since I graduated from law school), and psychologist (3354), and have served both as a board expert and a defense coursel regarding BBS

The attached documents reflect a growing concern I have about the increasing numbers of licentiates who fall into the age range during which neuro-cognitive degenerative disorders increase in probability. I have seen cases with

clients who are BBS, BOP, Med Board and Nursing Board licentiates with these disorders, and the most urgent concern I have about these colleagues (besides terminating their practices) concerns board complaints that lead to

revocations, for which the Accusations placed on the relevant board's websites, present a "list of horribles" that they have committed, as a result of dementia. I am attaching a recent BOP case of my own to illustrate my point.

By this message, I'm making two requests: first, as noted above, I would like you to distribute my message and attachments to all BBS members. And, second, I would like to have the opportunity to address these issues before

the Board, at one of its up-coming meetings - to have my presentation placed on the meeting agenda. I am working cooperatively with Margy Gatz, Ph.D., a gero-psychologist on the faculty of USC, who reports that, in the general

population, neuro-cognitive impairments occur in one out of every six men and one out of every five women. The BBS has over 100,000 licentiates, and, as those licentiates age, (consider the "baby boomers" over the next 10-15 years), a growing number of complaints against licentiates is expected, where such complaints result from dementias. What I am requesting, in addition to the establishment of training/education/collegial support for licentiates, is an agreement by the Boards to provide for Retirement status and not posting Accusations that list the descriptions of the behaviors which brought the professional to the Board's attention, on the Board's website. Colleagues whose

careers are characterized by professional and successful service provision should not leave a legacy on the Board's website that demeans and diminishes those accomplishments.

Thank you very much.

Best,

licentiates.

Steve

A. Steven Frankel, Ph.D., J.D. 3527 Mt. Diablo Blvd., #269 Lafayette, CA 94549 Voice: (925) 943-6175 Fax: (925) 944-8889 Clinical Prof. of Psychology, USC Fellow, APA & ISSTD ABPP Diplomate (Clinical & Forensic) Admitted, California & D.C. Bar Assocs. www.sfrankelgroup.com www.practice-legacy.com drpsylex@earthlink.net drpsylex@gmail.com

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12/27/16:

Memo to: Stephen Phillips, J.D., Ph.D. and Jacqueline Horn, Ph.D. Board of Psychology

Hi to you both, and best wishes for a happy/healthy/safe new year to you/yours.

I'm writing with a request for a pathway to bring an issue to the Board's full attention. I am including you both because I believe that Jackie Horn is familiar with my investment in this issue, but I give full permission for you to share it with the entire Board and such staff as up to your discretion.

I am also going to follow this email with a second one, which will contain a link to a recent surrender of a psychologist's license that bears directly on the problem I'm raising. I have also copied psychologist Margy Gatz in on this email, as she is a gerontology specialist/psychologist at USC with whom I've been in touch for well over 1-2 years, discussing the issue I'm raising here. We have known each other since the '70s, when I was full-time faculty at USC.

### And so:

I am increasingly concerned about the fact that, over the coming years (maybe 15-20 years), we are facing an increasing number of colleagues whose capacity to practice is impacted by any of a series of disorders associated with decreased neurologic functioning, such as any of the dementias, and I have a clear and direct request to make to the Board as regards this group of colleagues.

As you may know, the Board has received a series of complaints about licensed colleagues, with vivid descriptions of their degrading functionality, and the Board has investigated such cases and found, among many violations of the standards of care for psychologists, that neuro-cogmnitive degenerative disorders are responsible (in part or whole) for the compromised behavior of our colleagues. I fully agree that colleagues thus affected should be barred from further practice - allowing them to practice while impaired is not at all what I'm writing about.

What I am writing about is that, when those colleagues so affected surrender their licenses, what happens is that the surrender and the investigative reports (Accusations) against them are posted on the Board's website. I find this a horrifying statement about the legacy of colleagues who often have been competently practicing for years, and whose violations were, truly, beyond their awareness or control (as you probably know, dementias don't like us to find out that we have them). My following email contains such a case, and you can see for yourselves how a colleague in her '70s became demented, and how her behavior resulted in Board complaints, investigations and a final legacy that demeans and devalues her, after years of successful practice, often with military trauma survivors.

What I would dearly love to see happen is that, now that Gov. Brown has signed the Omnibus legislation that provides for a "Retired" category of licensure, and especially given that anyone who formally retires from practice would have to petition for reinstatement, the Board would see its way clear NOT TO POST an Accusation on the Board's website for colleagues who agree to surrender their licenses and have submitted to proper evaluations and found to be suffering from a neuro-cognitive disorder that is not subject to healing. Rather, and given that the psychologist whose behavior is in question does agree to be properly evaluated, such that the presence of a neuro-cognitive degenerative disorder is found, simply be allowed to "Retire" from practice. No Accusations, no statements of legal or regulatory violations. Just "Retired."

I can't deny that, while writing these words, I had the urge to include a question like: "wouldn't you want such a pathway yourselves, if, heaven forbid, you should be one of these unfortunate colleagues?" but I decided against it :-).

And so, what I am requesting is that you let me know a proper pathway to raise this issue for the Board's consideration and discussion. I would be happy to appear at a Board meeting to discuss this proposal, or further assist in any way(s) I can. Dr. Gatz has access to some data bearing on probabilities of such illnesses, that might be helpful, especially if the Board staff could provide her with the kinds of information that researchers need to forecast such illnesses (I made this request about 2 years ago, of the then-director of the Board, but it was declined for lack of "manpower" to do the research). If Dr. Gatz and I could provide graduate students to do the work, might we re-open that request?

