

## Policy and Advocacy Committee Minutes April 23, 2015

Department of Consumer Affairs  
Hearing Room  
1625 N. Market Blvd.  
Sacramento, CA 95834

### Members Present

Renee Lonner, Chair, LCSW Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

### Staff Present

Kim Madsen, Executive Officer  
Steve Sodergren, Asst. Executive Officer  
Rosanne Helms, Legislative Analyst  
Dianne Dobbs, Legal Counsel  
Christina Kitamura, Administrative Analyst

### Members Absent

### Public Attendees

Sign-in sheet on file

#### **I. Call to Order and Establishment of Quorum**

Renee Lonner, Policy and Advocacy Committee (Committee) Chair, called the meeting to order at 9:08 a.m. Christina Kitamura took roll, and a quorum was established.

#### **II. Introductions**

The Committee, Board staff, and meeting attendees introduced themselves.

#### **III. Approval of the January 30, 2015 Committee Meeting Minutes**

The draft minutes of the January 2015 Policy & Advocacy Committee meeting minutes were deferred to the next Committee meeting.

#### **IV. Discussion and Recommendations for Possible Action Regarding Pending Legislation**

##### **a. Assembly Bill 85 – Open Meetings**

This bill would make an advisory body consisting of less than three members subject to the Bagley-Keene Open Meeting Act if a member of the state body is serving on it in his or her official capacity, and if the advisory body is supported, wholly or partially, by funds from the state body.

Previous legislation, AB 2058, ran last year. However, AB 2058 was vetoed by the Governor. This bill is an attempt to run the legislation again. The author's office is concerned that some state agencies are conducting meetings with two or fewer members specifically to avoid open meeting requirements.

The Board commonly utilizes two-member standing committees to address issues requiring in-depth discussion and analysis. No votes are taken at these meetings and minutes are not maintained; any action must be approved by the Board at a board meeting.

If this bill were to become law, additional staff time would be required to complete meeting minutes, but otherwise the Board is already in compliance with Bagley-Keene in regards to two-member committee meetings.

The amendments in this bill would mean that a board member acting in his or her official capacity on any multimember body, whether a state body or corporate body, would subject that body to the Bagley-Keene Act if that board member receives state funds. In such a case, the Board must post notice of and an agenda for a meeting that it is not hosting. The cost and compliance issues that this would create may act as a disincentive for Board members to represent the Board at other meetings and events.

***Christina Wong moved to recommend that the Board oppose AB 85. Renee Lonner seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

#### **b. Assembly Bill 250 – Telehealth: Marriage and Family Therapist Interns and Trainees**

AB 250 clarifies that for purposes of the telehealth law, MFT interns and trainees may provide services via telehealth. This bill also specifies that in order to provide telehealth services, MFT interns and trainees must be under licensed supervision and must also comply with any telehealth regulations adopted by the Board.

The sponsor of this bill has raised concern that BPC §2290.5 is written only for licensed individuals, a definition which includes interns, but not trainees, based on BPC §23.7. However, at the same time, BPC §4980.43 allows MFT trainees to count some of their experience, gained as a trainee, toward licensure if working in an exempt setting, and allows some of this experience to be via telehealth. There is concern that MFT trainees and their supervisors may be vulnerable to liability for providing telehealth services because BPC §2290.5 does not include trainees.

This same concern does not apply to ASW or PCC trainees, as they work in exempt settings and they may not count hours earned as a trainee toward licensure. Therefore, they are not under the jurisdiction of the Board.

The sponsor of this bill states that the proposed amendments would resolve the conflict in law so that pre-licensees could practice telehealth under supervision. This bill clarifies that both interns and trainees may provide services via telehealth. Interns are technically included in the definition of a “license” in BPC §23.7, and therefore the law indicates that interns may provide telehealth.

At its January 2015 meeting, the Committee discussed this issue, and staff proposed similar language to that used in this proposal.

