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To: Board Members **Date:** September 3, 2021

From: Rosanne Helms
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Subject: **Discussion of Replacing the 12-Hour California Law and Ethics Course Requirement for Renewing Registrants with a Failing Score on the California Law and Ethics Examination with a Continuing Education Course Requirement for all Registrants**

Overview

The Board requires its marriage and family therapist, clinical social worker, and professional clinical counselor registrants to take the California Law and Ethics Examination (L&E exam) a minimum of once each renewal period, until passed.

If the registrant fails the L&E exam, they are still permitted to renew their registration, but must show proof of completing a 12-hour California law and ethics course in order to be able to participate in the exam in the next renewal cycle.

A registration may be renewed up to five times. After the fifth renewal, the applicant can obtain a subsequent registration number, but only if they have passed the L&E exam.

Board staff has observed that since the examination restructure became effective (in 2016) and the 12-hour course became a requirement, completion of the course has at times been problematic for registrants.

After consideration of the above issue, the Licensing Committee directed staff to draft language deleting the 12-hour California law and ethics course requirement, and to instead require all registrants to complete a 3-hour California law and ethics course in each renewal cycle.

Issues with the 12-Hour Law and Ethics Course

The timing and need to take the 12-hour law and ethics course after renewing, if the L&E exam was failed in the prior renewal period, can be problematic for the following reasons:

- Some registrants are confused about when they need to take the 12-hour course (upon failure of the L&E exam, the registrant needs to renew the registration and then take the 12-hour course once renewed). The Board will not accept a course that was taken **prior** to the previous failure of the exam.
- Some registrants do not realize they need to take the 12-hour course. Therefore, they do not take it; and when they need to take the L&E exam again, they are not able to do so until they take the course. This can delay the registrant's next renewal, and in some cases, impact their employment if their registration lapses.
- In addition to the costs of registration renewal (\$150 per year) and costs to take the L&E exam (\$150 per test; test can be taken every 90 days or up to four times per renewal cycle), taking a required course results in an additional cost to registrants. Staff reviewed costs for the 12-hour course from several continuing education providers and found a wide range of prices. Depending on the provider chosen, the course typically costs between \$50 to \$236.

At the same time, the Committee felt that public protection may be better served by requiring all registrants to take a 3-hour continuing education course in California law and ethics. This would ensure that all registrants remain current on the latest information regarding law and ethics as it evolves over the time during which they are registered. In addition, it more closely mirrors what licensees are required to do. (Licensees are required to complete 36-hours of continuing education every two years, 6 hours of which must be in the subject of California law and ethics.)

Proposed Language

Attachment A contains the proposed language needed if the Board were to require all registrants to complete a 3-hour continuing education course in California law and ethics each renewal period. The proposed language includes statute only; if legislation were successful, the Board would need to update its regulations as well.

Policy and Advocacy Committee Recommendation

The Policy and Advocacy Committee discussed the proposed language shown in **Attachment A** at its August 6, 2021 meeting. Two noteworthy discussions occurred at that meeting:

1. In addition to discussing the proposed language, the Committee discussed whether or not the language needs a delayed implementation. The Committee demined that proper advance outreach would be needed, but that delayed implementation was not necessary.
2. Cost concerns for associates were discussed. Some stakeholders questioned whether requiring the 3-hour course would place a cost burden on associates.

Staff looked into CE course costs further and found the following:

- Several CE providers offer a 6-hour law and ethics course (likely intended for licensees to meet their CE requirement). Costs found for that 6-hour course ranged from \$36 - \$145.
- Several CE providers currently offer some 3-hour courses covering topics related to law and ethics. Costs found for those 3-hour courses ranged from \$21 - \$39.
- Some stakeholders have also indicated certain CE providers, as well as some employers, offer free law and ethics CE courses as well.

Recommendation

Conduct an open discussion about the proposed language. Direct staff to make any discussed changes and any non-substantive changes, and pursue as a legislative proposal.

