

## **BOARD MEETING MINUTES** **May 12-13, 2016**

Hilton Los Angeles/Universal City  
555 Universal Hollywood Dr.  
Universal City, CA 91608

**Thursday, May 12<sup>th</sup>**

### **Members Present**

Christina Wong, Chair, LCSW Member  
Deborah Brown, Vice Chair, Public Member  
Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Massimiliano "Max" Disposti, Public Member  
Sarita Kohli, LMFT Member  
Patricia Lock-Dawson, Public Member  
Karen Pines, LMFT Member (*arrived at 8:50 a.m., departed at 12:05 p.m.*)  
Dr. Christine Wietlisbach, Public Member

### **Members Absent**

Betty Connolly, LEP Member  
Renee Lonner, LCSW Member

### **Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Dianne Dobbs, Legal Counsel  
Christina Kitamura, Administrative Analyst

### **Guests**

*See sign-in sheet*

## **FULL BOARD OPEN SESSION**

Christina Wong, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:44 a.m. Kim Madsen called roll, and a quorum was established.

Administrative Law Judge Howard Cohen presided over the hearings.

### **I. Petition for Modification of Probation for Michele Klocke, LCSW 65294**

Judge Cohen opened the hearing at 8:44 a.m. Deputy Attorney General Desirée Tulleners presented the facts of the case on behalf of the Board of Behavioral Sciences (Board). Ms. Klocke represented herself.

Ms. Tulleners presented the background of Ms. Klocke's probation. Ms. Klocke was sworn in. Ms. Klocke presented her request for modification of probation and information to support the request. Ms. Klocke answered questions posed by Ms. Tulleners and Board Members.

Judge Cohen closed the hearing at 9:09 a.m.

### **II. Petition for Modification of Probation for Jacqueline Vargas, IMF 83412**

Judge Cohen opened the hearing at 9:10 a.m. Deputy Attorney General Desirée Tulleners presented the facts of the case on behalf of the Board. Ms. Vargas was represented by counsel, Stacy Patterson.

Ms. Tulleners presented the background of Ms. Vargas' probation. Ms. Patterson presented Ms. Vargas' request for modification of probation and information to support the request. Ms. Vargas was sworn in, and she presented a statement to the Board. Ms. Vargas answered questions posed by Ms. Tulleners and Board Members.

Judge Cohen closed the hearing at 9:41 a.m. The Board took a break at 9:41 a.m. and reconvened at 9:50 a.m.

### **III. Petition for Early Termination of Probation for Jenny Hall, LMFT 46803**

Judge Cohen opened the hearing at 9:50 a.m. Deputy Attorney General Desirée Tulleners presented the facts of the case on behalf of the Board. Jenny Hall represented herself.

Ms. Tulleners presented the background of Ms. Hall's probation. Ms. Hall was sworn in. She presented her request for early termination of probation and information to support the request. Ms. Hall answered questions posed by Ms. Tulleners and Board Members.

Judge Cohen closed the hearing at 10:15 a.m.

**IV. Petition for Early Termination of Probation for Jennifer Weeks, LMFT 47271**

Judge Cohen opened the hearing at 10:16 a.m. Deputy Attorney General Desirée Tulleners presented the facts of the case on behalf of the Board. Jennifer Weeks represented herself.

Ms. Tulleners presented the background of Ms. Week's probation. Ms. Weeks was sworn in. She presented her request for early termination of probation and information to support the request. Ms. Tulleners and Board Members posed questions to Ms. Weeks.

Judge Cohen closed the hearing at 10:47 a.m. The Board took a break at 10:47 a.m. and reconvened at 10:57 a.m.

**V. Petition for Reinstatement of Registration for Keith Lederhaus, ASW 34492**

Judge Cohen opened the hearing at 10:57 a.m. Deputy Attorney General Desirée Tulleners presented the facts of the case on behalf of the Board. Keith Lederhaus represented himself.

Ms. Tulleners presented the background of Mr. Lederhaus' revocation. Mr. Lederhaus was sworn in. He presented his request for reinstatement of his registration and information to support the request. Ms. Tulleners and Board Members posed questions to Mr. Lederhaus.

Judge Cohen closed the hearing at 11:29 a.m.

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

No public comments were presented.

**VII. Suggestions for Future Agenda Items**

No suggestions were presented.

The Board took a break at 11:32 a.m. and reconvened in closed session at 11:37 a.m.

**FULL BOARD CLOSED SESSION**

**VIII. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions, and Any Other Matters. The Board will also, Pursuant to Section (a)(1) of the Government Code, meet in Closed Session to Evaluate the Performance of the Executive Officer.**

**FULL BOARD RECONVENE TO OPEN SESSION**

**IX. Adjournment**

The Board adjourned at 3:30 p.m.

