



Board of Behavioral Sciences

Memo

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To: Board Members

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Subject: Legislative Update

BOARD-SPONSORED LEGISLATION

The Board is sponsoring the following legislative proposals:

1. **AB 93 (Medina) Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision**

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.

Status: This bill on concurrence in the Assembly.

2. **AB 2117 (Arambula): Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors**

The Board is proposing this bill to make some amendments to its licensing process. The bill will make amendments to specify how an expired registration may be renewed, and to supervised experience hours required for long term out-of-state license holders. It also makes some corrections to LCSW law regarding the California law and ethics exam and law and ethics coursework.

Status: This bill is enrolled and is awaiting a decision by the Governor.

3. **SB 1491 (Senate Business, Professions, and Economic Development Committee): Omnibus Legislation**

This bill proposal makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

Status: This bill is on third reading in the Assembly.

BOARD-SUPPORTED LEGISLATION

1. **AB 456 (Thurmond): Healing Arts: Associate Clinical Social Workers**

This bill extends the Board's "90-day rule" to applicants for registration as an associate clinical social worker (ASW). Currently, the 90-day rule allows applicants for registration as an associate marriage and family therapist or an associate professional clinical counselor to count post degree hours of supervised experience before receiving a registration number, as long as they apply for their associate registration within 90 days of the granting of their qualifying degree. On or after January 1, 2020, in order to count supervised experience gained under the 90-day rule, the applicant must provide the Board with proof that the workplace required Live-Scan fingerprinting prior to the applicant gaining supervised experience hours.

At its May 12, 2017 meeting, the Board took a "support" position on this bill.

Status: This bill has been signed by the Governor. (Chapter 158, Statutes of 2018)

2. **AB 1436 (Levine): Board of Behavioral Sciences: Licensees: Suicide Prevention Training**

Beginning January 1, 2021, this bill would require applicants for any license with the Board of Behavioral Sciences to demonstrate completion of at least 6 hours of coursework or supervised experience in suicide risk assessment and intervention. Current licensees would also be required to demonstrate completion of this coursework or supervised experience in their first renewal period after this date.

At its May 11, 2018 meeting, the Board took a "support" position on this bill.

Status: This bill has passed the Senate and has gone back to the Assembly for concurrence.

3. **AB 2088 (Santiago): Patient Records: Addenda**

This bill would include minors in the allowance that any patient that inspects his or her patient records may provide a written addendum to the record for any item or statement that he or she believes is incomplete or incorrect. Currently, this provision is only allowed for adult patients.

At its May 11, 2018 meeting, the Board took a "support" position on this bill.

Status: This bill is enrolled and is awaiting a decision by the Governor.

4. **AB 2296 (Waldron): Licensed Professional Clinical Counselors: Licensed Clinical Social Workers**

This bill seeks to add LPCCs and LCSWs to areas of California law where other comparable licensed mental health professionals are included. It also makes some changes to the LPCC education requirements regarding core content areas of study.

At its May 11, 2018 meeting, the Board took a “support” position on this bill.

Status: This bill has passed the Senate and has gone back to the Assembly for concurrence.

5. AB 2943 (Low): Unlawful Business Practices: Sexual Orientation Change Efforts

This bill would make advertising, offering for sale, or selling services constituting sexual orientation change efforts to an individual an unfair or deceptive act under the Consumer Legal Remedies Act, allowing harmed consumers to bring legal action against violators to recover damages.

At its May 11, 2018 meeting, the Board took a “support” position on this bill.

Status: This bill has passed the Senate and has been sent back to the Assembly for concurrence.

6. AB 2968 (Levine): Psychotherapist-Client Relationship: Victims of Sexual Behavior and Sexual Contact: Informational Brochure

This bill makes changes to sections of the Business and Professions Code relating to the requirement that the Department of Consumer Affairs create a brochure to educate the public about the prohibition of sexual contact in therapy. Its proposed amendments would modernize the brochure.

At its May 11, 2018 meeting, the Board took a “support” position on this bill.

