



Board of Behavioral Sciences

Memo

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To: Board Members **Date:** January 19, 2023
From: Rosanne Helms, Legislative Manager
Subject: Discussion Of Amendments to AB 232 (Aguiar-Curry): Temporary Practice Allowances

Background

At its November 4, 2022 meeting, the Board of Behavioral Sciences (Board) approved statutory language and directed staff to pursue legislation to allow a 30-day temporary practice allowance to qualifying therapists licensed in another state whose client is visiting California, or is in the process of moving here. This bill proposal has now been introduced as AB 232 (Aguiar-Curry).

The language approved by the Board (shown in **Attachment A**) does the following:

- Allows a licensee in another state with a current, active, and unrestricted license in a profession equivalent to the Board's marriage and family therapist, clinical social work, or professional clinical counselor professions to obtain a temporary practice allowance to see a travelling or relocating client for a period of 30 consecutive days in a calendar year.
- Requires the client to be located in California, and requires the client to have been the licensee's client immediately before the client travels to California.
- Requires the therapist to inform the client of the limited time frame of the services, provide their license information, and provide the Board's internet website address.
- Prior to providing services, the therapist must provide the Board with specified information about their license, identity, and contact information.

The proposal also includes a sunset date that aligns with the Board's 2026 sunset date, in case any adjustments to the law need to be made after implementation.

Suggested Additional Amendments from Legislative Counsel

While drafting the legislative proposal into bill form, Legislative Counsel recommended some additional changes to the proposed language. These changes can be divided into two categories:

1. **Technical Changes to the Board-Approved Language (Proposed BPC §§4980.11, 4996.16.1, 4999.23)**

The amendments made to the originally proposed language, included by Legislative Counsel in the introduced version of the bill (AB 232, shown in **Attachment B**) appear to be minor and technical. They include referencing the sections of each practice act that require a license to practice, and some wording changes and re-arrangements.

2. **Additional Recommended Amendments to Related Code Sections (BPC §§4980, 4980.30, 4991.2, and add Article 1 Under Chapter 14) (Attachment C)**

Legislative Counsel recommended bringing the three additional sections below into the bill proposal for specified reasons, as follows:

- a) BPC §4980: This section of LMFT law requires a license to engage in the practice of marriage and family therapy, and therefore is related to the sections being proposed. Legislative Counsel notes that the language in this section is somewhat outdated and suggests making some clean-up changes as part of the proposed bill.

The main reason for this suggestion is that BPC 4980(b) states that no person may “engage in the practice of marriage and family therapy as defined by Section 4980.02, unless he or she holds a valid license as a marriage and family therapist...” They note that technically, the language should state that the license must be a valid license as a marriage and family therapist pursuant to this chapter (i.e., this means it must be a California license), because otherwise it technically could be interpreted that you can practice here as long as you have a marriage and family therapy license from anywhere.

They also suggested some reorganizing to this section for clarity.

- b) BPC §4980.30: This section of LMFT law also specifies a license is required in order to practice. Legislative Counsel recommends some technical clean-up to this section. The main reason for this is because the section currently requires a license from the Board be obtained in order “to practice and to advertise”. They explained that stating practice and advertising is prohibited unless licensed could imply both actions need to be taking place together to be prohibited. Instead, they recommend

amending the language to prohibit to state someone “shall not practice, or advertise” without a Board license.

- c) **BPC §4991.2:** This section is near the beginning of the LCSW practice act. Legislative Counsel noted that unlike the LMFT and LPCC practice acts, LCSW law does not define use of the word “board” as meaning the Board of Behavioral Sciences. The proposed language in the bill uses the word “board”, and therefore a definition should be provided for clarity. They also noted that LCSW law does not have a definitions section at the beginning of the practice act to define commonly used terms like the LMFT and LPCC practice acts do.

Therefore, staff and Legislative Counsel recommend that §4991.2, which is near the beginning of the practice act and currently defines one term, be amended to also include the definition of “board.” In the future, additional definitions could be added or moved to this section as needed through omnibus or regular legislation.

Legislative Counsel also made a technical recommendation that the beginning sections of the LCSW practice act, BPC §§4991 through 4991.2, be grouped under a label of “Article 1. General Provisions.”