In sum, I would very much appreciate any assistance you might provide in how/when/where to present this request to the Board.

Best,

Steve

### BEFORE THE BOARD OF PSYCHOLOGY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Agains	st:
Psychologist License No. PSY	Respondent
	Respondent

Case No.
OAH No.

### **DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Psychology, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on <u>November</u> 13, 2016

It is so ORDERED \_\_\_\_\_October 14, 2016

ANTONETTE SORRICK EXECUTIVE OFFICER BOARD OF PSYCHOLOGY DEPARTMENT OF CONSUMER AFFAIRS

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1 2	KAMALA D. HARRIS Attorney General of California VLADIMIR SHALKEVICH		
3	Acting Supervising Deputy Attorney General JOHN S. GATSCHET		
4	Deputy Attorney General State Bar No. 244388		
5	California Department of Justice 1300 I Street, Suite 125		
6	P.O. Box 944255 Sacramento, CA 94244-2550		
7	Telephone: (916) 445-5230 Facsimile: (916) 327-2247 E-mail: John.Gatschet@doj.ca.gov		
8	E-mail: John.Gatschet@doj.ca.gov Attorneys for Complainant		
9	BEFORE THE		
10	BOARD OF PSYCHOLOGY DEPARTMENT OF CONSUMER AFFAIRS		
11	STATE OF CALIFORNIA		
12	In the Matter of the Accusation Against:		
13	OAH No.		
14	STIPULATED SURRENDER OF		
15	Psychologist License No. PSY		
16			
17	Respondent.		
18	IT IS HEDERN STIDIU ATED AND A CDEED by and between the particula to the shows		
19	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
20	entitled proceedings that the following matters are true:		
21	PARTIES		
22	1. Antonette Sorrick ("Complainant") is the Executive Officer of the Board of		
23	Psychology, Department of Consumer Affairs ("Board"). She brought this action solely in her		
23	official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the		
25	State of Camerina, of Comers, Deputy Mitchiely Conoral.		
26	( respondent ) is represented in this proceeding by attentoy it.		
27	Storon I Kullion, Whole address is solly whole Diable Diver, Stor 205		
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Stipulated Surrender of License (Case No

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On or about April 4, 1994, the Board issued Psychologist License No. PSY 3. Respondent. The Psychologist License was in full force and effect at all times relevant to the charges brought in Accusation No. and will expire on November 30, 2017, unless renewed. 4

### JURISDICTION

was filed before the Board and is currently pending 4. Accusation No. 6 against Respondent. The Accusation and all other statutorily required documents were properly 7 served on Respondent on March 3, 2016. Respondent timely filed her Notice of Defense 8 contesting the Accusation. A copy of Accusation No. 9 and incorporated by reference. 10

### ADVISEMENT AND WAIVERS

Respondent has carefully read, fully discussed with counsel, and understands the 5. 12 charges and allegations in Accusation No Respondent also has carefully read, 13 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License 14 and Order. 15

6. Respondent is fully aware of her legal rights in this matter, including the right to a-1-6 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at 17 her own expense; the right to confront and cross-examine the witnesses against her; the right to 18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to 19 compel the attendance of witnesses and the production of documents; the right to reconsideration 20 and court review of an adverse decision; and all other rights accorded by the California 21 Administrative Procedure Act and other applicable laws. 22

Respondent voluntarily, knowingly, and intelligently waives and gives up each and 7. 23 every right set forth above. 24

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### CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 26 if proven at a hearing, constitute cause for imposing discipline upon her Psychologist 27 License. 28

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For the purpose of resolving the Accusation without the expense and uncertainty of 9. further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those 4 5 charges.

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10. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Psychologist License without further process.

### RESERVATION

The admissions made by Respondent herein are only for the purposes of this 11: proceeding, or any other proceedings in which the Board of Psychology or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding. 12

### CONTINGENCY

This stipulation shall be subject to approval by the Board of Psychology. Respondent 14 12. understands and agrees that counsel for Complainant and the staff of the Board of Psychology 15 may communicate directly with the Board regarding this stipulation and surrender, without notice -1-6 to or participation by Respondent or her counsel. By signing the stipulation, Respondent 17 understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation 18 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation 19 as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or 20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, 21 and the Board shall not be disqualified from further action by having considered this matter. 22

The parties understand and agree that Portable Document Format (PDF) and facsimile 13. copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order: 111

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### ORDER

IT IS HEREBY ORDERED that Psychologist License No. PSY issued to 2 Responden 3 , is surrendered and accepted by the Board of Psychology. 1. The surrender of Respondent's Psychologist License and the acceptance of the 4 5 surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's 6 7 license history with the Board of Psychology, Respondent shall lose all rights and privileges as a Psychologist in California as of the 2. 8 effective date of the Board's Decision and Order. 9 10 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order. 11 If Respondent ever files an application for licensure or a petition for reinstatement in 12 4. the State of California, the Board shall treat it as a petition for reinstatement. Respondent must 13 comply with all the laws, regulations and procedures for reinstatement of a revoked license in 14 effect at the time the petition is filed, and all of the charges and allegations contained in 15 Accusation No. 16 shall-be-deemed-to-be-true,-correct and-admitted-by-Respondentwhen the Board determines whether to grant or deny the petition. 17 5. If Respondent should ever apply or reapply for a new license or certification, or 18 petition for reinstatement of a license, by any other health care licensing agency in the State of 19 California, all of the charges and allegations contained in Accusation, No. 20 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of 21 22 Issues or any other proceeding seeking to deny or restrict licensure. Respondent shall pay the Board its full costs of investigation and enforcement in the 23 6. amount of \$33,442.75 prior to issuance of a new or reinstated license. 24 111 25 111 26 27 111