Status: This bill has passed the Senate and has been sent back to the Assembly for concurrence.

BOARD-MONITORED LEGISLATION

1. AB 767 (Quirk-Silva) Master Business License Act

This bill originally proposed creating a master business license system under the Governor’s Office of Business and Economic Development. It would have allowed a person who needs to apply for more than one business license to submit a single master application through GO-Biz, which would then distribute the application information to the various relevant licensing entities. However, it would have allowed state agencies to opt out of the master application system if desired.

At its May 11, 2018 meeting, the Board took a “support” position on AB 767. However, the bill underwent significant amendments after the May Board meeting. As currently written, the bill shifts its focus to the Go-Biz Information Technology Unit’s “Business Development Portal.” It requires that the Unit establish an online government permit and license assistance center, with a goal of providing assistance in the form of software,

hotlinks, and other online resources to businesses to assist in compliance with laws and regulations.

The amendments to the bill were significant and took a more general focus than the previous direction of the bill.

Status: This bill is on third reading in the Senate.

2. AB 2138 (Chiu and Low) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction

This bill would make significant amendments to the Board's enforcement process, including limits on when a board can deny, revoke or suspend a license based on a conviction or other acts.

At its May 11, 2018, the Board took an "oppose unless amended" position on this bill and asked to be removed from all provisions of this bill except for the data collection component.

This bill has been amended since the Board last considered it, however the significant areas of concern remain, and the Board has not been removed from the bill's provisions as requested.

Status: This bill is on third reading in the Senate.

3. AB 2143 (Caballero) Healing Arts Licensee: License Activation Fee: Waiver

This bill proposes allowing psychiatric mental health nurse practitioners and physician assistants, who also hold a specified license with this Board or the Board of Psychology, and who work in a psychiatric mental health setting, to be eligible for the Mental Health Practitioner Education fund loan repayment grant program.

At its May 11, 2018 meeting, the Board took an "oppose unless amended" position on this bill, asking for the following:

1. Removal of the dual licensure requirement, as a LMFT, LPCC, or LCSW working in a qualifying setting is already eligible to apply for the grant program;
2. If the bill intends to establish nurse practitioners and physician's assistants who work in psychiatric mental health settings (and who are not duly licensed under this Board) as eligible for the program, a funding source that does not use funds paid by other license types should be established; and
3. Include the Board's licensed educational psychologists (LEPs) in the loan repayment grant program and require them to pay fees into the program. This component was included in a previous version of the bill, and the Board is supportive of this effort.

The bill was not amended per the Board's request. It should be noted that by definition, anyone who is actively licensed or registered with this Board would already qualify for

the grant program as long as they are providing direct patient care mental health services in a qualifying setting.

Status: This bill has passed through the Senate and is now in the Assembly for concurrence.

4. AB 2302 (Baker) Child Abuse: Sexual Assault: Mandated Reporters

At the time the Board considered this bill, it proposed making a mandated reporter's failure to report the sexual assault of a child a continuing offense. This would have meant that the one-year statute of limitations would begin when law enforcement discovered the failure to report, instead of when the failure to report occurred.

At its May 11, 2018 meeting, the Board took an "oppose unless amended" position on this bill. The Board noted that its licensees are required to keep patient records for a minimum of seven years from the date therapy is terminated, or, for a minor patient, seven years from the date the patient turns 18. Without records, it could be very difficult to prove a failure to report. Therefore, the Board requested that the author consider the recordkeeping requirements for mandated reporters as it relates to this bill.

This bill has been amended since the Board last considered it. It now proposes allowing prosecution for a mandated reporter's failure to report the sexual assault of a child to be filed at any time within 5 years from the occurrence of the offense. This is more in line with the Board's recordkeeping requirements.

Status: This bill has passed the Senate and has gone to the Assembly for concurrence.

5. AB 2608 (Stone) Licensed Mental Health Service Provider Education Program: Former Foster Youth

Previously, this bill created new fund under the Mental Health Practitioner Education Fund loan repayment grant program specifically for loan repayment grants for LMFT and LCSW licensees and registrants who were formerly in California's foster youth care system. The program would have been funded by levying an additional \$10 fee on LMFT and LCSWs each renewal cycle.