Policy and Advocacy Committee Recommendation

At its January 13, 2023 meeting, the Board’s Policy and Advocacy Committee recommended that the Board approve the language shown in **Attachments B** and **C** for use in its temporary practice allowance legislative proposal (AB 232).

Recommendation

Conduct an open discussion of the proposed changes suggested by Legislative Counsel in **Attachment B** and **Attachment C**. Direct staff to make any discussed changes and any nonsubstantive changes to the language in **Attachments B** and **C**, and amend it into the Board’s temporary practice allowance bill proposal (AB 232).

Attachments

Attachment A: Temporary Practice Allowance Language Approved by the Board on November 4, 2022 (Add BPC §§4980.11, 4996.16.1, 4999.23)

Attachment B: AB 232 (Aguiar-Curry): Temporary Practice Allowances (Includes Legislative Counsel’s Technical Changes to the Board-Approved Language)

Attachment C: Additional Legislative Counsel Recommended Amendments to Related Code Sections (Amend BPC §§4980, 4980.30, 4991.2, and add Article 1 Under Chapter 14)

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**ATTACHMENT A
TEMPORARY PRACTICE ALLOWANCE
BOARD-APPROVED LANGUAGE 11.4.22**

LMFT

ADD BPC §4980.011

(a) Nothing in this chapter shall be construed to restrict or prevent a person who holds a license that is current, active, and unrestricted in another jurisdiction of the United States as a marriage and family therapist at the highest level for independent clinical practice from offering marriage and family therapy services in this state for a period not to exceed 30 consecutive days in any calendar year, if all of the following conditions are met:

- (1) The client is located in California during the time the licensee seeks to provide care in California.
- (2) The client is a client of the licensee, and was the licensee's client immediately before the client is located in California.
- (3) The person informs the client of the limited time frame of the services, and that they are not licensed in California.
- (4) The person provides the client with the Board of Behavioral Sciences' internet website address.
- (5) The person informs the client of the jurisdiction in which they are licensed and the type of license held, and provides the client with their license number.

(b) A person who intends to provide marriage and family therapy services pursuant to subdivision (a) shall provide the board with the following information prior to providing services:

- (1) The name under which they are licensed in their jurisdiction, mailing address, phone number, social security number or individual taxpayer identification number, and electronic mailing address, if they have an electronic mailing address.
- (2) The jurisdiction in which they are licensed, type of license held, and license number.
- (3) The date on which they will begin providing marriage and family therapy services to their client in California.

(c) A person who provides services pursuant to this section is deemed to have agreed to practicing under the jurisdiction of the board and to be bound by the laws of this state.

(d) This section shall not apply to any person licensed by this board whose license has been suspended or revoked.

(e) This section shall remain in effect only until January 1, 2026.

LCSW

ADD BPC §4996.16.1

(a) Nothing in this chapter shall be construed to restrict or prevent a person who holds a license that is current, active, and unrestricted in another jurisdiction of the United States as a clinical social worker at the highest level for independent clinical practice from offering clinical social work services in this state for a period not to exceed 30 consecutive days in any calendar year, if all of the following conditions are met:

- (1) The client is located in California during the time the licensee seeks to provide care in California.
- (2) The client is a client of the licensee, and was the licensee's client immediately before the client is located in California.
- (3) The person informs the client of the limited time frame of the services, and that they are not licensed in California.
- (4) The person provides the client with the Board of Behavioral Sciences' internet website address.
- (5) The person informs the client of the jurisdiction in which they are licensed and the type of license held, and provides the client with their license number.

(b) A person who intends to provide clinical social work services pursuant to subdivision (a) must provide the board with the following information prior to providing services:

- (1) The name under which they are licensed in their jurisdiction, mailing address, phone number, social security number or individual taxpayer identification number, and electronic mailing address, if they have an electronic mailing address.
- (2) The jurisdiction in which they are licensed, type of license held, and license number.
- (3) The date on which they will begin providing clinical social work services to their client in California.

(c) A person who provides services pursuant to this section is deemed to have agreed to practicing under the jurisdiction of the board and to be bound by the laws of this state.

(d) This section does not apply to any person licensed by this board whose license has been suspended or revoked.

(e) This section shall remain in effect only until January 1, 2026.