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Stipulated Surrender of License (Case No. 1

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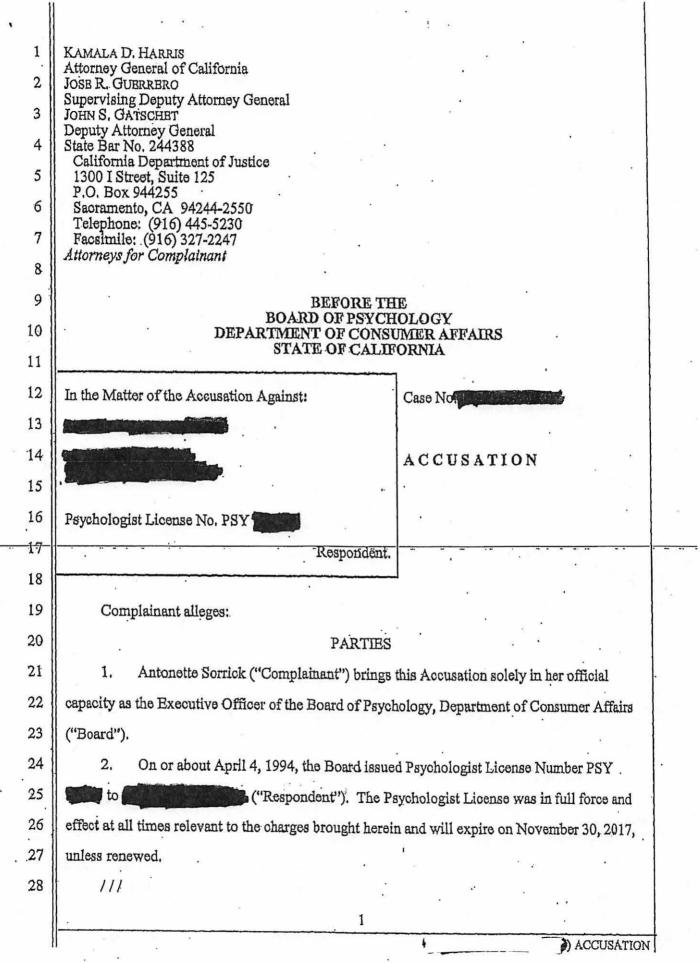
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1	ACCEPTANCE		
2	I have carefully read the above Stipulated Surrender of License and Order and have fully		
3	discussed it with my attorney, A. Steven Frankel, PH.D., J.D I understand the stipulation and		
4	the effect it will have on my Psychologist License. I enter into this Stipulated Surrender of		
	License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the		
5			
6	Decision and Order of the Board of Psychology.		
7 8 9	DATED: 9-12-2016		
10	Respondent		
10	I have read and fully discussed with Respondent Internet and the terms and		
	conditions and other matters contained in this Stipulated Surrender of License and Order. I		
12	approve its form and content.		
13	DATED: 9/12 /16 Junhel A. STEVEN FRANKEL, PH.D., J.D.		
14	Attomey for Respondent		
15	ENDORSEMENT		
16	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted		
17 18	for consideration by the Board of Psychology of the Department of Consumer Affairs.		
10			
20	9/17/16		
	KAMALA D. HARRIS Attorney General of California		
21	VLADIMIR SHALKEVICH Acting Supervising/Deputy Attorney		
22	General		
23	fulliture		
24	JOHN S. GATSCHET Deputy Attorney General		
25 26	Attorneys for Complainant		
20	· · ·		
27	A A A A A A A A A A A A A A A A A A A		
20			
	5 Stipulated Surrender of License (Case No.(		
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## Exhibit A

1.1

Accusation No.