At this meeting, the Committee learned that CAMFT was also pursuing a legislative proposal and had found an author for the language. The Committee directed staff to continue to work with CAMFT on the proposed language. The Board gave the same direction at its February 2015 meeting

***Renee Lonner moved to recommend that the Board support AB 250. Dr. Christine Wietlisbach seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**c. Assembly Bill 333 – Healing Arts Continuing Education**

This bill would allow a Board licensee who takes coursework toward, and becomes a certified instructor of, cardiopulmonary resuscitation (CPR) or automated external defibrillator (AED) use, to count one unit of credit toward his or her continuing education (CE) requirement.

Current law specifies that continuing education must incorporate either aspects of the discipline for which licensed that are fundamental to the practice of the profession, aspects of the discipline where significant recent developments have occurred, or aspects of other disciplines that enhance the understanding or practice of the profession.

The author’s office notes that AEDs are becoming more common on school campuses. However, pro bono instructors and training resources are rare, and paying for such training can be cost prohibitive. Therefore, by allowing healing arts licensees to gain continuing education credit for becoming an instructor in CPR/AED use and for conducting training in schools, this bill creates an incentive that would benefit both licensees and schools.

The Board has several one-time continuing educational requirements that must be completed by its LMFT, LCSW, and LPCC licensees. These additional courses must be completed prior to licensure or at the first renewal, depending on when the applicant began graduate study. While CPR/AED training is important, it may be

difficult to argue that it is fundamental to, or enhances the understanding of, the practice of psychotherapy.

CPR and AED instructor certification programs appear to be commonly offered by nonprofits such as the American Red Cross and the American Heart Association. These entities would not meet the definition of an organization that would be approved by a board-recognized approval agency.

This bill states that a licensee may apply one unit of CE credit if he or she becomes a certified CPR or AED instructor, or up to two units of CE credit toward conducting CPR or AED training for employees of school districts or community colleges. The bill defines a “unit” as any measure of CE, such as hours or course credits. However, the number of CE hours this bill intends to apply toward the CE requirements is unclear. Several nonprofit entities offer CPR and AED instructor courses, and while the programs vary, all programs appear to require many hours of training.

***Christina Wong moved to recommend that the Board oppose AB 333 unless amended. Renee Lonner seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**d. Assembly Bill 690 – MediCal: Federally Qualified Health Centers: Rural Health Clinics**

This bill would allow MediCal reimbursement for covered mental health services provided by a marriage and family therapist employed by a federally qualified health center or a rural health clinic.

Existing law:

- 1) Establishes that federally qualified health center services (FQHCs) and rural health clinic (RHC) services are covered MediCal benefits that are reimbursed on a per-visit basis.
- 2) Defines a FQHC or RHC “visit” as a face-to-face encounter between an FQHC or RHC patient and one of the following:
  - A physician;
  - physician assistant;
  - nurse practitioner;
  - certified nurse-midwife;
  - clinical psychologist;
  - licensed clinical social worker;
  - visiting nurse; or
  - dental hygienist.

This bill would add a marriage and family therapist to the list of health care professionals included in the definition of a visit to a FQHC or RHC who are eligible for MediCal reimbursement.

Staff suggests an amendment be made to include the word “licensed” in front of the term “marriage and family therapist. This will clarify that the marriage and family therapist must be licensed by the Board, and it is consistent with the use of the term “licensed clinical social worker” in that code section. In addition, it is also consistent with the Board’s August 2011 decision that the title “Licensed Marriage and Family Therapist” be utilized in all new regulatory and legislative proposals.

This bill was run as AB 1785 in 2012. The Board took a “support” position on AB 1785; however, AB 1785 died in the Assembly Appropriations Committee.

Mr. Wong, NASW-CA, opposes AB 690 due to the fiscal impact. He opined that the bill implies there is a shortage of mental health practitioners in rural areas, which NASW-CA does not agree with. Mr. Wong further stated that salaries and MediCal payments for licensees are low; and by expanding the pool of licensed professionals, clinics are able to pay lower salaries in rural areas.

