

**TITLE 16 DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF BEHAVIORAL SCIENCES  
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS**

**License Professional Clinical Counselors and LEP CE**

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (BBS) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Department of Consumer Affairs, 1625 N Market Blvd, Sacramento CA, 95834 Room N-220 at 11:00 AM on July 13, 2010. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Tracy Rhine in this Notice, must be received by the BBS at its office not later than 5:00 p.m. on July 12, 2010, or must be received by the BBS at the hearing.

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

**Authority and Reference:** Pursuant to the authority vested by Sections 4990.16, 4990.18, and 4990.20 of the Business and Professions Code (BPC), and to implement, interpret, or make specific Sections 4980.80, 4989.10, 4989.12, 4989.14, 4989.20, 4989.22, 4989.24, 4989.26, 4989.28, 4989.34, 4989.68, 4990, 4990.04, 4990.08, 4990.12, 4990.20, 4996.2, 4996.22, 4996.23, 4999.20, 4999.24, 4999.30, 4999.32, 4999.33, 4999.34, 4999.36, 4999.42, 4999.44, 4999.45, 4999.46, 4999.47, 4999.48, 4999.50, 4999.52, 4999.54, 4999.58, 4999.60, 4999.76, 4999.90, 4999.104, 4999.112, and 4999.120 of the BPC, the BBS is considering amending Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

**INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW**

BPC Section 4990.20 authorizes the BBS to adopt rules and regulations as necessary to administer and enforce the provisions of the Chapters of the BPC for which it is responsible. On October 11, 2009 the Governor approved Senate Bill (SB) 788 (Wyland), which created Chapter 16 (Licensed Professional Clinical Counselors) of Division 2 in the BPC and mandated the BBS implement the provisions of the new chapter. BPC Section 4999.30 prohibits any person in the State of California from practicing or advertising the performance of professional clinical counseling services without a license issued by the BBS. Furthermore, BPC Section 4999.80 mandates the BBS enforce laws designed to protect the public from incompetent, unethical or unprofessional practitioners, investigate complaints concerning the conduct of any licensed professional clinical counselor, and take disciplinary action against licenses issued as enumerated in rules and regulations of the BBS.

Division 18 of Title 16 of the CCR includes numerous sections relating to education requirements, experience requirements, fees, administrative actions, and disciplinary guidelines of BBS-regulated licensees and registrants.

The purpose of these regulations is to revise existing regulations to incorporate licensed professional clinical counselor (LPCC) requirements and fees referenced in various sections of Chapter 16 of Division 2 of the BPC. These revisions will also modify the document titled "Board of Behavioral Sciences Disciplinary Guidelines (Rev. ~~November 2008~~ March 2010)" referenced in CCR Section 1888 (Division 18 of Title 16).

Also, the BBS administers and enforces the provisions of the Educational Psychology Act (“Act” -- Business and Professions Code (BPC) sections 4989.10 and following). BPC section 4989.34 of that Act requires licensed educational psychologists (LEPs) to certify completion of approved continuing education (CE) in, or relevant to, educational psychology and authorizes the BBS to establish “exceptions” for LEPs from CE requirements for “good cause” as determined by the BBS. Further, Section 4989.34 authorizes the BBS to establish, by regulation, a procedure for approving providers of LEP CE courses and to set minimum standards for those CE course providers.

Current law does not specify requirements for BBS-approved CE courses for LEPs, set license renewal requirements relative to CE for LEPs, or establish a procedure for the BBS to grant exceptions to those requirements. Current law also does not create a procedure for the approval of providers of LEP CE courses or set minimum standards for those CE course providers. This proposal would establish those requirements and procedures.

Additionally, these revisions will correct numerous erroneous authority citations and references in existing regulations that were not updated upon the Governor’s approval of SB 1475 (Figueroa) on September 29, 2006 and update references to new forms and revisions to previously incorporated forms.