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1	JURISDICTION
2 ·	3. This Accusation is brought before the Board under the authority of the following
3	laws. All section references are to the Business and Professions Code unless otherwise indicated.
4	4. Section 2918 of the Code states:
5	"The confidential relations and communications between psychologist and client shall be
6	privileged as provided by Article 7 (commencing with Section 1010) of Chapter 4 of Division 8
<b>7</b> .	of the Evidence Code."
8	5. Section 1013 of the California Evidence Code states:
9	"As used in this article, 'holder of the privilege' means:
10	"(a) The patient when he has no guardian or conservator, *4 Total
11	16 13 111 ·
12	6. Section 56.10 of the California Civil Code states:
13	"(a) A provider of health care, health care service plan, or contractor shall not disclose
· 14	medical information regarding a patient of the provider of health care or an enrollee or subscriber
15	of a health care service plan without first obtaining an authorization, except as provided in
16	subdivision (b) or (c).
17	
18	7. Section 2936 of the Code states:
19	"The board shall adopt a program of consumer and professional education in matters
20 <sup>.</sup>	relevant to the ethical principles of psychology. The board shall establish as its standards of
21	ethical conduct relating to the practice of psychology, the "Ethical Principals of Psychologists and
22	Code of Conduct" published by the American Psychological Association ('APA'). Those
23	standard shall be applied by the board as the accepted standard of care in all licensing
. 24	examination development and in all board enforcement policies and disciplinary case evaluations,
25	66 ° 27 • 1 *
26.	8. Section 2960 of the Code states:
27	"The board may refuse to issue any registration or license, or may issue a registration or
28	license with terms and conditions, or may suspend or revoke the registration or license of any
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1	registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional	
2	conduct. Unprofessional conduct shall include, but not be limited to:	
3	" 	
4	"(h) Willful, unauthorized communication of information received in professional	
5	confidence.	
6	"(i) Violating any rule of professional conduct promulgated by the board and set forth in	
7	regulations duly adopted under this chapter.	
8	"(j) Being grossly negligent in the practice of his or her profession.	ŀ
9	"(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.	
10	şt 	
11	"(n) The commission of any dishonest, corrupt, or fraudulent act.	
12	56 	ŀ
13	"(r) Repeated acts of negligence."	
14	9. Section 2961 of the Code states:	
15	"The Board may deny an application for, or issue subject to terms and conditions, or	
16	suspend or revoke, or impose probationary conditions upon, a license or registration after a	
17	hearing provided in Section 2965."	T
18	10. Section 2964.6 of the Code states:	
19	"An administrative disciplinary decision that imposes terms of probation may include,	
20	among other things, a requirement that the licensee who is being placed on probation pay the	
21	monetary costs associated with monitoring the probation."	
22	11. APA Code of Ethics, Principle A (Beneficence and Non-maleficence) states in part,	
23	"Psychologists strive to benefit those with whom they work and take care to do no	
24	harmPsychologists strive to be aware of the possible effect of there own physical and mental	
25	health on their ability to help those with whom they work."	
26	12. APA Code of Ethics, Principle C (Integrity) states in part,	
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	( ACCUSATIO	N J

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"Psychologists seek to promote accuracy, honesty, and truthfulness in the science, teaching,
 and practice of psychology. In these activities psychologists do not steal, cheat, or engage in
 fraud, subterfuge, or intentional misrepresentations of fact."

4 13. APA Code of Ethios, Principle E (Respect for People's Rights and Dignity) states in 5 part,

"Psychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination..."

14. APA Code of Bthics section 3.04 states,

9 "Psychologists take reasonable steps to avoid harming their clients/patients...and to
10 minimize harm where it is foreseeable and unavoidable."

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15. APA Code of Ethics section 3.05 states,

"(a) A multiple relationship occurs when a psychologist is in a professional role with a
person and (1) at the same time is in another role with the same person, (2) at the same time is in a
relationship with a person closely associated with or related to the person with whom the
psychologist has the professional relationship, or (3) ...

"A psychologist refrains from entering into a multiple relationship if the multiple
relationship could reasonably be expected to impair the psychologist's objectivity, competence, or
effectiveness in performing his or her functions as a psychologist, or otherwise risks exploitation
or harm to the person with whom a professional relationship exists.

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16. APA Code of Bthics section 3.06 states,

"Psychologists refrain from taking on a professional role when personal, scientific,
professional, legal, financial, or other interests or relationships could reasonably be expected to
(1) impair their objectivity, competence, or effectiveness in performing their functions as
psychologists or (2) expose the person or organization with whom the professional relationship
exists to harm or exploitation."

27 28 17. APA Code of Ethics section 3.08 states,

ACCUSATION

1	"Psychologists do not exploit persons over whom they have supervisory, evaluative, or
2	other authority such as clients/patients, students, supervises, research participants, and
3	employees."
4	18. APA Code of Ethics Section 3.12 states,
5	"Unless otherwise covered by contract, psychologists make reasonable efforts to provide for
б.	facilitation services in the event that (they) are interrupted by factors such as the psychologist's
7	illness, death, unavailability, relocation, or retirement or by the client's/patient's relocation or
8	financial limitations."
9	19. APA Code of Bthics section 4.01 states,
10	"Psychologists have a primary obligation and take reasonable precautions to protect
. 11	confidential information obtained through or stored in any medium, recognizing that the extent
12	and limits of confidentiality may be regulated by law or established by institutional rules or
13	professional or scientific relationship."
14	20. APA Code of Bthics section 4.04 states,
15	(\$ )9 •••
16	"(b) Psychologists discuss confidential information obtained in their work only for
- 17-	appropriate scientific or professional purposes and only with persons clearly concerned with such
18	matters."
19	21. APA Code of Bthics section 4.05 states,
20	46 99 610
21	"(b) Psychologists disclose confidential information without the consent of the individual
22·	only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide
23	needed professional services; (2) obtain appropriate professional consultations; (3) protected the
24	client/patient, psychologist, or others from harm; (4) obtain payment for services from a
25	client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve
26	the purpose."
27	22. APA Code of Ethics section 6.01 states,
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••	5 ( ACCUSATION

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"Psychologists create, and ...maintain, disseminate, store, retain, and dispose of records and data relating to their professional...work in order to (1) facilitate provision of services later by them or by other professionals...(4) ensure accuracy of billing and payments, and (5) ensure compliance with law."

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23. APA Code of Ethics section 6.06 states,

"In their reports to payors for services...psychologists take reasonable steps to ensure the accurate reporting of the nature of the service provided...the fees, charges, or payments, and where applicable, the identity of the provider, the findings, and the diagnosis."