Ms. Porter stated that LPCCs were not included in the bill. CALPCC requested that LPCCs be included in this bill. However, CAMFT felt it would hinder the bill by including other professions; therefore, suggested that CALPCC run its own bill.

Alain Montgomery, CAMFT, was not able to provide a response to Ms. Porter’s comment. He wished to defer the question to Cathy Atkins, who was not present at the meeting.

Dr. Wietlisbach expressed support for the bill as presented because it increases mental health access to consumers.

Ms. Kahn, AAMFT-CA, responded to Mr. Wong’s comment. She referred to an article published in 2011 by the Journal of Rural Community Psychology, which states that there is a lack of mental health professionals in general, not just a lack of marriage and family therapy services. This bill would increase the general pool of the workforce.

***Dr. Christine Wietlisbach moved to recommend that the Board support AB 690. Christina Wong seconded. The Committee voted to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**e. Assembly Bill 796 – Health Care Coverage: Autism and Pervasive Developmental Disorders**

This bill modifies the definition of “qualified autism service professional” and “qualified autism service paraprofessional” to allow insurance coverage for types of behavioral health treatment other than applied behavior analysis.

Existing Law:

- 1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A).
- 2) Defines “behavioral health treatment” as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, which worked to develop or restore the functioning of an individual with PDD/A, and meets the specified criteria.
- 3) Defines a “qualified autism service professional” as someone who meets specified criteria:
  - Provides behavioral health treatment;
  - Is employed and supervised by a qualified autism service provider;
  - Provides treatment according to a treatment plan developed and approved by the qualified autism service provider.
  - Is a behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program; and
  - Has training and experience providing services for pervasive developmental disorder or autism.
- 4) Defines a “qualified autism service paraprofessional” as an unlicensed and uncertified person who meets all of the following:
  - Is employed and supervised by a qualified autism service provider;
  - Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;
  - Meets criteria set forth in regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; and
  - Is certified by a qualified autism service provider as having adequate education, training, and experience.

AB 796 modifies the qualifications of a “qualified autism service professional” to be either of the following:

- 1) A behavioral service provider approved by a regional center to provide services as an Associate Behavior Analyst, Behavior Analyst, Behavior Management Assistant, Behavior Management Consultant, or Behavior Management Program; or
- 2) Have a bachelor of arts or science degree and either:
  - a) Twelve semester units from an accredited institution in either applied behavioral analysis or clinical coursework in behavioral health, and one year of experience in designing or implementing behavioral health treatment; or

- b) Two years of experience designing or implementing behavioral health treatment; or
- c) Is a registered psychological assistant or registered psychologist; or
- d) Is an associate clinical social worker (ASW) registered with the Board.

SB 946 required health service plan and insurance policies to provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). SB 946 defined behavioral health treatment as certain professional services and treatment programs that included applied behavior analysis under qualified autism service providers, professionals, and paraprofessionals.

The author's office notes that SB 946 went on to specifically define "qualified autism service professionals" and "qualified autism service paraprofessionals" as behavioral health treatment providers meeting the requirements of Section 54342 of Title 17 of the California Code of Regulations (CCR). However, this section of the CCR only refers to behavioral health treatment providers as applied behavior analyst providers, leaving out other types of evidence-based behavioral health treatment.

Therefore, the author is attempting to have the behavioral health coverage mandated by SB 946 apply to all types of evidence-based behavioral health treatment, not just applied behavior analysis.

This bill allows an ASW to be a qualified autism services professional, but it does not include marriage and family therapist interns (IMF) and professional clinical counselor interns.

The California Association for Behavior Analysis is currently sponsoring a bill proposal (SB 479), which would create a licensure category under the Board of Psychology.