This rulemaking also proposes changes to the CE exception process for all licensees, in order to bring this section and the BBS’s forms into compliance with both the Americans with Disabilities Act (ADA) and the California Fair Employment and Housing Act (FEHA). Other clarifying and technical changes are also proposed to the BBS’s CE regulations.

A prior rulemaking package was noticed with the Office of Administrative Law and published in the regulatory notice register on October 30, 2009 relating to the following Sections of this proposal: 1807, 1807.2, 1810, 1819.1, 1887, 1887.1, 1887.2, 1887.3, 1887.4, 1887.5, 1887.6, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11, 1887.12, 1887.13, and 1887.14. The language included in the previous rulemaking package, Notice File Number Z-2009-1019-01, relating to required continuing education for LEPs has been incorporated into this proposed rulemaking, with the following changes:

1. Extension of the implementation date from January 1, 2011 to January 1, 2012; and,
2. Deletion of the requirement for LEPs to take the following specific CE courses:
  - a. Human Sexuality
  - b. Spousal/Partner Abuse Training
  - c. Aging and Long-term Care
  - d. AIDS/HIV Training

Due to the passage of SB 788 which, beginning January 1, 2011, requires the BBS to establish, license and regulate professional clinical counselors, it is necessary to develop regulations to implement those LPCC related statutes immediately. Implementation of SB 788 requires the Board to include LPCCs in all current, relevant regulations, including those relating to continuing education. In order to ensure that all BBS licensees complete statutorily mandated continuing education it is therefore necessary to include both LEP and LPCC continuing education requirements in one rulemaking package.

#### **Amend Section 1800 – Declaratory Decisions**

Section 1800 clarifies what decisions from the BBS are “Declaratory Decisions.”

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

#### **Amend Section 1802 – Definitions**

Section 1802 defines references to “board” and “Code” in the rules and regulations.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section. The proposed regulation would also delete an errant reference to a BPC section.

#### **Amend Section 1803 – Delegation of Certain Functions**

Section 1803 delegates authority to the BBS to conduct a variety of functions related to formal discipline and administrative action against licensees and registrants.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section. The proposed regulation would also replace two errant references to BPC sections.

#### **Amend Section 1804 – Filing of Addresses**

Section 1804 sets forth provisions for maintaining a current address of record with the BBS.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section. The proposed regulation would also replace two errant references to BPC sections.

#### **Amend Section 1805 – Applications**

Section 1805 mandates applications submitted to the BBS be on forms prescribed by the BBS and requires a 180-day waiting period between failure and re-take of an examination.

The proposed regulation adds a reference to a BPC section relating to LPCCs.

#### **Amend Section 1805.1 – Permit Processing Times**

Section 1805.1 sets forth the maximum processing times for BBS applications.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

#### **Amend Section 1806 – Abandonment of Application**

Section 1806 specifies the conditions under which the BBS shall abandon an application.

The proposed regulation would set forth a one-year deadline to complete an application submitted to the BBS related to professional clinical counselors. The proposed regulation would set a one-year deadline from either initial examination eligibility or notification of examination failure to take the jurisprudence and ethics examination, the examination required in BPC section 4999.54(b)(2), or the examination required in BPC section 4999.52(c)(5). Furthermore, the proposed regulation requires the initial LPCC license fee be submitted within one year after notification of successful completion of examination requirements. In addition, the proposed regulation adds references to BPC sections relating to LPCCs.

#### **Amend Section 1807 – Human Sexuality Training**

Section 1807 specifies the requirements for human sexuality training required of marriage and family therapists (MFTs) and licensed clinical social workers (LCSWs).

The proposed regulation change would require LPCC applicants complete a human sexuality training at least 10 hours in length. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section, add a reference to a BPC section relating to LCSWs, add a reference to a BPC section relating to LPCCs, correct the title of the Bureau of Private Postsecondary Education, and replace two errant references to the Education Code.

#### **Amend Section 1807.2 – Child Abuse Assessment Training Requirements**

Section 1807.2 sets forth the requirements for child abuse assessment and reporting training for MFTs and LCSWs.

