

To: Jill
From: Richard
Date: May 6, 2013

I have received several calls regarding the BYLAWS vote 2013 booklet that I received last week. I felt it important to let you know some of my concerns so that you can address them as you deem appropriate. I list and discuss the primary concerns below. I am available to discuss these and related matters with you at your discretion.

1) In the Executive Summary of Proposed Changes it states that “some items were removed from the proposed Bylaws and some items were added or changed.” None of the removed items, none of the changed items, none of the added items, and none of the retained items are shown in context – with strikeouts and additions clearly indicated. One cannot readily see what is being changed in any kind of context. While the changes to CAMFT would be enormous if the proposed Bylaws are adopted, there is virtually no discussion of these changes.

The proposed Bylaws create major changes to the organization with respect to the purposes of the corporation, the nomination and election process, the elimination of most standing committees, the addition of other licensed professions (psychologists, social workers, psychiatrists, professional counselors) as eligible to vote as clinical members and to be elected to the board of directors (potentially affecting the control of the organization by non LMFTs), yet none of these significant changes are put in front of the voting member in the booklet– with the new provision and the old provision juxtaposed.

One could easily argue that the Bylaws vote booklet, and thus the upcoming vote, is null and void because it does not contain the language to be repealed, removed, added, retained, or modified. Transparency is critical when proposing amendments to bylaws, and voting members should not be forced or asked to conduct independent research in order to view the changes actually proposed.

2) The Executive Summary of Proposed Changes (on page iii) states that under the California Nonprofit Mutual Benefit Corporation Law, **there are only two types of permissible committees**: “Committees of the Board” (which are comprised only of Board members) and “Advisory Committees” (which can contain non-Directors **and do not exercise authority delegated by the Board**). This is the reason given for repealing the sections of the current Bylaws that establish the Standing Committees – Nominating, Elections, Ethics, Bylaws, and Honors. However, the statement (there are only two types of permissible committees) is incorrect and misleading, as is the statement that advisory committees do not exercise authority delegated by the Board.

Nothing in the California Nonprofit Mutual Benefit Corporation Law requires any change to CAMFT’s Standing Committees – yet the executive summary gives the clear impression that these standing committees must become “advisory committees” because “there are only two types of permissible committees – “committees of the board” and “advisory committees.” This is not the law. In fact, **the law makes no mention of “advisory committees,”** a term that is considered by some to be misleading. The law only mentions and defines the term “Committees of the Board.”

Standing Committees (which are permanent and ongoing, usually established in the Bylaws) or other non-board committees (e.g., ad hoc) created by the board are appropriate, **and they may, and regularly do, exercise the authority delegated by either the bylaws or the board.** In fact, the board can delegate substantial responsibilities to a non-board committee, including management functions, but all subject to the Board’s ultimate direction and oversight. The law clearly states that **the board may delegate the management of the activities of the corporation to any committee however composed,** provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

Moreover, and directly related to bylaws, the California Nonprofit Mutual Benefit Corporation Law provides that **the bylaws may contain any provision for the management of the activities and for the conduct of the affairs of the corporation, including the appointment of committees, composed of directors or non-directors or both, by the board or any officer and the authority of any such committees.** Any bylaw provisions regarding appointment of a particular committee and/or the authority of the particular committee must not be in conflict with law or the Articles of Incorporation, as is the case with CAMFT’s

current Bylaws and current Standing Committees.

“Committees of the Board,” pursuant to applicable law, must be made up of two or more board members (board members only) because such a committee has, to the extent provided in the board’s resolution or in the bylaws, **all the authority of the full board**. Other committees, whether specified in the Bylaws or created by the Board, **have the authority to act and to conduct the affairs of the corporation** based upon the authority granted either by the Bylaws or contained in the Board’s resolution creating the particular committee.

3) With respect to the nomination and election of members to serve on the Board of Directors, which is specified in detail in the current Bylaws (thereby protecting member rights to the processes which they voted to approve), the proposed Bylaws require the Board to “adopt additional procedures” relative to the nomination and election process. However, essentially all existing procedures regarding elections and nominations would be repealed. If the Board of Directors is to adopt essentially all procedures relative to the nomination and election process, then the Board can change the procedures as and when they wish. The procedures regarding elections and nominations are specified in the current Bylaws to protect the members. These procedures, proposed for repeal, are not disclosed in the Bylaws vote booklet – thus, the voting member does not readily see what procedures regarding elections and nominations are being repealed.

4) With respect to the purposes of CAMFT, which is spelled out in the current Bylaws, The Executive Summary of Proposed Changes simply and solely says that “the purpose of the organization was modified and modernized to reflect the spirit and goals of the strategic plan.” The purposes of the corporation are stated in the Articles of Incorporation and the Bylaws. The Bylaws must not be inconsistent with the Articles of Incorporation (in terms of the purposes of the corporation). The strategic plan, which can change from year to year, must be consistent with the Bylaws. In the Bylaws vote booklet, the members are told that the Bylaws are proposed for change to reflect the spirit and goals of the strategic plan. Again, the members are not being shown the current purposes of CAMFT.

Rather than a “modernization,” what is occurring here is that the corporation’s primary focus and purpose will no longer be the advancement of marriage and family therapy as a profession or the representation of the common professional and business interests of LMFTs, but rather, the advancement of and advocacy for all mental health professionals (regardless of licensure). This changes the essential nature and purposes of CAMFT, yet the current purposes of CAMFT (e.g., advocacy for LMFTs), as contained in the current Bylaws (consistent with the Articles of Incorporation, if they haven’t been changed) are not revealed or discussed in the Bylaws vote booklet.

If CAMFT is no longer to be devoted to serving and representing the common professional and business interests of marriage and family therapists or advancing marriage and family therapy as an art, a science and a mental health profession, but is to change into an organization that advocates for mental health professionals, I would think that this information would be highlighted and discussed in considerable detail. Further, I would think that the key provisions affecting such changes would be readily discernible from the repealed, modified, or added language being juxtaposed so that the member can readily and clearly see the nature and extent of the changes. Instead, members are told that this change in purpose is a modernization to reflect the spirit and goals of the strategic plan.

5) The proposed Bylaws, in addressing the removal of directors, says: “Any director may be removed from the Board by a majority vote of the voting members at any properly called and noticed membership meeting where a quorum is present or by written ballot pursuant to Section 20 of Article II above.”

The Bylaws vote booklet says that the Bylaws are being updated to bring them into **full compliance** with modern California law. The law specifically provides that any or all directors can be removed **without cause** if the removal is approved by the members. The omission of the phrase “without cause” does not accurately reflect existing law, and there is no reason why such words should be omitted from the Bylaws.