

**TITLE 16: BOARD OF BEHAVIORAL SCIENCES  
NOTICE OF PROPOSED CHANGES**

**Subject Matter of Proposed Regulations:**

**Examination Rescoring; Abandonment of Application;  
Associate Professional Clinical Counselor (APCC) Application Fee**

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  
**April 8, 2019, 11:00 a.m.**

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 not later than 5:00 p.m. on April 8, 2019, 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 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 4980.60 and 4990.20 of the Business and Professions Code (BPC), and to implement, interpret or make specific Sections 4980.30, 4980.35, 4980.397(a), 4980.398, 4980.399, 4980.40, 4980.44, 4980.72, 4984.01, 4984.7, 4984.72, 4989.20, 4989.22(b), 4989.68, 4992, 4992.05(a), 4992.07, 4992.09, 4996.1, 4996.3, 4996.4, 4996.17, 4996.18, 4996.28, 4999.42, 4999.50, 4999.53, 4999.55, 4999.60, 4999.61, 4999.64, 4999.100, and 4999.120 of the BPC, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations as described in this Notice.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **Adopt Section 1805.08 and Repeal Section 1816.3 – Examination Rescoring**

Current statutes authorize the Board to charge candidates a \$20 fee to re-score an examination (*BPC §§4984.7(a)(5), 4989.68(a)(6), 4996.3(a)(5) and 4999.120(j)*). This fee is also listed in regulation (*Title 16, California Code of Regulations (16CCR) §1816.3*). However, neither the statutes nor the regulations set forth any criteria regarding “examination rescoring.”

Policy Statement Overview: This proposal would clarify the types of exams that may be rescored for the Licensed Marriage and Family Therapist (LMFT), Licensed Educational Psychologist (LEP), Licensed Clinical Social Worker (LCSW) and Licensed Professional Clinical Counselor (LPCC) professions. Currently, the vast majority of exams are administered electronically, all of which are automatically rescored. Candidates with a disability accommodation may be provided with a paper-and-pencil exam. The proposal allows for rescoring of exams administered via paper-and pencil only. The proposal also limits rescoring to Board-developed exams only. This is because the Board uses two national exams, each of which has its own rescoring process.

This proposal would also require candidates to submit certain information with a request for rescoring, including the exam type and date taken. This will help staff identify and locate the candidate’s exam and to address the candidate’s concerns. The amendments would result in the Board’s regulations better matching the current exam system, and would provide clarity by striking a duplicate rescoring fee already set in statute.

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

Current law specifies application and examination requirements for registration and licensure:

LMFT: BPC §§ 4980.30, 4980.397 – 4980.399, 4980.40, 4980.44, 4980.72 and 4984.72; 16CCR §§ 1829.1 – 1829.3.

LEP: BPC §§ 4989.20 and 4989.22.

LCSW: BPC §§ 4992, 4992.05 – 4992.09, 4996.1, 4996.4, 4996.17 and 4996.18; 16CCR §§ 1877.1 – 1877.3.

LPCC: BPC §§ 4999.42, 4999.50, 4999.53, 4999.55, 4999.60, 4999.61 and 4999.64; 16CCR §§ 1822.50 – 1822.52.

16CCR §1806 stipulates the following regarding application abandonment:

1. Applications shall be deemed abandoned when any of the following occur:
  - The application has not been completed by the applicant within one year after it has been filed.
  - The applicant does not submit information necessary to correct application deficiencies within one year from the date of the deficiency letter.
  - An applicant for licensure does not take a required examination within one year from the date he or she is notified of eligibility to take an exam, or within one year from the date he or she failed an exam.
  - The applicant does not pay the initial license fee within one year after being notified of passing required exams.
2. Applicants who re-apply after abandonment shall be treated as new applicants, must pay the application fee, and meet current requirements.

Policy Statement Overview: This proposal would update, streamline and improve readability of the Board’s application abandonment criteria and process by emphasizing the repercussions of abandonment, deleting outdated subdivisions, and collapsing the paragraphs that refer to specific exams and required time frames for taking an exam into one statement that encompasses all of the exams and circumstances. These clarifying changes would result in an up-to-date regulation that matches current Board processes.

### **Amend Section 1816.1(e) – Initial License and Registration Fees**

BPC § 4999.12.5 specifies that the title “professional clinical counselor intern” is renamed to “associate professional clinical counselor.”

BPC § 4999.42 specifies the requirements to be issued an associate professional clinical counselor registration number.