The proposed regulation would require LPCC applicants complete a child abuse assessment and reporting training, which must be at least seven hours in length. In addition, the proposed regulation replaces an errant reference in the authority cited section and adds a reference to a BPC section relating to LPCCs. The proposed regulation corrects the title of the Bureau of Private Postsecondary Education and replaces two errant references to the Education Code. The proposed regulation would require an LEP, in addition to meeting all other requirements for licensure, to complete child abuse assessment and reporting training prior to applying for his or her first license renewal on or after January 1, 2012. This proposal would also clarify that in addition to meeting all other requirements for licensure, MFTs and LCSWs must have completed coursework and training in child abuse assessment prior to licensure.

#### **Amend Section 1810 – Alcoholism and Other Chemical Substance Dependency Training**

Section 1810 sets forth the requirements for substance abuse training for MFTs and LCSWs.

The proposed regulation would require LPCC applicants complete a course, which must be at least 15 hours in length, in alcoholism and other chemical dependencies. In addition, the proposed regulation replaces an errant reference in the authority cited section and adds a reference to a BPC section relating to LPCCs. The proposed regulation corrects the title of the Bureau of Private Postsecondary Education and replaces two errant references to the Education Code. The proposed regulation would require an LEP who renews his or her license after January 1, 2012 to complete at least 15 hours of instruction and training in alcoholism and other chemical substance dependency in 10 specific course content areas. In addition, the proposal would require the training and coursework received by the LEP to be obtained from an accredited or approved educational institution, a governmental entity, a licensed health facility or a CE provider approved by the BBS.

#### **Add Section 1810.1 – California Law and Ethics Training; Acceptable Education Providers**

Section 1810.1 sets forth the appropriate institutions at which an LPCC or MFT out-of-state applicant may complete required training in California law and ethics.

The proposed regulation clarifies at what entities an LPCC applicant or MFT out-of-state applicant may complete the California law and ethics training as required in BPC sections 4999.32 and 4980.80, respectively.

#### **Add Section 1810.2 – Crisis or Trauma Counseling Training**

Section 1810.2 sets forth the appropriate institutions at which an LPCC applicant may complete required training in crisis or trauma counseling.

The proposed regulation clarifies at what entities an LPCC applicant may complete the crisis or trauma counseling training as required in BPC section 4999.32.

### **Amend Section 1811 – Use of License Number in Directories and Advertisements**

Section 1811 sets forth requirements for advertising for all current BBS licenses and registrations.

The proposed regulation would require LPCCs and professional clinical counselor interns comply with the same advertising requirements of current BBS licensees and registrants. In addition, the proposed regulation replaces an errant reference in the authority cited section and adds a reference to a BPC section relating to LPCCs.

### **Amend Section 1812 – Substantial Relationship Criteria**

Section 1812 clarifies the criteria for determining substantial relationship of a crime or act to authority to practice.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1813 – Criteria for Rehabilitation – Denial of Licensure**

Section 1813 sets forth the criteria for determining rehabilitation when considering denial of licensure.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1814 – Criteria for Rehabilitation – Suspensions or Revocations**

Section 1814 sets forth the criteria for determining rehabilitation when considering suspension or revocation of licensure.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1815 – Fingerprint Submission**

Section 1815 sets forth requirements for fingerprint submissions and criminal background checks for BBS licensees and registrants.

The proposed regulation would add a reference to a BPC section relating to LPCCs.

### **Amend Section 1816 – Renewal Fees**

Section 1816 sets forth renewal fees for all BBS licenses and registrations.

The proposed regulation would add renewal fees for professional clinical counselor interns (\$100), licenses issued pursuant to BPC section 4999.54 (\$150), and the LPCC biennial renewal (\$175). In addition, the proposed regulation would add a reference to a BPC section relating to LPCCs.

### **Amend Section 1816.1 – Initial License and Registration Fees**

Section 1816.1 sets forth initial license and registration fees.