Attachments

Attachment A: Proposed Language: Delete 12 Hour L&E Course Required for Failed Exam; 3 Hour L&E Continuing Education Course Required for All Registrants Each Renewal Cycle

Attachment B: California Law and Ethics Examination Pass Rates

ATTACHMENT A
Proposed Language
Delete 12 Hour L&E Course Required for Failed Exam; 3 Hour L&E Continuing Education Course Required for All Registrants Each Renewal Cycle

LMFTs

BUSINESS AND PROFESSIONS CODE (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~~their registration renewal.
- (c) If an applicant fails the California law and ethics examination, ~~he or she~~they may retake the examination, upon payment of the required fees, without further application ~~except as provided in subdivision (d)~~.
- ~~(d) If a registrant fails to obtain a passing score on the California law and ethics examination 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.~~
- ~~(e)~~(d)) The board shall not issue a subsequent registration number unless the applicant has passed the California law and ethics examination.
- (e) All registrants shall complete a minimum of three (3) hours of continuing education in the subject of California law and ethics during each renewal period in order to be eligible to renew their registration, regardless of whether or not they have passed the California law and ethics examination. The coursework shall be obtained from a board-accepted provider of continuing education, as specified in Section 4980.54.

§ 4980.54. CONTINUING EDUCATION

- (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to ensure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if he or she passes those examinations, to begin practice.
- (b) In order to continuously improve the competence of licensed and registered marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees and registrants to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.
- (c) (1) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.

(2) The board shall not renew any registration pursuant to this chapter unless the registrant certifies to the board, on a form prescribed by the board, that they have completed not less than three (3) hours of continuing education in the subject of California law and ethics during the preceding year.
- (d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.
- (e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.
- (f) The continuing education shall be obtained from one of the following sources:
 - (1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.36 or 4980.37. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.
 - (2) Other continuing education providers, as specified by the board by regulation.
- (g) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.

(h) Training, education, and coursework by approved providers shall incorporate one or more of the following:

- (1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.
- (2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.
- (3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

§ 4984.01. ASSOCIATE REGISTRATION; DURATION; RENEWAL

(a) The associate marriage and family therapist 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.

(5) Certify compliance with the continuing education requirements set forth in Section 4980.54.

- (c) An expired registration may be renewed by completing all of the actions described in paragraphs (1) to ~~(4)~~(5), inclusive, of subdivision (b).
- (d) 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 associate registration number if the applicant meets the educational requirements for a subsequent associate registration number and has passed the California law and ethics examination. An applicant who is issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

LCSWs

§ 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~~ their registration renewal.
- (c) If an applicant fails the California law and ethics examination, ~~he or she~~ they may retake the examination, upon payment of the required fees, without further application ~~except for as provided in subdivision (d)~~.
- ~~(d) If a registrant fails to obtain a passing score on the California law and ethics examination 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.~~
- ~~(ed)~~ The board shall not issue a subsequent registration number unless the applicant has passed the California law and ethics examination.
- (e) All registrants shall complete a minimum of three (3) hours of continuing education in the subject of California law and ethics during each renewal period in order to be eligible to renew their registration, regardless of whether or not they have passed the

California law and ethics examination. The coursework shall be obtained from a board-accepted provider of continuing education, as specified in Section 4996.22.

§ 4996.22. CONTINUING EDUCATION

- (a)(1) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the board.
- (2) The board shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the board that during the applicant's first renewal period after the operative date of this section, ~~he or she~~ they completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the board and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).
- (3) The board shall not renew any registration pursuant to this chapter unless the registrant certifies to the board, on a form prescribed by the board, that they have completed not less than three (3) hours of continuing education in the subject of California law and ethics during the preceding year.
- (b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.
- (c) The board may establish exceptions from the continuing education requirement of this section for good cause as defined by the board.
- (d) The continuing education shall be obtained from one of the following sources:
- (1) An accredited school of social work, as defined in Section 4991.2, or 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. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

- (2) Other continuing education providers, as specified by the board by regulation.
- (e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to the procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.
- (f) Training, education, and coursework by approved providers shall incorporate one or more of the following:
 - (1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.
 - (2) Aspects of the social work discipline in which significant recent developments have occurred.
 - (3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.
- (g) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.
- (h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.
- (i) The board may adopt regulations as necessary to implement this section.
- (j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.

§ 4996.28. ASSOCIATE CLINICAL SOCIAL WORKER; REGISTRATION EXPIRATION; RENEWAL

- (a) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. To renew a 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) 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 by a regulatory or licensing board in this or any other state, subsequent to the last renewal of the registration.
- (4) Participate in the California law and ethics examination pursuant to Section 4992.09 each year until successful completion of this examination.

(5) Certify compliance with the continuing education requirements set forth in Section 4996.22.

