

**STATE OF CALIFORNIA – DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF BEHAVIORAL SCIENCES  
INITIAL STATEMENT OF REASONS**

**HEARING DATE:** August 14, 2012

**SUBJECT MATTER OF PROPOSED REGULATIONS:** Experience requirements for an applicant seeking licensure as a marriage and family therapist (LMFT).

**SECTIONS AFFECTED:** Section 1833 of Division 18 of Title 16 of the California Code of Regulations (CCR).

**IDENTIFICATION OF THE PROBLEM:**

CCR Title 16 Section 1833 sets forth the experience requirements for an applicant seeking LMFT licensure.

The Board has identified a number of inconsistencies in Section 1833 with the Board's licensing statute. These inconsistencies create confusion about the requirements for someone seeking licensure as a marriage and family therapist.

**SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:**

This regulation package proposes three separate amendments to Section 1833 to remove the inconsistencies in statute mentioned above:

**1. Experience:**

**Problem and Proposed Change:** Previously, the law limited the number of hours an MFT intern could obtain for direct supervisor contact, professional enrichment activities, and client centered advocacy together to 1,250 hours. The Board had concerns that this allowed an intern to potentially obtain too many client centered advocacy hours, when they should be gaining the majority of their hours counseling clients in order to adequately prepare them for licensure.

Due to these concerns, SB 363 (Chapter 384, Statutes of 2011) revised the law to allow up to 500 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes, and client centered advocacy. SB 363 became effective on January 1, 2012.

A conflict now exists between the revised law and Section 1833(a)(4) of the Board's regulations. This section of regulations currently only allows up to 250 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes. This is in direct conflict with the 500 hours allowed with the revisions of SB 363.

These regulations propose striking CCR Section 1833(a)(4), which is the section in regulations limiting experience gained administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes to 250 hours.

**Rationale:** The new requirement from SB 363, which allows up to 500 hours, is already clearly specified in Section 4980.43(a)(9) of the code.

**Anticipated Benefit:** The proposed change will increase clarity to both consumers and individuals who are seeking an LMFT license by clarifying the experience needed to obtain a license.

## 2. Telephone Counseling:

**Problem and Proposed Change:** BPC Section 2290.5 defines telehealth as a means of delivering health care services and public health via information and communication technologies. For example, psychotherapy performed via the telephone or over the internet may both be considered telehealth.

Current law limits the number of experience hours that an applicant for licensure as a marriage and family therapist (LMFT) may gain performing services via telehealth as follows:

*Business and Professions Code (BPC) Section 4980.43(a)(11)  
Not more than 375 hours of experience providing personal psychotherapy, crisis counseling, or other counseling services via telehealth in accordance with Section 2290.5.*

However, this statute is in conflict with CCR Title 16, Section 1833(a)(5), which limits an applicant seeking LMFT licensure to count no more than 250 hours of experience gained counseling or crisis counseling on the telephone. Therefore, the Board is proposing an amendment to strike out Section 1833(a)(5).

**Rationale:** The Board believes that the regulation is outdated, as it only limits counseling via telephone and does not provide for counseling provided over the internet.

**Anticipated Benefit:** This proposed change will increase clarity to both consumers and individuals who are seeking an LMFT license by clarifying the amount of experience for licensure that may be obtained via telehealth.

## 3. Errant References:

**Problem and Proposed Change:** This proposed amendment corrects errant references in Section 1833 (a) and (c) which have occurred as the statutes have changed over time.

**Rationale:** The references are incorrect and need to be deleted.

**Anticipated Benefit:** Increased clarity for consumers and individuals seeking an LMFT license who are using regulations and statute to determine LMFT licensing requirements.

## **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Board 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. This initial determination is based on the following:

- The proposed regulatory amendment to strike out Section 1833(a)(4) and (5) simply deletes requirements that are in conflict with statute. An increase in the allowable number of experience hours in certain content areas has no effect in the overall total number of hours required for licensure, and would not have an economic impact on businesses because it does not affect their daily operations.

As part of its Economic Impact Analysis, the Board has determined that its proposal will not affect the ability of California businesses to compete with other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. This proposal does not impact multiple industries.

Effect on Small Businesses: The Board has determined that the proposed regulations will not affect small businesses for the reasons specified above.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs, businesses, or the expansion of businesses in the State of California.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The Board has determined that this regulatory proposal will benefit the health and welfare of California residents who seek the services of the Board's marriage and family therapist licensees. Health and welfare is increased by doing the following:

- Increasing clarity to both consumers and individuals who are seeking an LMFT license by clarifying the experience needed to obtain a license.

The proposal will have no effect on worker safety or the State's environment.

Occupations/Businesses Impacted: The Board has determined that there will be no economic impact of this proposed regulation.

Reporting Requirements: None.

Comparable Federal Regulations: None.

Benefits: Business and Professions Code Section 4990.16 states the following: "Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." The public will benefit from the increased clarity this proposal provides, as described above.

## **UNDERLYING DATA**

None

### **BUSINESS IMPACT**

The Board has determined there will be no business impact for these proposed amendments. This is based on the fact that modifying the content of experience hours required for licensure does not affect the operations of a business.

### **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

The proposed regulations do not mandate the use of specific technologies or equipment.

### **CONSIDERATION OF ALTERNATIVES**

No reasonable alternative to the regulation would be either 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 proposed regulation.

Set forth below are the alternatives which were considered and the reasons each alternative was rejected:

1. Not adopt the regulations. This alternative was rejected because the Board has identified a conflict between statute and regulations which must be addressed in order to maintain clarity and consistency between licensing laws and regulations.
2. Adopt regulations. The Board determined that this alternative is the most feasible because it will provide clarity and consistency between licensing laws and regulations.