The proposed regulation would add the LPCC initial license fee (\$200) and the professional clinical counselor intern registration fee (\$100). In addition, the proposed regulation would add a reference to a BPC section relating to LPCCs.

### **Amend Section 1816.2 – Examination Fees**

Section 1816.2 sets forth examination fees.

The proposed regulation would add the LPCC jurisprudence and ethics examination fee (\$100), the LPCC examination fee (\$100) for the examination required by 4999.54(b), and the fee for the LPCC written examination (\$150). In addition the proposed regulation would add a reference to a BPC section relating to LPCCs.

**Amend Section 1816.3 – Examination Rescoring Fees**

Section 1816.3 sets the fee for rescoring any examination.

The proposed regulation would replace two errant references to BPC sections with the appropriate sections.

**Amend Section 1816.4 – Examination Application Fees**

Section 1816.4 sets the fees for examination eligibility applications.

The proposed regulation would add the LPCC examination eligibility fee (\$180). In addition, the proposed regulation would add a reference to a BPC section relating to LPCCs.

**Amend Section 1816.5 – Replacement and Certification Fees**

Section 1816.5 sets forth fees for replacement licenses and registrations and certifications of licensure and registration.

The proposed regulation would replace an errant reference to a BPC section with the appropriate section.

**Amend Section 1816.6 – Inactive License Fees**

Section 1816.6 sets the inactive license fees for BBS licensees.

The proposed regulation would add the LPCC biennial inactive renewal fee (\$87.50) and inactive renewal fee for license issued pursuant to BPC section 4999.54(a)(1)(\$75). In addition, the proposed regulation would add a reference to the BPC relating to LPCCs.

**Amend 1816.7 – Delinquent Fees**

Section 1816.7 sets the delinquent fees for BBS licensees.

The proposed regulation would add the delinquency fee for an LPCC renewal (\$87.50), add the delinquency fee for licenses issued pursuant to BPC section 4999.54(a)(1)(\$75), and delete language referring to a temporary fee reduction in effect from January 2001 to December 2002. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section, replaces an errant BPC section reference with the appropriate section, and adds a reference to a section relating to LPCCs.

**Add Section 1816.8 – Applications for Licensure Pursuant to BPC Section 4999.54**

Section 1816.8 sets the fees for applications for licensure submitted pursuant to BPC section 4999.54.

The proposed regulation creates this section to set a fee for applications for licensure submitted pursuant to BPC section 4999.54.

**Amend Section 1819.1 – Continuing Education Provider Fees**

Section 1819.1 sets the fee for CE provider applications at two hundred dollars (\$200).

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section and adds two BPC section references relating to LPCCs and one relating to LEPs.

**Add Section 1820 – Experience**

Section 1820 defines the term supervision, clinical mental health setting, and community mental health setting. In addition, Section 1820 sets forth the conditions under which supervision can be credited.

The proposed regulation creates this section to define terms and make specific requirements referenced in BPC section 4999.46.

**Add Section 1820.5 – Experience Working Directly with Couples, Families, or Children**

Section 1820.5 clarifies an exception to the LPCC scope of practice described in 4999.20.

The proposed regulation creates this section to clarify the means of acquiring the required supervised experience needed in order for LPCCs to qualify to assess and treat couples and families.

**Add Section 1821 – Requirements for Supervisors**

Section 1821 sets forth the qualifications licensed mental health professionals must possess prior to supervising a professional clinical counselor intern.

The proposed regulation creates this section to define the qualifications needed to supervise an individual completing the requirements referenced in BPC section 4999.46.

**Add Section 1822 – Supervisory Plan**

Section 1822 requires supervisors of professional clinical counselor interns sign a Supervisory Plan.

The proposed regulation creates this section mandating supervisors sign-off on a BBS prescribed form documenting the goals of professional supervision.

**Amend Section 1833.1 – Requirements for Supervisors**

Section 1833.1 sets forth the requirements for supervising MFT Trainees and Interns.