24. APA Code of Bthics section 9.01 states.

"(a) Psychologists base the opinions contained in their recommendations, reports, and diagnostic or evaluative statements...on information and techniques sufficient to substantiate their findings." 12

#### **COST RECOVERY**

25. Section 125.3 states that:

"(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board upon request of the entity bringing the proceedings, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

"(b) In the case of a disciplined licentlate that is a corporation or a partnership, the order 20 may be made against the licensed corporate entity or licensed partnership. **2**1

"(o) A certified copy of the actual costs, or a good faith estimate of costs where actual costs 22 are not available, signed by the entity bringing the proceeding or its designated representative **Ż**3 shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. 24 The costs shall include the amount of investigative and enforcement costs up to the date of the 25 hearing, including, but not limited to, charges imposed by the Attorney General. 26

27 "(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to 28

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subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

"(e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

9 "(f) In any action for recovery of costs, proof of the board's decision shall be conclusive
10 proof of the validity of the order of payment and the terms for payment.

11 "(g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate the
12 license of any licentiate who has failed to pay all of the costs ordered under this section.

"(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or
reinstate for a maximum of one year the license of any licentiate who demonstrates financial
hardship and who enters into a formal agreement with the board to reimburse the board within
that one-year period for the unpaid costs.

17 "(h) All costs recovered under this section shall be considered a reimbursement for costs
18 incurred and shall be deposited in the fund of the board recovering the costs to be available upon
19 appropriation by the Legislature,

20 "(i) Nothing in this section shall preclude a board from including the recovery of the costs
21 of investigation and enforcement of a case in any stipulated settlement.

"(j) This section does not apply to any board if a specific statutory provision in that board's
licensing act provides for recovery of costs in an administrative disciplinary proceeding.

"(k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licentiate. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from

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this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435."

#### FIRST CAUSE FOR DISCIPLINE

(Commission of Dishonest Acts)

26. Respondent's license is subject to disciplinary action under Business and Professions Code sections 2936, and 2960, subdivisions (i) and (n), APA Code of Ethics Principle C, in that she committed dishonest acts by engaging in billing fraud. The circumstances are as follows:

27. On or about September 2010, Respondent began providing psychology services to
patient D.M. Initially D.M. saw Respondent on a weekly basis. Patient D.M. was a federal
employee who had supported U.S. combat forces overseas and been deployed to combat zones.
By May 2012, Respondent was seeing D.M. on a monthly basis. Due to treatments from other
health care providers, patient D.M. began seeing Respondent on a significantly reduced basis. On
or about October 24, 2012, patient D.M. stopped seeing Respondent for further psychological
care.

Between May 2012, and October 24, 2012, according to Respondent's patient records, 28. 15 patient D.M. received one-on-one psychological sessions or failed to appear for his scheduled 16 appointment with Respondent on fifteen separate occasions; Patient D.M.'s psychological 17 sessions were covered by the Office of Workers' Compensation Program. According to Patient 18 D.M., he only received treatment from Respondent on three occasions between May 2012, and 19 October 24, 2012. Between May 2012, and October 24, 2012, Respondent billed the Office of 20 Workers' Compensation Program for fifty seven one-on-one psychological sessions and received 21 payment for services that were not provided, 22

23 29. Despite the termination of treatment to patient D.M. on October 24, 2012, and having
24 no patient records after October 24, 2012, Respondent billed the Office of Workers'
25 Compensation Program for forty four one-on-one psychological sessions for services between
26 October 29, 2012, and February 27, 2013. Respondent received payment for these services
27 despite not actually providing services to patient D.M.

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In addition to the allegations specifically set forth in this Accusation, there were other 30. billing irregularities present in the records where Respondent improperly billed the Office of Workers' Compensation Program for services not actually provided to patient D.M.

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On or about September 2003, Respondent began providing psychological care to 31. patient J.D. Initially, Respondent provided therapy sessions two times a week. Patient J.D. was a former federal law enforcement officer who had been involved in an officer involved shooting. 6 Beginning in September 2008, patient J.D. was only seeing Respondent once a week. Patient J.D.'s therapy sessions were covered by the Office of Workers' Compensation Program. Between 8 September 2008 and September 25, 2013, patient J.D. cancelled five appointments. Since 2009, 9 Patient J.D. has not received therapy over the phone. 10

32. Between January 2012 and March 2014, Respondent billed J.D.'s insurance for two 11 hundred and eighty three therapy sessions. Multiple sessions were billed per week despite 12 Respondent only seeing patient J.D. one day a week.<sup>1</sup> Respondent billed J.D.'s insurance \$150.00 13 for each session. Between January 2012 and March 2014, Respondent only drafted and submitted 14 four reports to J.D.'s insurance and only created four progress notes detailing the treatment 15 provided to patient J.D. 16

33, In addition to the allegations specifically set forth in this Accusation, there were other 17 billing irregularities present in the records where Respondent improperly billed the Office of 18 Workers' Compensation Program and J.D.'s insurance for services not actually provided to 19 patient J.D. 20

34. On October 7, 2014, a search warrant was served on Respondent's residence, property 21 and vehicle. Following the search, Respondent was voluntarily interviewed by an Investigator 22 from the Department of Consumer Affairs and a Special Agent from the United States 23 Department of Labor. Respondent was asked if she was aware that the insurance forms she 24 submitted to the federal government were fraudulent. Respondent stated, "Yes, I was aware." 25 26

<sup>1</sup> Assuming that the Respondent saw Patient J.D. one day a week without cancellation over this 27 month period, then one would expect no more that one hundred and sixteen therapy sessions being billed to the Office of Workers' Compensation Program.