- (b) An expired registration may be renewed by completing all of the actions described in paragraphs (1) to ~~(4)~~(5), inclusive, of subdivision (a).
- (c) A registration as an associate clinical social worker 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 the registration was issued, regardless of whether the registration has been revoked. When no further renewals are possible, an applicant may apply for and obtain a subsequent associate clinical social worker registration number if the applicant meets all requirements for registration in effect at the time of his or her application for a subsequent associate clinical social worker registration number and has passed the California law and ethics examination pursuant to Section 4992.09. An applicant issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

LPCCs

§ 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 take a board-administered California law and ethics examination prior to ~~his or her~~ their registration renewal.

(c) If an applicant fails the California law and ethics examination, ~~he or she~~ they may retake the examination, upon payment of the required fees, without further application, ~~except as provided in subdivision (d).~~

~~(d) If a registrant fails to obtain a passing score on the California law and ethics examination within his or her renewal period, he or she shall complete, at minimum, a 12-hour course in California law and ethics prior to retaking the board-administered 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.~~

~~(ed)~~ The board shall not issue a subsequent registration number unless the applicant has passed the California law and ethics examination.

(e) All registrants shall complete a minimum of three (3) hours of continuing education in the subject of California law and ethics during each renewal period in order to be eligible to renew their registration, regardless of whether or not they have passed the California law and ethics examination. The coursework shall be obtained from a board-accepted provider of continuing education, as specified in Section 4999.76.

§ 4999.76. LICENSE RENEWAL; CONTINUING EDUCATION REQUIREMENT

(a) (1) Except as provided in subdivision (c), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board.

(2) The board shall not renew any registration pursuant to this chapter unless the registrant certifies to the board, on a form prescribed by the board, that they have completed not less than three (3) hours of continuing education in the subject of California law and ethics during the preceding year.

(b) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completed continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

- (c) The board may establish exceptions from the continuing education requirement of this section for good cause, as defined by the board.
- (d) The continuing education shall be obtained from one of the following sources:
 - (1) A school, college, or university that is accredited or approved, as defined in Section 4999.12. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.
 - (2) Other continuing education providers as specified by the board by regulation.
- (e) The board shall establish, by regulation, a procedure for identifying acceptable providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (d), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with this section or any regulation adopted pursuant to this section.
- (f) Training, education, and coursework by approved providers shall incorporate one or more of the following:
 - (1) Aspects of the discipline that are fundamental to the understanding or the practice of professional clinical counseling.
 - (2) Significant recent developments in the discipline of professional clinical counseling.
 - (3) Aspects of other disciplines that enhance the understanding or the practice of professional clinical counseling.
- (g) A system of continuing education for licensed professional clinical counselors shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.
- (h) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For the purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d) shall be deemed to be an approved provider.
- (i) The continuing education requirements of this section shall fully comply with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

§ 4999.100. EXPIRATION OF ASSOCIATE REGISTRATION; RENEWAL

(a) An associate registration shall expire one year from the last day of the month in which it was issued.

(b) To renew a registration, the registrant, on or before the expiration date of the registration, shall do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a renewal fee prescribed by the board.

(3) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the registrant's last renewal.

(4) Participate in the California law and ethics examination pursuant to Section 4999.53 each year until successful completion of this examination.

[\(5\) Certify compliance with the continuing education requirements set forth in Section 4999.76.](#)

(c) An expired registration may be renewed by completing all of the actions described in paragraphs (1) to ~~(4)~~(5), inclusive, of subdivision (b).

(d) The associate registration may be renewed a maximum of five times. Registration shall not 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 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 who is issued a subsequent associate registration number pursuant to this subdivision shall not be employed or volunteer in a private practice.

**ATTACHMENT B
CALIFORNIA LAW AND ETHICS EXAM PASS RATES**

	Exams Taken							
	2018		2019		2020		2021 (to date)	
Year	Takers	% Passed	Takers	% Passed	Takers	% Passed	Takers	% Passed
1	3419	68%	4732	78%	3694	75%	896	83%
2	1044	21%	822	14%	895	18%	118	11%
3	451	9%	295	5%	210	4%	55	5%
4	96	2%	128	2%	92	2%	13	1%
5	28	1%	32	1%	45	1%	3	0%
6	2	0%	17	0%	12	0%	1	0%
7	3	0%	9	0%	7	0%	0	0%