The proposed regulation would add LPCCs to the list of licensed mental health professionals eligible to supervise MFT Trainees and Interns, update the revision date (3/10) for the form referenced in regulation, and add a reference to a BPC section relating to LPCCs.

**Amend Section 1833.2 – Supervision of Experience Gained Outside of California**

Section 1833.2 sets forth the requirements for experience gained outside of California.

The proposed regulation would add “professional clinical counselor” to the list of supervisors eligible to supervise experience applied to BBS requirements that the applicant earned out-of-state.

**Amend Section 1850.6 – Name of Corporation**

Section 1850.6 clarifies the appropriate wording for abbreviations denoting corporations.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1850.7 – Shares: Ownership and Transfer**

Section 1850.7 sets forth requirements for transfer of corporate shares and clarifies what needs to be included on the share certificates.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1870 – Requirements for Associate Clinical Social Worker Supervisors**

Section 1870 sets forth requirements for supervising associate clinical social workers.

The proposed regulation would update the revision date (3/10) for the form referenced in regulation, add a reference to a BPC section relating to LPCCs, and delete an errant reference to a BPC section.

### **Amend Section 1870.1 – Supervisory Plan**

Section 1870.1 requires associate clinical social workers develop a Supervisory Plan with their supervisors and send the original signed plan to the BBS upon application for licensure.

The proposed regulation would update the revision date (3/10) for the form referenced in regulation, replace an errant reference in the authority cited with the appropriate BPC section, and replace an errant reference to a BPC section with the appropriate section.

### **Amend Section 1874 – Definition of Acceptable Mental Health Professionals**

Section 1874 defines the types of acceptable mental health professionals, in addition to an LCSW, who may supervise an associate clinical social worker.

The proposed regulation would delete two errant references to repealed BPC sections and replace them with the accurate reference. In addition, the proposed regulation would add the title of “licensed professional clinical counselor” to the types of mental health professionals who can supervise an associate clinical social worker.

### **Amend Section 1877 – Examinations**

Section 1877 clarifies the types of written examinations an individual must pass to earn a clinical social work license.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1880 – Unlicensed Assistants**

Section 1880 requires an unlicensed person employed under BPC section 4996.15 disclose the lack of a license and the license held by the individual's supervisor.

The proposed regulation would add the titles of “marriage and family therapist” and “licensed professional clinical counselor” to the list of individuals who would supervise an unlicensed assistant. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

### **Amend Section 1881 – Unprofessional Conduct**

Section 1881 sets forth the conditions in which the BBS may suspend or revoke a license or refuse to issue a license.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.



**Amend Section 1886 – Authority to Issue Citations and Fines**

Section 1886 gives authority to the BBS Executive Officer to issue citations, orders of abatement, and fines against the licenses and registrants the BBS regulates.

The proposed regulation would add LPCCs and professional clinical counselor interns to the list of licenses and registrations for which the Executive Officer has authority to issue a citation, order of abatement, or fine. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.10 – Citations for Unlicensed Practice**

Section 1886.10 gives authority to the BBS Executive Officer to issue citations, orders of abatement, and fines against individuals engaging in unlicensed practice.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.20 – Citation Format**

Section 1886.20 sets forth the information required to be included in any citation.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.30 – Citation Factors**

Section 1886.30 sets forth the considerations to be made by the BBS Executive Officer when assessing an administrative fine or issuing an order of abatement.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.40 – Amount of Fines**

Section 1886.40 sets forth limits relating to citable offenses.

The proposed regulation would add BPC Chapters 13.5 (Licensed Educational Psychologists) and 16 (LPCC) to the list of statutes enforced by the BBS. In addition, the proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section and add references to BPC sections relating to LEPs and LPCCs.