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Respondent also stated that the fraudulent billings were benefiting her and her secretary at the time, so she allowed the fraudulent billings to occur. Respondent said that the fraudulent billings were "easy to overlook."<sup>2</sup>

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On or about August 2015, Respondent asked patient J.D. during a face-to-face 35. treatment session about what. "they were going to tell the investigators," who had served the search warrant at her residence. Respondent indicated that they needed to get their stories straight. Respondent asked J.D. when he had stopped attending twice a week treatment sessions and began only seeing Respondent once a week. J.D. informed her that he had been attending once a week treatment sessions with Respondent since 2008, Respondent told J.D. that he wasn't going to tell them (law enforcement) about when she stopped seeing him twice a week for therapy. J.D. stated he will answer the questions truthfully and J.D. thought Respondent was attempting to get him to lie about what happened. 12

Respondent's license is subject to disciplinary action under Business and Professions 36. Code sections 2936, and 2960, subdivisions (i) and (n), APA Code of Ethics Principle C, in that she committed dishonest acts by engaging in billing fraud.

#### SECOND CAUSE FOR DISCIPLINE

(Gress Nogligence - Willful, Unauthorized Communication of Information Received In-

### Professional Confidence)

Respondent's license is subject to disciplinary action under Business and Professions 19 37. 20 Code section 2936, and 2960, subdivisions (h), (i) and (j), APA Code of Ethics Principle E, APA Code of Ethics sections 3.04, 4.01, 4.04, and 4:05, in that she willfully and without authorization 21 communicated confidential patient information to other patients during treatment. The 22 circumstances are as follows: 23

Complainant realleges paragraphs 26 through 36, and those paragraphs are 38.

incorporated by reference as if fully set forth herein. 25

26 <sup>2</sup> On October 21, 2015, in Nevada County Superior Court Case No. Respondent was charged in a oriminal complaint with four felony counts involving insurance 27 fraud and securing money by false pretenses directly related to the allegations in this matter. Those criminal proceedings are on-going. 28

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39. On or about September 2010, patient D.M. was waiting for his appointment in Respondent's waiting room. Patient D.M. overheard Respondent tell the patient who was ourrently in Respondent's office that "D." was her next patient and that he wasn't her "poster child." These comments upset and bothered patient D.M. because he got the impression that he wasn't a good patient.

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40. During treatment sessions, Respondent would tell D.M. about her other patients. Respondent mentioned a patient named "J." who worked in the bay area. Respondent mentioned that "J." had been involved in an officer involved shooting and was receiving treatment for 8 PTSD,<sup>3</sup> Respondent told D.M. that "J." had gained a lot of weight during treatment and that he was starting to take up "two seat cushions." Respondent later told D.M. that "J." had started 10 11. walking and started to lose weight. A Department of Consumer Affair's Investigator later confirmed that "J." was patient J.D. 12

41. During treatment sessions, Respondent would tell D.M. about an officer stationed at 13 Beale Air Force Base.<sup>4</sup> Respondent told D.M. that the officer had PTSD and told D.M. when the 14 officer transferred to an airbase in Colorado. A Department of Consumer Affair's Investigator 15 16 later confirmed that the officer was a previous patient of Respondent before transferring to an airbaso-in-Colorado-17

On or about January 1, 2009 to December 31, 2014, in addition to the allegations 42. ·18 specifically set forth in this Accusation related to patient D.M., Respondent repeatedly committed . 19 breaches of confidentiality for other patients, including patient J.D. and J.V., by failing to take 20 21 measures to prevent treatment sessions from being overheard by other individuals in her house and by Respondent discussing her patients confidential information in a public setting while other 22 individuals were present. 23

Respondent's license is subject to disciplinary action under section Business and 43. 24 Professions Code sections 2936 and 2960, subdivision (h) and (i), APA Code of Ethics Principle 25 26 <sup>3</sup> Additional Details provided to patient D.M. have been omitted to protect the identity of patient J.D. 27 Additional Details provided to patient D.M. have been omitted to protect the identity of this patient. 28

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E, APA Code of Ethics sections 4.01, 4.04, and 4.05, in that she willfully and without authorization communicated confidential patient information to other patients during treatment.

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#### THIRD CAUSE FOR DISCIPLINE

(Gross Negligence - Multiple Relationships and Inappropriate Self-Disclosure) 44. Respondent's license is subject to disciplinary action under Business and Professions Code sections 2936, and 2960, subdivisions (i) and (j), APA Code of Ethics sections 3.05; in that she committed gross negligence during the care of her patients J.V., T.V., and M.B. The circumstances are as follows:

9 45. Complainant realleges paragraphs 26 through 43, and those paragraphs are 10 incorporated by reference as if fully set forth herein.

46. Between 2010 and 2013, J.V. worked for Respondent as her assistant and performed
billing services. During the same period of time patient T.V., J.V.'s husband, was Respondent's
patient. During that same period of time J.V. was also Respondent's patient. Respondent failed
to refer J.V., or T.V. out to another healthoare provider despite providing treatment to both
spouses and employing J.V. in her practice.

47. Between 2010 and 2013, T.V. arrived for multiple appointments and Respondent
 -stated-that-she-was-hungry-and-requested that they-go-out to lunch.-T.V. felt-obligated to go to 18 lunch with Respondent despite being at Respondent's office for scheduled treatment sessions.