The prospect of competing types of effective behavioral health treatment may raise questions about the implications of establishing a licensure category for one of the treatment types, but not the others.

***Renee Lonner moved to recommend that the Board remain neutral on AB 796. Christina Wong seconded. The Committee voted to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**f. Assembly Bill 832 – Child Abuse: Reporting**

This bill would specify that voluntary acts of sodomy, oral copulation, and sexual penetration are not considered acts of sexual assault that must be reported by a mandated reporter, unless it is between a person age 21 or older and a minor under age 16.

Current law:

- Establishes the Child Abuse and Neglect Reporting Act (CANRA) which requires a mandated reporter to make a report in instances in which he or she knows or reasonably suspects that a child has been the victim of child abuse or neglect.
- Except under certain specified circumstances, declares any person who participates in an act of sodomy or oral copulation with a person under age 18 shall be punished by up to one year in state prison or county jail.

This bill specifies that voluntary acts of sodomy, oral copulation, or sexual penetration are not considered to be mandated reports of sexual assault under CANRA, unless the conduct is between a person age 21 or older and a minor under age 16.

The author's office states that the reporting requirements for mandated reporters of child abuse are confusing, inconsistent, and discriminatory. They note that current law states that consensual sodomy and oral copulation is illegal with anyone under age 18, and that it requires a mandated report as sexual assault under CANRA. However, the same reporting standards do not apply to consensual heterosexual intercourse.

The author is attempting to make the law consistent by ensuring that all types of voluntary activities are treated equally for purposes of mandated reporting under CANRA.

The Board examined this issue in 2013 when stakeholders expressed concern that consensual oral copulation and sodomy among minors were mandated reports under CANRA, while other types of consensual sexual activity were not. However, at the same time, staffers at the Legislature contacted Board staff to caution that there had been past legal opinions stating that this interpretation of CANRA was incorrect, and that amendments could potentially have ramifications for family planning agencies.

The Board was concerned about a potential legal misinterpretation of CANRA, but at the same time saw this as a valid effort. Therefore, it directed staff to obtain a legal opinion from the DCA legal office.

In its legal opinion, DCA found that CANRA does not require a mandated reporter to report incidents of consensual sex between minors of a similar age for any actions described in Penal Code (PC) Section 11165.1, unless there is reasonable suspicion of force, exploitation, or other abuse.

Board staff had a discussion with the author's office to verify a question about how the amendments would affect the reportability of a situation of sexual activities between an adult under 21 and a significantly younger minor.

Board staff believes such an act would be reportable due to the provisions of PC Section 288 (which addresses lewd and lascivious acts with someone under 14). However, the author's office is in the process of consulting with Legislative Counsel on this issue. Legislative Counsel confirmed that the provision is covered.



At its April 2014 meeting, the Committee recommended a “support” position on a previous bill, AB 1505, which would have specified that consensual acts of sodomy and oral copulation are not acts of sexual assault that must be reported by a mandated reporter, unless it involved either a person over age 21 or a minor under age 16. However, AB 1505 died before the Board was able to take a position on it.

Ms. Kahn explained that there were some issues with the language in the previous bill. Since then, AAMFT-CA has been working with stakeholders and the author’s office. AB 832 has new language. The language proposed in AB 1505 did not cover conduct between a person under age 21 and a minor under age 14. The language actually made the act not reportable, which was not the intent of AAMFT-CA. Therefore, AAMFT-CA abandoned that language. AB 832 now covers conduct between a person under 21 and a minor under age 14, and makes the conduct reportable.

Dianne Dobbs stated that AB 832 is an improvement over last year’s bill.

Ms. Wong expressed concern regarding the term “voluntary” as it is used in AB 832, in place of the term “consensual.”

Mr. Wong, NASW-CA, does not have a position on AB 832; however, he expressed that judgment should be left to the clinician, and the clinician should not let statute guide their practice.