**Amend Section 1886.50 – Exceptions**

Section 1886.50 sets forth exceptions for issuing citations.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.60 – Compliance with Citation/Order of Abatement**

Section 1886.60 sets forth the terms for compliance with a citation or order of abatement.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.70 – Contested Citations and Request for a Hearing or Informal Citation Conference**

Section 1886.70 sets forth requirements for contesting a citation.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Section 1886.80 – Disconnection of Telephone Service**

Section 1886.80 specifies that nothing in Article 7 of Title 16 of the California Code of Regulations precludes the BBS from using the provisions described in BPC section 149.

The proposed regulation would replace an errant reference in the authority cited with the appropriate BPC section.

**Amend Article 8 Title – Continuing Education Requirements for Marriage and Family Therapists and Licensed Clinical Social Workers**

Article 8 includes all the BBS regulations related to CE.

The proposed regulation would add “Licensed Professional Clinical Counselors” and “Licensed Educational Psychologists” to the title of Article 8.

**Amend Section 1887 – Definitions**

Section 1887 defines several terms used in regulations related to CE.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. In addition, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references. The BBS is proposing clarifying language and a new definition for the “initial” renewal period.

**Amend Section 1887.1 – License Renewal Requirements**

Section 1887.1 specifies that licensees renewing must certify completion of the mandatory CE requirements.

The proposed regulation would add language referring to two BPC sections relating to LPCCs. The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section and add a section relevant to LEPs. The proposed regulation specifies the license renewal requirements for LEPs pertaining to CE. The proposed regulation would do all of the following:

- Require that, unless an exception to CE is granted, LEPs must certify in writing that he or she has completed 36 hours of CE credit.
- Require a LEP be subject to disciplinary action if the licensee falsifies or makes material misrepresentations of fact relating to the completion of CE.
- Specify a timeline for licensees to meet the proposed LEP CE requirements. LEPs renewing January 1, 2012 through December 31, 2012 would be required to complete 18 units of CE prior to renewal. On or after January 1, 2013, all LEPs would be required to complete 36 units of CE prior to renewal.

**Amend Section 1887.2 – Exceptions from Continuing Education Requirements**

Section 1887.2 sets forth the conditions under which the BBS may grant special accommodations or exceptions for CE requirements.

The proposed regulation would do the following:

- Add a reference to BPC section 4999.112, a form entitled “Request for Continuing Education Exception – License Application,” and a form entitled “Request for Continuing Education Exception – Verification of Disability or Medical Condition;
- Require the request for exception or accommodation be submitted at least 60 days prior to the expiration date of a license;
- Clarify the valid time period for an approved exception;
- Add the term “reasonable accommodation” in subsection (c) for consistency;
- Clarify the term disability to include physical and mental disabilities;
- Specify that a domestic partner shall be considered an immediate family member;
- Specify the time period during the previous renewal period to be one year in order to qualify for a reasonable accommodation;
- Deletes references to information that will now be included with the “Request for Continuing Education Exception – Verification of Disability or Medical Condition.”
- Delete an errant BPC section from the authority cited;
- Add two sections of the BPC and two sections of the Government Code to the authority cited; and,
- Add a BPC reference to a section related to LPCCs.

### **Amend Section 1887.3 - Continuing Education Course Requirements**

Section 1887.3 sets forth continuing education course requirements for licensees.

The proposed regulation makes several grammatical non-substantive changes. The proposed regulation adds two sections of the BPC to the authority cited and adds references to BPC sections relating to LPCCs and LEPs. Also, the proposed regulation specifies a timeline for licensees to meet the proposed LEP CE requirements. LEPs renewing January 1, 2012 through December 31, 2012 would be required to complete 18 units of CE prior to renewal. On or after January 1, 2013, all LEPs would be required to complete 36 units of CE prior to renewal.

### **Amend Section 1887.4 – Continuing Education Course Content**

Section 1887.4 specifies requirements for continuing education course content and sets responsibilities for course providers.

The proposed regulation adds “professional clinical counseling,” “educational psychology,” and language referring to BPC sections 4999.76 and 4989.34. In addition, the proposed regulation adds three sections of the BPC to the authority cited and adds two references to BPC sections relating to LPCCs and LEPs.