LPCC

ADD BPC §4999.23

(a) Nothing in this chapter shall be construed to restrict or prevent a person who holds a license that is current, active, and unrestricted in another jurisdiction of the United States as a professional clinical counselor at the highest level for independent clinical practice from offering professional clinical counseling services in this state for a period not to exceed 30 consecutive days in any calendar year, if all of the following conditions are met:

- (1) The client is located in California during the time the licensee seeks to provide care in California.
- (2) The client is a client of the licensee, and was the licensee's client immediately before the client is located in California.
- (3) The person informs the client of the limited time frame of the services, and that they are not licensed in California.
- (4) The person provides the client with the Board of Behavioral Sciences' internet website address.
- (5) The person informs the client of the jurisdiction in which they are licensed and the type of license held, and provides the client with their license number.

(b) A person who intends to provide professional clinical counseling services pursuant to subdivision (a) must provide the board with the following information prior to providing services:

- (1) The name under which they are licensed in their jurisdiction, mailing address, phone number, social security number or individual taxpayer identification number, and electronic mailing address, if they have an electronic mailing address.
- (2) The jurisdiction in which they are licensed, type of license held, and license number.
- (3) The date on which they will begin providing professional clinical counseling services to their client in California.

(c) A person who provides services pursuant to this section is deemed to have agreed to practicing under the jurisdiction of the board and to be bound by the laws of this state.

(d) This section does not apply to any person licensed by this board whose license has been suspended or revoked.

(e) This section shall remain in effect only until January 1, 2026.

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ATTACHMENT B

california legislature—2023–24 regular
session

ASSEMBLY BILL

No. 232

Introduced by Assembly Member Aguiar-Curry

January 12, 2023

An act to add and repeal Sections 4980.11, 4996.16.1, and 4999.23 of the Business and Professions Code, relating to healing arts.

legislative counsel's digest

AB 232, as introduced, Aguiar-Curry. Temporary practice allowances.

Existing law, the Licensed Marriage and Family Therapist Act, the Clinical Social Worker Practice Act, and the Licensed Professional Clinical Counselor Act generally govern the provision of marriage and family therapy services, clinical social work services, and professional clinical counseling services, respectively, in the state and prohibit a person from practicing those healing arts without a license granted pursuant to the respective provisions of each act.

This bill, until January 1, 2026, would, under all of the acts described above, authorize a person who holds a license in another jurisdiction of the United States as a marriage and family therapist, clinical social worker, or professional clinical counselor to provide services in the state for a period not to exceed 30 consecutive days in any calendar year if certain conditions are met, including the license from another jurisdiction is at the highest level for independent clinical practice in the jurisdiction in which the license was granted, the client is located in California during the time the person seeks to provide care in California, and the client is a client of the person and was the person's client immediately before the client became located in California. The bill would require a person who intends to provide services pursuant to those provisions to provide the Board of Behavioral Sciences with

certain information before providing services, including the jurisdiction in which the person is licensed, the type of license held, and the license number.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4980.11 is added to the Business and
 2 Professions Code, to read:

3 4980.11. (a) Notwithstanding Section 4980, a person who
 4 holds a license in another jurisdiction of the United States as a
 5 marriage and family therapist may provide marriage and family
 6 therapy services in this state for a period not to exceed 30
 7 consecutive days in any calendar year, if all of the following
 8 conditions are met:

9 (1) The license from another jurisdiction is at the highest level
 10 for independent clinical practice in the jurisdiction in which the
 11 license was granted.

12 (2) The license from another jurisdiction is current, active, and
 13 unrestricted.

14 (3) The client is located in California during the time the person
 15 seeks to provide care in California.

16 (4) The client is a client of the person and was the person’s
 17 client immediately before the client became located in California.

18 (5) The person informs the client of the limited time frame of
 19 the services and that they are not licensed in California.

20 (6) The person provides the client with the Board of Behavioral
 21 Sciences’ internet website address.

22 (7) The person informs the client of the jurisdiction in which
 23 they are licensed and the type of license held and provides the
 24 client with the person’s license number.