At its May 11, 2018, the Board took an "oppose unless amended" position on this bill. The Board requested that rather than establishing a separate grant fund and special priority for existing awards, this bill be amended to instead require that an applicant's history as a foster youth may be considered as a factor when awarding the loan repayment grants.

The bill has been amended since the Board last considered it, although not as the Board requested. Under the current version, a separate grant fund is still established for Board licensees and registrants working in a qualifying setting who are former foster youth. However, an additional fee is no longer levied on the Board's licensees; instead, the funding must be appropriated by the Legislature.

Status: This bill has passed the Senate and has gone to the Assembly for concurrence.

6. **AB 3120 (Gonzalez Fletcher) Damages: Childhood Sexual Assault: Statute of Limitations**

This bill originally proposed to remove the time limit for beginning an action to recover damages due to childhood sexual assault. It would have also required a Board licensee to report to the Board that an action to recover damages due to childhood sexual assault has been filed against him or her, or that a judgement had been reached.

At its Board meeting on May 11, 2018, the Board decided not to take a position on this bill.

Since the meeting, the bill has been amended. It no longer removes the time limits, but extends them. The requirement to report to a licensing board has also been removed.

Status: This bill is on third reading in the Senate.

7. **SB 399 (Portantino) Health Care Coverage: Pervasive Developmental Disorder or Autism**

This bill seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment. It also revises the definitions of a “qualified autism service professional” and a “qualified autism service paraprofessional.”

At its May 11, 2018 meeting, the Board had adopted a “support if amended” position and asked that its licensed educational psychologists (LEPs) be added to the list of professionals who qualify as an autism service professional. However, upon discussion with the author’s office, it was determined that the bill already permits LEPs to qualify as autism service providers, which practice at a higher level than autism service professionals. Therefore, it was determined to be unadvisable to place LEPs in the lower category.

Due to this information, the bill would need to be reconsidered by the Board to proceed with a position.

Status: This bill is on third reading in the Assembly.

8. **SB 906 (Beall and Anderson) Medi-Cal: Mental Health Services: Peer Support Specialist Certification**

This bill would require the State Department of Health Care Services (DHCS) to establish a peer support specialist certification program.

At its May 11, 2018 meeting, the Board had adopted a “support if amended” position on the bill. However, it requested two amendments, one to address a supervision issue, and one to address a public protection concern:

- **Inclusion of Licensed Professional Clinical Counselors (LPCCs) as Supervisors:** The bill permits licensed mental health professionals as supervisors. However, it excludes LPCCS as supervisors. The Board requested that LPCCs included.

- Addition of a Fingerprinting Requirement: The Board asked that to ensure public protection, bill specify that fingerprinting be a requirement for certification support specialist.

Significant amendments have been made to the bill since the Board last considered it. The piece that excluded LPCCs as supervisors has been removed, however, no fingerprint requirement has been added. Due to the latest changes, the Board would need to reconsider the bill to proceed with a position.

Status: This bill is on third reading in the Assembly.

9. SB 968 (Pan) Postsecondary Education: Mental Health Counselors

This bill would require specified higher education entities in California to hire one full-time equivalent licensed mental health counselor per 1,500 students enrolled at each of their campuses.

At its May 11, 2018 meeting, the Board had adopted a “support if amended” position and requested that in addition to including licensees in the ratio of mental health providers to students at college campuses, that the Board’s trainees and registered associates also be included. The Board believed that allowing trainees and registered associates to meet the ratio requirement may make it more feasible for colleges to employ a higher number of mental health professionals, while allowing these individuals some of the experience under supervision that they need to become licensed professionals.

This bill has been amended since the Board’s last meeting. However, the amendments did not include the Board’s trainees and associates in the ration of mental health providers to students. This, coupled with the significance of the recent amendments, would require further Board consideration before proceeding with a position.

Status: This bill is on third reading in the Assembly.

Updated: August 23, 2018