Ms. Kahn stated that current statute limits the clinician’s judgment. The proposed bill alleviates the legal pressure to report.

Ms. Kahn reported that the District Attorney’s Office wrote a letter of opposition. Currently, AB 832 is in the Assembly Appropriations Committee. Ms. Kahn requested the Board’s support on AB 832.

Dr. Wietlisbach expressed that she did not want to make a recommendation before reviewing the Attorney General’s letter.

*The Committee took a break at 10:10 a.m. so that the Committee could obtain copies and review the Attorney General’s letter. The Committee reconvened at 10:33 a.m.*

After review of the Attorney General’s opinion, Ms. Dobbs stated that her legal opinion has not changed. She opined that AB 832 clarifies reporting requirements for practitioners, and the bill is worth supporting.

***Dr. Christine Wietlisbach moved to recommend that the Board support AB 832. Renee Lonner seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

#### **g. Assembly Bill 1001 – Child Abuse: Reporting**

This bill clarifies that it is illegal for anyone, including a supervisor, to impede or interfere with the making of a mandated report of suspected child abuse or neglect.

The author's office believes that mandated reporters should have a clear path to reporting and facilitating intervention with suspected child abuse and neglect without interference. However, they have learned that social workers who work for private, non-profit foster family agencies, as well as one teacher, have confidentially reported to the Children's Advocacy Institute at the University of San Diego School of Law that supervisors at foster family agencies sometimes override mandated reporting.

Current law states that a supervisor or administrator who impedes reporting duties shall be punished by a fine up to \$1,000 and/or up to six months in county jail.

This bill prohibits a person from impeding or interfering with the making of a mandated report of suspected child abuse or neglect, and states that a person who impedes or interferes with a mandated report is guilty of a misdemeanor and may be liable for actual damages to the victim.

They believe that this bill will clarify the law and provide consequences, in the form of a misdemeanor and liability, for those who interfere with a mandated report.

***Renee Lonner moved to recommend that the Board support AB 1001. Christina Wong seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

#### **h. Assembly Bill 1279 – Music Therapy**

This bill seeks to define music therapy in statute and to provide guidance to consumers and agencies regarding the education and training requirements of a qualified music therapist.

The author is seeking to create a uniform definition for music therapy in statute. They note that several agencies have established definitions of music therapy in regulation; however the definitions are inconsistent and sometimes refer to obsolete entities. The goal of this bill is to protect consumers from harm and misrepresentation from practitioners who are not board certified music therapists and who are not practicing under the Certified Board for Music Therapists' Code of Professional Practice.

Two organizations are jointly involved in the certification process for music therapists. The certification board administers its own board certification examination. Once passed, the certification is valid for five years. To recertify after this time, the exam must either be passed again, or continuing education must be completed.

Recent amendments to this bill clarify a concern staff had with the previous version of this bill, specifically that the bill would restrict Board licensees from practicing music therapy. The bill now states the various professionals may utilize music therapy, as long as they do not use the title Board Certified Music Therapist.

Recent amendments to this bill also clarify that music therapists may not claim to provide mental health counseling or psychotherapy, unless they are appropriately licensed to do so.

Dr. Wietlisbach expressed that this bill seeks title protection and is not a licensing act.

***Christina Wong recommended that the Board remain neutral on AB 1279. Dr. Christine Wietlisbach seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**i. Senate Bill 479 – Healing Arts: License and Regulate Applied Behavioral Analysis**

This bill establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology.

This bill:

- 1) Establishes the Behavior Analyst Act to license behavior analysts and assistant behavior analysts under the Board of Psychology beginning January 1, 2018.
- 2) Defines the “practice of behavior analysis.”
- 3) Specifies that the practice of behavior analysis does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling.
- 4) Creates the Behavior Analyst Committee, under the jurisdiction of the Board of Psychology.
- 5) Specifies licensure requirements for Behavior Analysts and Assistant Behavior Analysts.
- 6) Exempts the following practitioners from the provisions of this licensing act if the person is acting within the scope of his or her licensed scope of practice and within the scope of his or her training and competence:
  - a) Licensed psychologists;
  - b) Licensed occupational therapists;
  - c) Licensed physical therapists;
  - d) Licensed marriage and family therapists;
  - e) Licensed educational psychologists.