### **Amend Section 1887.5 – Hours of Continuing Education Credit**

Section 1887.5 specifies conversions of academic units to hours of CE.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. In addition, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

### **Amend Section 1887.6 – Continuing Education Providers**

Section 1887.6 identifies the entities at which a licensee can complete CE.

The proposed regulation would require LPCCs and LEPs to take CE from an accredited or approved school or BBS-approved provider. The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. In addition, the

proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.7 – Board-Approved Providers**

Section 1887.7 sets forth the qualifications to become an approved CE provider with the BBS.

The proposed regulation would update the revision date to the “Continuing Education Provider Application.” In addition, the proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.8 – Revocation and Denial of Board-Approved Provider Status**

Section 1887.8 sets forth the conditions under which the BBS can revoke its approval of a CE provider.

The proposed regulation would add language referencing Chapters 13.5 and 16 of the BPC. In addition, the proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.9 – Course Advertisements**

Section 1887.9 identifies what information CE providers must include on course advertisements.

The proposed regulation would add language referring to LPCCs and LEPs. In addition, the proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.10 – Course Instructor Qualifications**

Section 1887.10 sets forth the requirements for instructors for courses offered through approved BBS CE providers.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.11 – Records of Course Completion**

Section 1887.11 requires approved CE providers to provide course completion records to licensees.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.12 – Licensee and Provider Course Records**

Section 1887.12 sets forth record retention requirements for licensees and approved CE providers.

The proposed regulation would replace an errant reference to a BPC section in the authority cited with the appropriate section. Also, the proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.13 – Renewal of Expired Approval**

Section 1887.13 sets forth the time period within which an expired CE provider may renew a BBS approval.

The proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1887.14 – Time Limit for Renewal of Approval After Expiration; New Approval**

Section 1887.14 requires an expired CE provider submit a new application for approval if the previous approval has been expired for more than one year.

The proposed regulation would add BPC sections relating to LPCCs and LEPs to the authority cited and references.

#### **Amend Section 1888 – Disciplinary Guidelines**

Section 1888 incorporates the BBS' disciplinary guidelines by reference and grants the BBS authority to deviate from the guidelines when warranted.

The proposed regulation would update the revision date of the "Board of Behavioral Sciences Disciplinary Guidelines," replace an errant reference in the authority cited with the appropriate BPC section, and a reference to the BPC relating to LPCCs.

#### **Forms Incorporated by Reference**

This proposed rulemaking also makes changes to four forms incorporated by reference that are currently used by the BBS:

- Section 1833.1: "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern," Form 1800 37A-523 (Revised 3/10)
- Section 1870: "Responsibility Statement for Supervisors of an Associate Clinical Social Worker," Form 1800 37A-522 (Revised 3/10)
- Section 1870.1 and 1822: "Supervisory Plan," Form 1800 37A-521 (Revised 3/10)
- Section 1887.7: "Continuing Education Provider Application", Form 1800 37A-633 (Revised 3/10).

Additionally, four new forms are being added by reference:

- Section 1820: "Weekly Summary of Experience Hours for Professional Clinical Counselor Interns," Form 1800 37A-645 (New 3/10)
- Section 1821: "Responsibility Statement for Supervisors of a Professional Clinical Counselor Intern," Form 1800 37A-643 (New 3/10)
- Section 1887.2: "Request for Continuing Education Exception – Verification of Disability or Medical Condition," Form 1800 37A-636 (New 03/10).
- Section 1887.2: "Request for Continuing Education Exception – Licensee Application," Form 1800 37A-635 (Revised 3/10).

#### **FISCAL IMPACT ESTIMATES**

Local Mandate: None

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

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

Business Impact: The BBS has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Furthermore, individuals who previously could not start private businesses because no LPCC license existed now will have the opportunity to start a business.

**AND**

The following studies/relevant data were relied upon in making the above determination: The costs associated with this regulation include the fees an individual would be required to pay to pursue the LPCC license (e.g. application fees, examination fees, etc).