16CCR § 1816.1(e) specifies the fee required for “initial application” for a professional clinical counselor “intern” registration number.

Policy Statement Overview: This proposal would provide clarity by updating the language with the new “associate” registration title. It would also remove the term “initial” from subdivision (e), thereby clarifying that the fee applies to all applications for issuance of a professional clinical counselor registration number.

**ANTICIPATED BENEFITS OF PROPOSAL**

The amendments would benefit applicants by updating, streamlining and clarifying the Board’s regulations pertaining to applications and examinations, updating and providing clarity in the Board’s application processes, and helping candidates avoid application abandonment and its consequences.

**CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations and amendments, the Board of Behavioral Sciences has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent or incompatible with existing state regulations.

**FORMS INCORPORATED BY REFERENCE**

No forms have been incorporated by reference.

**FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: The changes proposed by this regulation package are primarily technical and clarifying in nature. The proposed changes will not result in any new fiscal impacts.

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17500-17630 Require 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, as the proposed changes are primarily technical and clarifying in nature.

Cost Impact on Representative Private Person or Business: 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 for the reasons described above.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the

elimination of jobs or existing businesses or the expansion of businesses in the State of California for the reasons described above.

Effect on Housing Costs: None

### **EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulations do not affect small businesses because they only affect applicants, who would not have their own business until they become licensed.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

The Board has made an initial determination that the proposed regulatory action would not have a 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 facts:

- The proposed addition of section 1805.08 simply updates and clarifies the exam rescoring criteria and process, and requires certain basic information to be submitted with an exam rescoring request.
- The proposed amendments to section 1806 simply clarify the application abandonment criteria and process.
- The proposed amendments to section 1816.1 simply clarify that the application fee is required for any application for issuance of a professional clinical counselor registration number, whether it is for a first, second or third (etc.) number.
- Striking section 1816.3 simply deletes a section that duplicates the fee set in statute.
- **Analysis of creation/elimination of jobs:** This proposal will not create or eliminate any jobs within California for the reasons described above.
- **Analysis of creation/elimination of businesses.** This proposal will not create or eliminate any businesses in California for the reasons described above.
- **Analysis of expansion of business:** This proposal will not expand any businesses in California for the reasons described above.

- **Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:** This regulatory proposal will benefit the Board's applicants and licensees by updating, streamlining and clarifying the Board's regulations pertaining to applications and examinations, and by updating and providing clarity in the Board's application processes. The proposal will have no effect on worker safety or the State's environment.

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 will not eliminate any jobs or occupations. This proposal does not impact multiple industries.

### **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 proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternatives considered were as follows:

1. Not adopt the regulations. This alternative was rejected for the following reasons:
  - Not changing section 1805.08 would result in a continuing lack of formal criteria regarding examination rescoring.
  - Not changing section 1806 would result in continuing to have outdated text that lacks in ease of readability.
  - Not changing section 1816.1 would result in a continuing lack of clarity regarding the professional clinical counselor registration application fee.
  - Not striking section 1816.3 would leave in place a section that duplicates statute.
2. Adopt the regulations. The Board determined that this alternative is the most feasible because it would benefit applicants by updating, streamlining and clarifying the Board's regulations pertaining to applications and examinations, and by updating and providing clarity in the Board's application processes.

**INITIAL STATEMENT OF REASONS AND INFORMATION**

The Board has prepared an initial statement of the 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 Notice under Contact Person or by accessing the Board’s website at [http://www.bbs.ca.gov/about/law\\_reg.html](http://www.bbs.ca.gov/about/law_reg.html).

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

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the 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: Christy Berger  
Address: 1625 N. Market Blvd., Suite S-200  
Sacramento, CA 95834  
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E-Mail Address: [Christy.Berger@dca.ca.gov](mailto:Christy.Berger@dca.ca.gov)

The backup contact person is:

Name: Rosanne Helms  
Address: 1625 N. Market Blvd., Suite S-200  
Sacramento, CA 95834  
Telephone No.: (916) 574-7897  
Fax No.: (916) 574-8626  
E-Mail Address: [Rosanne.Helms@dca.ca.gov](mailto:Rosanne.Helms@dca.ca.gov)

**Website Access:** Materials regarding this proposal can be found on the Board’s website at [http://www.bbs.ca.gov/about/law\\_reg.html](http://www.bbs.ca.gov/about/law_reg.html).