25 (b) A person who intends to provide marriage and family therapy
 26 services pursuant to this section shall provide the board with all
 27 of the following information before providing services:

28 (1) The name under which the person is licensed in another
 29 jurisdiction, the person’s mailing address, the person’s phone
 30 number, the person’s social security number or individual taxpayer
 31 identification number, and the person’s electronic mailing address,
 32 if the person has an electronic mailing address.

1 (2) The jurisdiction in which the person is licensed, the type of
2 license held, and the license number.

3 (3) The date on which the person will begin providing marriage
4 and family therapy services to the person’s client in California.

5 (c) A person who provides services pursuant to this section is
6 deemed to have agreed to practicing under the jurisdiction of the
7 board and to be bound by the laws of this state.

8 (d) This section does not apply to any person licensed by the
9 board whose license has been suspended or revoked.

10 (e) This section shall remain in effect only until January 1, 2026,
11 and as of that date is repealed.

12 SEC. 2. Section 4996.16.1 is added to the Business and
13 Professions Code, to read:

14 4996.16.1. (a) Notwithstanding Section 4996, a person who
15 holds a license in another jurisdiction of the United States as a
16 clinical social worker may provide clinical social work services
17 in this state for a period not to exceed 30 consecutive days in any
18 calendar year, if all of the following conditions are met:

19 (1) The license from another jurisdiction is at the highest level
20 for independent clinical practice in the jurisdiction in which the
21 license was granted.

22 (2) The license from another jurisdiction is current, active, and
23 unrestricted.

24 (3) The client is located in California during the time the person
25 seeks to provide care in California.

26 (4) The client is a client of the person and was the person’s
27 client immediately before the client is located in California.

28 (5) The person informs the client of the limited time frame of
29 the services and that they are not licensed in California.

30 (6) The person provides the client with the Board of Behavioral
31 Sciences’ internet website address.

32 (7) The person informs the client of the jurisdiction in which
33 the person is licensed and the type of license held and provides
34 the client with the person’s license number.

35 (b) A person who intends to provide clinical social work services
36 pursuant to this section shall provide the Board of Behavioral
37 Sciences with all of the following information before providing
38 services:

39 (1) The name under which the person is licensed in another
40 jurisdiction, the person’s mailing address, the person’s phone

1 number, the person's social security number or individual taxpayer
2 identification number, and the person's electronic mailing address,
3 if the person has an electronic mailing address.

4 (2) The jurisdiction in which the person is licensed, the type of
5 license held, and the license number.

6 (3) The date on which the person will begin providing clinical
7 social work services to the person's client in California.

8 (c) A person who provides services pursuant to this section is
9 deemed to have agreed to practicing under the jurisdiction of the
10 board and to be bound by the laws of this state.

11 (d) This section does not apply to any person licensed by this
12 board whose license has been suspended or revoked.

13 (e) This section shall remain in effect only until January 1, 2026,
14 and as of that date is repealed.

15 SEC. 3. Section 4999.23 is added to the Business and
16 Professions Code, to read:

17 4999.23. (a) Notwithstanding Section 4999.30, a person who
18 holds a license in another jurisdiction of the United States as a
19 professional clinical counselor may provide professional clinical
20 counseling services in this state for a period not to exceed 30
21 consecutive days in any calendar year, if all of the following
22 conditions are met:

23 (1) The license from another jurisdiction is at the highest level
24 for independent clinical practice in the jurisdiction in which the
25 license was granted.

26 (2) The license from another jurisdiction is current, active, and
27 unrestricted.

28 (3) The client is located in California during the time the person
29 seeks to provide care in California.

30 (4) The client is a client of the person and was the person's
31 client immediately before the client is located in California.

32 (5) The person informs the client of the limited time frame of
33 the services and that the person is not licensed in California.

34 (6) The person provides the client with the Board of Behavioral
35 Sciences' internet website address.

36 (7) The person informs the client of the jurisdiction in which
37 the person is licensed and the type of license held and provides
38 the client with the person's license number.