The annual salary of a Mental Health Counselor as reported by the Bureau of Labor Statistics created a baseline for the benefits attributed to an individual who earns a license as an LPCC.

There would be very minor costs to businesses to comply with the CE requirements for LEPs which would cost each business approximately \$90 per year. This is based on the cost per unit of CE averaging \$5 (it ranges from free to \$10 per unit, based on a review of seven websites offering CE to MFTs and LCSWs from BBS-approved providers) at 18 units required per year. There would be minor costs to businesses who want to provide CE courses to LEPs at \$200 initially (application fee) and \$200 every two years thereafter (renewal fee).

Impact on Jobs/New Businesses: The BBS has determined that this regulatory proposal would create job and business opportunities for those who earn a license as an LPCC. Additionally, the BBS has determined that this regulatory proposal would create job and business opportunities for those who want to provide CE to LEPs. Otherwise, this proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses:

Depending on the qualification method for the license, the cost for obtaining a LPCC license ranges between approximately \$380 and \$1050. Depending on the type of LPCC license held (e.g. annual renewal versus biennial renewal), the ongoing annual cost for maintaining an active license would range between \$87.50 and \$150. CE costs an average of \$5 per unit. LEPs will be required to complete 18 units per year for an average cost of \$90 per person per year. For LEPs who have a disability or medical condition and want to apply for an exception to CE, there would be an approximate \$300 cost related to an evaluation or forms completion by a physician or psychologist. Finally, those who wish to provide CE to LEPs and are not currently approved by the BBS as a CE provider will have an initial application cost of \$200 and \$200 renewal fee every two years.

Effect on Housing Costs: None

**EFFECT ON SMALL BUSINESS**

The BBS has determined the net impact to small business will be positive because the creation of the LPCC license represents new opportunities for individuals to open small-businesses who previously could not because no LPCC license existed in the State of California. The initial cost

of obtaining and maintaining the license would be surpassed over the life of the regulation if LPCCs achieve an annual income similar to the annual income of a 'Mental Health Counselor' as reported by the Bureau of Labor Statistics (approximately \$45,000).

The implementation of a CE program for LEPs would have a minimal impact on a small business. The BBS estimates that 767 LEPs own a small business and it would cost \$90 per year to comply. Additionally, there would be a minor impact on small businesses who wish to offer CE to LEPs (those that are not already registered with the BBS as a CE provider). The costs to these small businesses is \$200 to apply and \$200 to renew every two years.

The changes to the BBS's CE exception regulation could present a minimal cost impact to the approximately 85 small businesses per year owned by MFTs, LCSWs or LEPs with a disability or medical condition who apply for an exception to CE. The cost would be approximately \$300 for a physician or psychologist to evaluate the licensee and/or complete paperwork for the BBS's records.

### **CONSIDERATION OF ALTERNATIVES**

The BBS must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the hearing provided for in this Notice.

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

The BBS has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

### **TEXT OF PROPOSAL AND AVAILABILITY OF MODIFIED TEXT**

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed above.

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

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named above (or by accessing the Web site listed below).

### **CONTACT PERSON**

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

Name: Tracy Rhine

Address: 1625 North Market Blvd., Suite S200  
Sacramento, CA 95834  
Telephone: 916-574-7847  
Fax: 916-574-8626  
Email: [tracy\\_rhine@dca.ca.gov](mailto:tracy_rhine@dca.ca.gov)

or

Name: Rosanne Helms  
Address: 1625 North Market Blvd., Suite S200  
Sacramento, CA 95834  
Telephone: 916-574-7897  
Fax: 916-574-8626  
Email: [rosanne\\_helms@dca.ca.gov](mailto:rosanne_helms@dca.ca.gov)

If the regulations adopted by the BBS differ from and are substantially related to the action proposed, the text of the proposed regulations with changes clearly indicated will be made available to the public for 15 days prior to the date of adoption.

#### **WEB SITE ACCESS**

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