This bill allows reciprocity for licensed behavior analysts or assistant behavior analysts in other states, as long as the state in which licensed has comparable licensing requirements, and that state offers reciprocity to California licensees.

*The Committee took a break at 11:00 a.m. and reconvened at 11:05 a.m.*

Ms. Helms has requested that the author's office include LCSWs and LPCCs in the exemption from licensure section.

The Committee agreed to wait for further amendments to the bill before taking a position.

***Renee Lonner recommended that the Board remain neutral on SB 479. Christina Wong seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**j. Senate Bill 614 – Medi-Cal: Mental Health Services: Peer and Family Support Specialist Certification**

This bill:

- 1) Establishes the Peer and Family Support Specialist Certification Program Act;
- 2) Requires the State Department of Health Care Services (DHCS) to establish a certification body and to provide statewide certification for adult peer support specialists, family peer support specialists, and parent peer support specialists by July 1, 2016.
- 3) Requires DHCS to establish the following for peer and family support specialists:
  - a) The range of responsibilities and practice guidelines;
  - b) Curriculum and core competencies;
  - c) Training requirements;
  - d) Continuing education requirements;
  - e) Clinical supervision requirements;
  - f) A process to allow those currently employed in the peer support field to obtain certification.
- 4) Allows DHCS to implement this law via plan letters, bulletins, or similar instructions, without regulations, until regulations are adopted. Regulations must be adopted by July 1, 2018.

The author cites benefits of peer certification including establishing a standard of practice and code of ethics, providing peer support employees with a professional voice, and qualifying peer services for federal financial participation.

Several other states recognize certified peer counselors: Washington, Tennessee, and New Mexico. California has not established a peer certification program at this time.

This bill specifically identifies several uses for peer and family support specialists. However, it does not provide an exact definition of a peer and family support specialist, and it does not define a scope of practice. These tasks appear to be delegated to DHCS.

Assuming this bill were to pass, it would become effective January 1, 2016, and the certification program must be established by July 1, 2016. Regulations must be established by July 1, 2018. However, the bill leaves discretion to DHCS to implement the program via various modes on instruction, until regulations are adopted.

Ms. Lonner was concerned that the bill does not require fingerprinting for certification.

Ms. Wong indicated that she likes the “spirit” of the bill, but it has a lot of holes and needs more work.

Ms. Madsen expressed concern that this will be developed in regulation, so there will be less opportunity for stakeholder involvement and public feedback. Ms. Madsen wants to be certain that this will not affect the scopes of BBS licensees. The regulation process may or may not afford the Board that opportunity.

Ms. Kahn expressed concerns. She referred to research regarding efficacy of peer counselors in two primary settings: 12-step programs and the recovery model with individuals with severe mental illnesses. In looking at empirical data, efficacy is largely supported in peer counselors working with severe mental illnesses in the recovery model. Efficacy is largely unsupported in the 12-step model. According to the research cited in *The Sober Truth*, the 12-step model is the most widely used treatment for alcohol and drug addiction; however, it is the least effective treatment.

Ms. Kahn added that when asked what service is provided by peer counselors, they responded that they do not provide psychotherapy; however, they used terminology and processes that describe psychotherapy.

The Committee expressed concerns and is requesting the following:

- Define peer counseling,
- Define scope of practice,
- Require fingerprinting,
- Supervision requirements - number of hours and who may supervise;
- Define educational requirements.