- 1 (b) A person who intends to provide professional clinical
2 counseling services pursuant to this section shall provide the board
3 with the following information before providing services:
- 4 (1) The name under which the person is licensed in another
5 jurisdiction, the person's mailing address, the person's phone
6 number, the person's social security number or individual taxpayer
7 identification number, and the person's electronic mailing address,
8 if the person has an electronic mailing address.
- 9 (2) The jurisdiction in which the person is licensed, the type of
10 license held, and the license number.
- 11 (3) The date on which the person will begin providing
12 professional clinical counseling services to the person's client in
13 California.
- 14 (c) A person who provides services pursuant to this section is
15 deemed to have agreed to practicing under the jurisdiction of the
16 board and to be bound by the laws of this state.
- 17 (d) This section does not apply to any person licensed by this
18 board whose license has been suspended or revoked.
- 19 (e) This section shall remain in effect only until January 1, 2026,
20 and as of that date is repealed.

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ATTACHMENT C
Additional Legislative Counsel Recommended
Amendments to Related Code Sections
(Amend BPC §§4980, 4980.30, 4991.2, and add Article 1
Under Chapter 14)

The people of the State of California do enact as follows:

SECTION 1. Section 4980 of the Business and Professions Code is amended to read:

4980. (a) (1) Many California families and many individual Californians are experiencing difficulty and ~~distress~~, *distress* and are in need of wise, competent, caring, compassionate, and effective counseling in order to enable them to improve and maintain healthy family relationships.

(2) Healthy individuals and healthy families and healthy relationships are inherently beneficial and crucial to a healthy ~~society~~, *society* and are our most precious and valuable natural resource. Licensed marriage and family therapists provide a crucial support for the well-being of the people and the State of California.

(b) ~~No~~ ~~A person may~~ *shall not* engage in the practice of marriage and family ~~therapy~~ *therapy*, as defined by Section 4980.02, unless ~~he or she~~ *the person* holds a valid license as a marriage and family therapist, or unless ~~he or she is specifically exempted from that requirement~~, nor may any person advertise himself or herself as performing the services of a marriage, family, child, domestic, or marital consultant, or in any way use these or any similar titles, including the letters "L.M.F.T." "M.F.T.," or "M.F.C.C.," or other name, word initial, or symbol in connection with or following his or her name to imply that he or she performs these services without a license as provided by this chapter. Persons licensed under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2, or under Chapter 6.6 (commencing with Section 2900) may engage in such practice or advertise that they practice marriage and family therapy but may not advertise that they hold the marriage and family therapist's license. *therapist pursuant to this chapter*

(c) *Except as provided in subdivision (d), a person shall not do either of the following without a license obtained pursuant to this chapter.*

(1) *Advertise that the person performs the services of a marriage, family, child, domestic, or marital consultant.*

(2) Use the titles listed in paragraph (1) or any similar titles, including the letters “L.M.F.T.” “M.F.T.,” or “M.F.C.C.,” or other name, word, initial, or symbol in connection with or following the person’s name to imply that the person performs the services suggested by those titles.

(d) (1) A person licensed under Article 4 (commencing with Section 4996) of Chapter 14 or under Chapter 6.6 (commencing with Section 2900) may engage in the practice of marriage and family therapy and advertise that the person practices marriage and family therapy.

(2) A person described in paragraph (1) shall not advertise that the person holds the marriage and family therapist’s license, unless the person is licensed pursuant to this chapter.

(PU Amended by Stats. 2014, Ch. 316, Sec. 15. (SB 1466) Effective January 1, 2015.)

SEC. 2. Section 4980.30 of the Business and Professions Code is amended to read:

4980.30. Except as otherwise provided ~~herein, by this chapter,~~ a person ~~desiring to practice and to shall not practice,~~ or advertise the performance ~~of of,~~ marriage and family therapy services ~~shall apply unless the person has applied~~ to the board for a license, ~~pay paid~~ the license fee required by this chapter, and ~~obtain~~ *obtained* a license from the board.

(PU Amended by Stats. 2009, Ch. 308, Sec. 63. (SB 819) Effective January 1, 2010.)

Insert the following before Business and Professions Code §4991:

“Article 1. General Provisions.”

SEC. 3. Section 4991.2 of the Business and Professions Code is amended to read:

4991.2. *For purposes of this chapter:*

(a) “Accredited school of social work,” ~~within the meaning of this chapter, is work~~ means a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

(b) “Board” means the Board of Behavioral Sciences.

(PU Added by Stats. 2006, Ch. 659, Sec. 24. Effective January 1, 2007.)