Between 2011 and 2012, patient M.B attended approximately five therapy sessions 48. 19 with Respondent. Patient M.B. felt that she was providing therapy to Respondent rather than 20 Respondent providing therapy to her. During one visit, Respondent spent the entire time telling 21 patient M.B. about the death of her father. During another visit, Respondent spent the entire visit 22 watering her own plants. On a different visit to Respondent, M.B. watched as Respondent kept 23 calling someone to take care of Respondent's horses rather than provide treatment to M.B. 24 Patient M.B. eventually sought counseling from another therapist as Respondent was not 25 providing her with treatment. 26

49. Between 2010 and 2011, Respondent discussed her job search with patient J.D.
28 Respondent discussed that she was seeking a job at Beale Air Force Base. At a later session,

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Respondent stated she was let go from Beale Air Force Base and that, "it wasn't the right fit." At
these sessions Respondent did not provide treatment to J.D. and complained about her job search
situation.
50. On or about January 1, 2009 to December 31, 2014, in addition to the allegations
specifically set forth in this Accusation related to patients T.V., J.V., M.B., and J.D., Respondent
repeatedly discussed other personal issues with patients which lead to the creation of improper

|| multiple relationships with patients.

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8 51. Respondent's license is subject to disciplinary action under Business and Professions
9 Code sections 2936, and 2960, subdivisions (i) and (j), APA Code of Ethics sections 3.05, in that
10 she committed gross negligence during the care of her patients J.V., T.V., and M.B. by discussing
11 personal information with her patients and creating multiple relationships.

#### FOURTH CAUSE FOR DISCIPLINE

(Gross Negligence – Causing Harm to Patients)

14 .52. Respondent's license is subject to disciplinary action under Business and Professions
 15 Code sections 2936, and 2960, subdivisions (h), (i) and (j), APA Code of Ethics Principle A, and
 16 APA Code of Ethics section 3.04, in that she caused harm to her patients. The circumstances are
 17 - as-follows:

18 53. Complainant realleges paragraphs 26 through 51, and those paragraphs are
19 incorporated by reference as if fully set forth herein.

54. During Respondent's treatment of D.M., D.M.'s wife stated that her husband became "very anxious and stressed" when he left home and it was "very stressful" to have to wait for Dr. Kelly when she was often late for appointments. On occasion, D.M. would wait anywhere from 30 to 45 minutes to be seen by Respondent. In addition as previously alleged, D.M. overheard Respondent tell another patient that D.M. was not his "poster child," and he concluded that he was "not a good patient."

55. In 2010, during the treatment of patient J.D., Respondent repeatedly brought up
financial issues involving a patient named M.S. with J.D. J.D. did not want to discuss M.S. and
informed Respondent that he did not wish to discuss M.S. Respondent was "relentless" on

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bringing patient M.S. up despite J.D. specifically requesting that Respondent not discuss M.S. 1 with him during treatment sessions. Patient J.D. remarked that it was common following his 2 treatment sessions to feel, "destroyed and beat-up". Patient J.D. also stated that Respondent was 3 "always late" for his sessions and that he often was forced to wait 30 minutes for their 30 to 45 4 minute sessions to begin. 5 Respondent's license is subject to disciplinary action under Business and Professions 56. 6 Code sections 2936, and 2960, subdivisions (h), (i) and (j), APA Code of Ethics Principle A, and 7 APA Code of Bihics section 3.04, in that she caused harm to her patients. 8 FIFTH CAUSE FOR DISCIPLINE 9 (Gross Negligence - Inadequate Record Keeping) 10

57. Respondent is subject to disciplinary action under Business and Professions Code sections 2936, and 2960, subdivisions (i), and (j), APA Code of Ethics sections 3.06, 3.08, 3.12, 6.01, and 6.06, in that she committed gross negligence during the care and treatment of her patients D.M. and J.D. by failing to keep adequate records. The circumstances are as follows:

Complainant realleges paragraphs 26 through 56, and those paragraphs are 58. incorporated by reference as if fully set forth herein, 16

-59. - Between 2010 and 2013, Respondent-failed to adequately keep patient records for 17 patient D.M. Respondent's patient records for patient D.M. end on October 24, 2012, but she 18 continued billing until February 7, 2013. Respondent provided three billing forms that detailed 19 the nature of the services provided to D.M. The progress notes fail to mention that D.M. received 20 equine therapy and whether it was successful. The progress notes that were created do not match 21 the dates that Respondent billed his insurance. Respondent's progress notes in D.M.'s case fail to 22 adequately provide a subsequent provider with any details related to his illness, treatment, and 23 status. Respondent billed for a total of 282 sessions with patient D.M. but Respondent only 24 authored 47 progress notes.<sup>5</sup> 25

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<sup>5</sup> 17% of the 282 visits were documented.