***Renee Lonner moved to recommend that the Board oppose SB 614 unless amended, and direct staff to work with the author’s office. Christina Wong seconded. The Committee voted unanimously to pass the motion.***

**Roll call vote:**

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

**k. Senate Bill 689 – Veterans: Housing**

This item was removed from the agenda.

**V. Update and Possible Action on Text of Proposed Legislation for 2015: Crime Victims: Compensation for Reimbursement of Violence Peer Counseling**

AB 1629 ran during the end of the 2014 legislative session. It was amended to require that a violence peer counselor who wanted to be eligible for reimbursement through the California Victim Compensation Board had to be supervised by a BBS licensee.

The Board had concerns and requested amendments. The author's office tried to amend the bill; however, it was too late. The author's office committed to working with the Board this year to address its concerns.

The Policy and Advocacy Committee (Committee) reviewed the amended language in January. The Committee had concerns with one particular item regarding the definition of a "violence peer counselor as a provider of formal or informal counseling services." Specifically, "formal or informal counseling services" is vague and not defined.

The Committee suggested editing the language to define a violence peer counselor as a "provider of supportive and non-psychotherapeutic peer counseling services." The author's office drafted the bill to include the Committee's amendment.

The Assembly Public Safety Committee is going forward with the amendments. The legislative staff asked if the Board felt strongly about making this an urgency bill. Board staff suggested that the bill should be an urgency bill.

No action taken.

**VI. Discussion and Recommendation for Possible Action Regarding Other Pending Legislations Affecting the Board**

SB 594 would require the Board to investigate a complaint against a person acting as a mediator in a child custody dispute if that mediator holds a license with the Board.

Existing law regarding mediators sets requirement for counselor of conciliation, including a master's degree in psychology, social work, marriage, family and child counseling, or other behavioral science that is substantially related to marriage and family interpersonal relationships; and two years of experience in counseling or psychotherapy.

This bill states that a child custody recommending counselor who makes child custody and visitation recommendations to the court is considered a child custody evaluator.

Defining child custody recommending counselors as child custody evaluators subjects them to disciplinary action by the Board if they hold a Board license. This is because Family Code Section 3110.5(e), states that a child custody evaluator is subject to disciplinary action by his or her licensing board for unprofessional conduct.

The purpose of this bill is to establish a mandatory form that child custody professionals must complete to ensure that they are acting in compliance with state-mandated standards of practice.

By defining child custody recommending counselors (mediators) as child custody evaluators, the Board would be required to investigate a complaint against a mediator if he or she also holds a Board license. This is because the family code states that a child custody evaluator shall be subject to disciplinary action by his or her licensing board for unprofessional conduct.

The Board currently does not investigate complaints against mediators who also hold a Board license, because a Board license is not required in order to be a mediator. Because a license is not required, the mediator is not acting in a role within the scope of his or her professional license. Instead, the complainant is directed to file a complaint with the court.

Board staff estimates that approximately 25% of its annual enforcement complaints involve mediators in child custody cases. This works out to about 250 cases per year. The Board currently directs these complainants to the court system, as they handle complaints against mediators. If the Board were required to investigate these cases, it would need a new enforcement analyst position.

Staff is concerned that this will create two different standards and the workload this will create.

***Christina Wong moved to recommend that the Board oppose SB 594. Renee Lonner seconded. The Committee voted unanimously to pass the motion.***

***Roll call vote:***

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

## **VII. Discussion and Recommendation for Possible Action Regarding Proposed Regulations for Telehealth**

At its January 30, 2015 meeting, the Policy and Advocacy Committee discussed several aspects of telehealth, including the following:

- Telehealth laws, regulations, and policies in other states;
- Trainees' ability to perform telehealth lawfully; and
- Utilizing security and encryption in telehealth.

At that meeting, the Committee also discussed an initial draft of proposed telehealth regulations.

