

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

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) 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:

Board of Behavioral Sciences
1625 N. Market Blvd.
El Dorado Room, Suite 220
Sacramento, CA 95834
August 14, 2012
1:00pm-2:00pm

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **August 13, 2012** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal 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 4980.60, and 4990.20 of the Business and Professions Code, and to implement, interpret, or make specific Sections 4980, 4980.44, 4996.18, 4996.23, 4999.45, and 4999.76 of the Business and Professions Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

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

Section 1811 provides general requirements regarding advertisements for Licensed Marriage and Family Therapists (LMFTs), Licensed Clinical Social Workers (LCSWs), Licensed Educational Psychologists (LEPs), and Licensed Professional Clinical Counselors (LPCCs).

AB 956 (Chapter 166, Statutes of 2011) changed the law relating to advertisements for marriage and family therapy services. AB 956 became effective on January 1, 2012, and any advertisement by or on behalf of a marriage and family therapist registered intern must now include, at a minimum, all of the following (BPC §4980.44(d)):

1. That he or she is a marriage and family therapist registered intern;
2. The intern's registration number;
3. The name of his or her employer; and
4. That he or she is supervised by a licensed person.

In addition, AB 956 prohibits the use of the abbreviation “MFTI” in an advertisement unless the title “marriage and family therapist registered intern” appears in the advertisement. (BPC §4980.44(d)(2)).

The Board is proposing amendments to Section 1811 that would clarify the law related to advertising, and would make the regulations consistent with the requirements of AB 956. Specific changes that would apply to all licensees include the following:

1. Requires an advertisement to contain the complete title of a license or registration, or an acceptable abbreviation. The amendments also spell out acceptable titles and abbreviations.
2. Prohibits the use of “MFTI” or “PCCI” in an advertisement unless the titles “marriage and family therapist registered intern” or “professional clinical counselor registered intern” are used, respectively.
3. Requires an advertisement to contain the practitioner’s license or registration number.
4. Requires a registrant to include the name of his or her employer, or the entity for which he or she volunteers, in any advertisement.
5. Allows use of the words “psychotherapy” or “psychotherapist” in an advertisement as long as all of the other requirements listed in the section are met.

Policy Statement Overview: Adoption of these proposed amendments will protect the public by further clarifying what information can and cannot be contained in an advertisement by a licensee or registrant. It also increases public protection by requiring the practitioner to include their license number in the advertisement, making it easier for the public to look up a practitioner’s license or file a complaint with the Board if necessary.

Amend Section 1870 – Requirements for Associate Clinical Social Worker Supervisors

Section 1870 specifies the requirements for supervisors of associate clinical social workers (ASWs). These requirements currently include a valid California license in good standing, as well as specific education and experience requirements.

The Board is proposing an amendment to this section that would require supervisors of ASWs to be licensed for at least two years prior to commencing any supervision. This proposed change would make the requirements for supervisors of ASWs consistent with Section 1833.1, which requires that supervisors of MFT interns be licensed for at least two years prior to performing any supervision.

Policy Statement Overview: Adoption of these proposed amendments would enhance public protection by ensuring that supervisors of ASWs have adequate experience as licensees before they are able to supervise.

Amend Section 1887.3 – Continuing Education Course Requirements

Section 1887.3 sets forth continuing education (CE) criteria for LMFT, LCSW, LEP, and LPCC license renewals. The regulation requires all Board licensees to complete thirty-six (36) hours of CE coursework every two years.

Currently, the Board's LMFT and LCSW licensees are required to take a one-time seven hour continuing education course covering the assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) as part of their 36 hour CE coursework requirement. (California Code of Regulation (CCR) Title 16 Section 1887.3(c)).

Current regulations do not require the Board's LPCC licensees to take a continuing education course covering HIV/AIDS, even though LPCCs are just as likely as LMFTs and LCSWs to treat patients affected by HIV or AIDS. Therefore, the Board is proposing an amendment that would also require LPCCs to take the one-time seven hour CE course covering the assessment and treatment of people living with HIV and AIDS, as part of their 36 hour CE coursework requirement.

Policy Statement Overview: Adoption of these proposed amendments will protect consumers by ensuring that all LPCC practitioners have education in the subject of patients who are living with HIV and AIDS.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

This proposal is consistent and compatible with existing state regulations. It modifies existing state regulations related to advertising so that they are consistent and compatible with last year's statutory changes to LMFT advertising requirements (AB 965, Chapter 166, Statutes of 2011).

FISCAL IMPACT ESTIMATES

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

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

- The proposed regulation changes to Section 1811 would not result in an economic or fiscal impact. The proposal would only refine the regulations by specifying certain information that must be disclosed in an advertisement.
- The proposed amendments to Section 1887.3 require LPCC licensees to take a one time, 7-hour CE course covering the assessment and treatment of people living with HIV and AIDS. However, because this course can be counted as part of the 36 hours of CE that is already required for license renewal, it does not represent an additional cost to the licensee.

- The proposed amendments to Section 1870 would have minimal if any impact on individuals and businesses as licensees who supervise MFT Interns and trainees frequently supervise ASWs. Newly licensed individuals and private therapy practices rarely have a large enough client base to employ and take on a supervisee.

Impact on Jobs/New Businesses: The Board has determined that this regulatory 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:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

RESULTS OF 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 amendments to the advertising requirements in Section 1811 specify that certain information must be disclosed in an advertisement. Providing this information would not have an economic impact on licensees.
- The proposed regulatory amendments to Section 1870 requiring supervisors of ASWs to have held a license for at least two years would affect only a small number of individuals, as newly licensed individuals rarely supervise.
- The proposed regulatory amendments to Section 1887.3 requiring LPCC licensees to take a one-time CE course covering assessment and treatment of people living with HIV and AIDS would not have an economic impact on licensees, because the course can be taken as part of the 36 hours of CE that is already required for license renewal. Therefore, there is no additional cost to the licensee above and beyond what they would already pay to take their required CE.

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 licensees. Health and welfare is increased by doing the following:

- Increasing and clarifying the information that must be provided in a licensee or registrant's advertisements;
- Ensuring that supervisors of ASW's have been licensed for two years and therefore have experience as a licensee; and
- Requiring that LPCC practitioners have education relating to patients living with HIV and AIDS.

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 protections this proposal provides, as described above.

CONSIDERATION OF ALTERNATIVES

The Board 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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board 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

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 at the hearing or prior to the hearing upon request from the person designated in the this Notice under Contact Person listed below, or by accessing the Board's website, www.bbs.ca.gov

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 below (or by accessing the website listed below).

CONTACT PERSON

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

Name: Rosanne Helms
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7897
Fax: 916-574-8626
Email: Rosanne.Helms@dca.ca.gov

The backup contact person is:

Name: Marc Mason
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7828
Fax: 916-574-8626
Email: Marc.Mason@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.