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1	60. Between January 2012 and March 2014, Respondent failed to adequately keep patient
2	records for patient J.D. Despite billing for two hundred and eighty three therapy sessions,
3	Respondent authored four progress notes. At a minimum, a progress note should include a
4	subjective component, objective component, assessment, and plan and should have been
5	completed for each therapy session. Each of the four handwritten notes authored by Respondent
6	contain only a limited subjective component. There is no possible way to determine from
7	Respondent's notes how J.D. appeared at the visit, what his psychological diagnosis was at each
8	visit and what Respondent planned on doing as part of J.D.'s continued therapy. Respondent also
9	failed to keep accurate and complete billing records regarding the treatment provided to J.D.
10	61. Respondent's license is subject to disciplinary action under Business and Professions
11	Code sections 2936, and 2960, subdivisions (i) and (j), APA Code of Ethics sections 3.05, 3.06,
12	3.08, 6.01, and 6.06, in that she committed gross negligence during the care and treatment of
13	patients D.M. and J.D. by failing to keep adequate records.
14	SIXTH CAUSE FOR DISCIPLINE
15	(Gross Negligence-Inadequate Forensic Assessments)
16	62. Respondent is subject to disciplinary action under Business and Professions Code
17	sections-2936, and 2960, subdivisions (i), and (j), APA Code of Ethios section 9.01, in that she
18	committed gross negligence by failing to properly conduct forensic assessments of patients D.M.
19	and J.D. The circumstances are as follows:
20	63. Complainant realleges paragraphs 26 through 61, and those paragraphs are
21	incorporated by reference as if fully set forth herein.
22	64. Respondent provided numerous Workers Compensation reports as part of her
23 <sup>.</sup>	treatment and evaluation of patients D.M. and J.D. Respondent's reports failed to accurately set
24	forth the goals of treatment, the treatment that was provided, the response to the treatment
25	provided, and the on-going treatment plan. When the reports were compared to other reports, it
26	clearly demonstrated that large portions of Respondent's report were copied from one report and
27	pasted into the next report. Respondent failed to provide information related to treatment dates,
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duration of treatments, and what interventions were being performed. Respondent's Workers Compensation reports falled to provide meaningful forensic information.

3 65. Respondent is subject to disciplinary action under Business and Professions Code sections 2936, and 2960, subdivisions (i), and (j), APA Code of Ethics section 9.01, in that she committed gross negligence by failing to properly conduct forensic assessments of patients D.M. and J.D.

#### SIXTH CAUSE FOR DISCIPLINE

#### (Repeated Negligence Acts)

Respondent's license is subject to disciplinary action under section Business and 66. Professions Code section 2960, subdivision (r), in that she committed repeated negligent acts during the treatment of patients J.V., T.V., D.M., and J.D. The circumstances are as follows: 11

Complainant realleges paragraphs 26 through 65, and those paragraphs are 12 67. incorporated by reference as if fully set forth herein. 13

Respondent's license is subject to disciplinary action under Business and Professions 14 б8. Code 2960(r), in that she committed a disciplinary violation because she was repeatedly negligent 15 as a psychologist while treating patient J.V., T.V., D.M., and J.D. for acts including, but not 16 limited-to-the-following-17

- Respondent's repeatedly allowed fraudulent billing to be submitted to the 8. Officer of Workers' Compensation Program for therapy sessions that were not provided to patients D.M. and J.D.:
- b., Respondent shared confidential information about patients to other patients during therapy sessions;
- Respondent failed to properly keep progress notes for patients D.M. and J.D.; Ø,
- đ. Respondent entered into impermissible multiple relationships with patients;
- Respondent failed to provide adequate forensic reports. θ,
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. 1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board of Psychology issue a decision:
4	1. Revoking or suspending Psychologist License Number PSY issued to
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6	2. Ordering the pay the Board of Psychology the reasonable costs of
7.	the investigation and enforcement of this case, and, if placed on probation, the costs of probation
8	monitoring;
· · 9	3. Taking such other and further action as deemed necessary and proper.
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11	DATED: March 4, 2016
12	ANTONETTE SÖRRICK Executive Officer
13	Board of Psychology Department of Consumer Affairs
14	State of California Complainant
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1	.) ACCUSATION



Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Board Members

From: Rosanne Helms Legislative Analyst 
 Date:
 February 7, 2017

 Telephone:
 (916) 574-7897

#### Subject: Legislative Update

Board staff is currently pursuing the following legislative proposals:

#### 1. <u>AB 93 (Medina) Healing Arts: Marriage and Family Therapists: Clinical Social Workers:</u> <u>Professional Clinical Counselors: Required Experience and Supervision</u>

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.

This bill proposal was approved by the Board at its November 4, 2016 meeting.

#### 2. <u>Omnibus Legislation (Senate Business, Professions, and Economic Development</u> <u>Committee) (No Bill Number Assigned at This Time)</u>

This bill proposal, approved by the Board at its November 4, 2016 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

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Memo

1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Board Members

**Date:** February 16, 2017

From: Christy Berger Regulatory Analyst **Telephone:** (916) 574-7817

# Subject: Status of Rulemaking Proposals

# **CURRENT REGULATORY PROPOSALS**

# English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2

This proposal would allow the Board to grant time-and-a-half (1.5x) on a Boardadministered examination to an English as a second language (ESL) applicant, if the applicant meets specific criteria demonstrating limited English proficiency.

The final proposal was approved by the Board at its meeting in November 2015. It was published in the California Regulatory Notice Register on January 1, 2016. The 45-day public comment period has ended, and the public hearing was held on February 15, 2016. Upon review by the Office of Administrative Law (OAL), staff was notified wording changes that would be necessary for approval. The proposed changes are included in the March 2017 Board meeting materials. Upon Board approval, a 15-day public comment period is required, as well as Department of Consumer Affairs (DCA) and OAL approvals.

# Registrant Advertising; Application Processing Times

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 is currently in the new "initial review phase" process required by DCA. The initial review phase is expected to be completed by mid-April 2017, at which time the proposal will be submitted to OAL for publishing in the California Regulatory Notice Register to initiate the 45-day public comment period.

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