Several changes have been made based on discussion at the January 30, 2015 Policy and Advocacy Committee meeting. Major changes are as follows:

- Deletion of subsections which prescribed specific points to consider when assessing whether a particular client is appropriate for telehealth. It was thought best to leave such considerations to the professional judgment of the therapist. Therefore, this language has been replaced with a more general requirement that the therapist assess whether the client is appropriate for telehealth, including consideration of the client's psychosocial situation.
- Language regarding confidentiality was updated to require the utilization of industry best practices to ensure both client confidentiality and the security of the communication medium.
- Language requiring the therapist to inform the client of specified risks and limitations of telehealth was modified. The language now leaves discussion of specific risks to the therapist's professional judgment, as specifying individual risks was thought to be too prescriptive.
- Deletion of a subsection requiring a licensee or registrant providing telehealth services to follow the mandated reporting requirements in the client's jurisdiction, and to be prepared to refer the client to local services in that jurisdiction.

Staff re-organized the latest version of the telehealth regulations into two categories: tasks a therapist must perform at the initiation of telehealth (intended to be one-time), and tasks a therapist must perform each time telehealth is performed (intended to be ongoing).

Mr. Montgomery pointed out the following:

- Subdivision (b) does not include trainees to provide telehealth;
- Subdivision (c)(iv) should clarify what type of written procedures is required (for emergency situations);
- Subdivision (d)(i) should clarify the type of verification is required to verify physical location of the client.

Mr. Montgomery also referred to the consequence for failing to comply is unprofessional conduct. There is a concern that since this is a new regulation, and inquired if there could be a less consequence for unintentional breaches.

Ms. Madsen responded that any noncompliance with the law is unprofessional conduct. The degree of severity is determined by mitigating information provided in the investigation.

Ms. Kahn made the following suggestions:

- Subdivision (d)(i) – add to “at the beginning of each session.”
- Subdivision (d)(ii) – change to “including but not limited to”.

Ms. Helms responded to CAMFT's concerns. In response to (b), trainees were not included because trainees are not under BBS jurisdiction; it is not enforceable. In



response to (c)(iv) regarding written procedures, it is not necessary. It is listed under professional ethics codes.

In response to (d)(i), staff, Committee members, and stakeholders agreed to change it to “Verbally obtain from the client and document the client’s full name and address of present location at the beginning of each telehealth session.”

***Dr. Christine Wietlisbach moved to direct staff to make discussed changes and bring to the Board for consideration as a regulation proposal. Christina Wong seconded. The Committee voted unanimously to pass the motion.***

**Roll call vote:**

*Renee Lonner: Yay*

*Dr. Christine Wietlisbach: Yay*

*Christina Wong: Yay*

## **VIII. Legislative Update**

Board staff is currently pursuing the following legislative proposals:

- SB 531 BBS Enforcement Process  
This bill has passed the Senate Business, Professions, and Economic Development Committee and is now in the Senate Appropriations Committee.
- SB 620 BBS Licensure Requirements  
This bill has passed the Senate Business, Professions, and Economic Development Committee and is now in the Senate Appropriations Committee.
- SB 800 Healing Arts (Omnibus Bill)  
This bill is in the Senate Business, Professions, and Economic Development Committee.

## **IX. Regulation Update**

Current regulatory proposals:

- Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse  
This proposal was initially approved by the Board at its meeting in November 2012. A revised proposal was approved by the Board in March 2014. The public comment period has ended, and the proposal is under review by the Business, Consumer Services and Housing Agency (BCSH). Once approved by BCSH, staff will submit it to OAL for final approval.
- Implementation of SB 704 (Examination Restructure)  
The public hearing was held on December 29, 2014, and the 45-day public comment period has ended. This proposal is now under review by DCA.
- Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families  
The public hearing was held on April 21, 2015, and is now under review by DCA.

**X. Suggestions for Future Agenda Items**

No suggestions for future agenda items.

**XI. Public Comment for Items not on the Agenda**

No public comment.

**XII. Adjournment**

The meeting was adjourned at 12:36 p.m.