**Friday, May 13<sup>th</sup>**

*The Board took several items out-of-order; however, minutes are written in the order of the agenda.*

**Members Present**

Christina Wong, Chair, LCSW Member  
Deborah Brown, Vice Chair, Public Member  
Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Massimiliano “Max” Disposti, Public Member  
Sarita Kohli, LMFT Member (*departed at 3:05 p.m.*)  
Patricia Lock-Dawson, Public Member  
Karen Pines, LMFT Member  
Dr. Christine Wietlisbach, Public Member

**Members Absent**

Betty Connolly, LEP Member  
Renee Lonner, LCSW Member

**Staff Present**

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

**Guests**

*See sign-in sheet*

**FULL BOARD OPEN SESSION**

Christina Wong called the meeting to order at 8:39 a.m. Christina Kitamura called roll. A quorum was established.

**X. Introductions**

Board Members, Board staff, and public attendees introduced themselves.

Max Disposti, new appointed Board Member, was introduced.

**XI. Approval of the February 25-26, 2015 Board Meeting Minutes**

***Patricia Lock-Dawson moved to approve the February 25-26, 2015 Board Meeting minutes. Dr. Peter Chiu seconded. The Board voted by majority to***

***pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – abstain  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – abstain  
Sarita Kohli – abstain  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**XII. Approval of the March 2-4, 2016 Board Meeting Minutes**

***Dr. Leah Brew moved to approve the March 2-4, 2016 Board Meeting minutes. Samara Ashley seconded. The Board voted by majority to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – abstain  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – abstain  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines - yes

**XIII. Chair Report**

Ms. Wong reported on Board Member activities during the months of March and April:

- Sunset Hearing - Ms. Wong, Deborah Brown, Board staff;
- National Association of Social Workers' (NASW) Board Member Orientation – Ms. Wong;
- NASW Lobby Days - Ms. Wong, Board staff;
- The California Society for Clinical Social Workers meeting - Renee Lonner.

**XIV. Executive Officer's Report**

**a. Budget Report**

- The Board's 2015/2016 budget is \$10,351,000.
- Expenditures as of March 31, 2016 total \$7,512,070, which is 73% of the Board's budget.

- The Board collected nearly \$7 million in total revenue.
- The Board's Fund Condition report reflects 5.7 months in reserve.
- Projections for the fiscal year (FY) 2016/2017 budget indicate a scheduled repayment of \$6.3 million dollars, which will provide 9.9 months in reserve.
- The Board's FY 2016/2017 budget is projected to be \$11,373,000. This figure includes the additional 8.5 staff positions.

This figure also includes the Board's share of cost (\$123,000) for two budget change proposals sought by the Department of Justice (DOJ) Attorney General's Office (AG).

The Governor will release the May Revise, which incorporates any changes to the budget that occurred during the budget hearing process and state revenues. The revise is not expected to impact the Board's new positions or the increased AG costs.

#### **b. Operations Report**

Licensing Program, 3<sup>rd</sup> Quarter: Application volumes for interns and associates decreased. The increase in LMFT, LCSW, and LPCC examination application volumes is attributed the new Law and Ethics examination. All applications are processed within 60 days or less.

A total of 357 initial licenses were issued. As of May 1<sup>st</sup>, the Board has 105,659 licensees and registrants.

Examination Program, 3<sup>rd</sup> Quarter: 2,554 examinations were administered. Of this number, 2,117 were Law and Ethics examinations. 181 candidates participated in the Association of Social Work Board (ASWB) national examination. Ten examination development workshops were conducted.

The Board received 5,948 applications, an increase of nearly 300 applications since last quarter.

BreEZe online renewals increased by 4% since last quarter.

Enforcement Program, 3<sup>rd</sup> Quarter: 291 consumer complaints and 214 criminal convictions were received. 501 cases were closed and 39 cases were referred to the AG's office for formal discipline. 13 Accusations and 9 Statement of Issues were filed. The number of final citations was 41. The Board is unable to report the current average for Formal Discipline due to an error in the report.

Outreach Activity, 3<sup>rd</sup> Quarter: 13 events were attended.

Ms. Madsen presented the 3<sup>rd</sup> quarter continuing education audit results.

**c. Personnel Report**

New Employees/Promotions: Craig Zimmerman promoted to a Staff Services Analyst (SSA) in the Criminal Conviction & Probation Unit of the Enforcement Program. Yee Her transferred from a limited-term Office Technician (OT) to a full-time OT in the Cashier Unit.

Departures: Jared Washington separated from state service and accepted a job in the private sector.

Vacancies: The Board has initiated the recruitment process for four vacant positions.

**d. Sunset Report Update**

The Board's Sunset Hearing was held on March 14, 2016. The hearing was attended by Ms. Wong, Ms. Brown, Kim Madsen, and Steve Sodergren. The Senate Business, Professions and Economic Development Committee Chair Jerry Hill and the Assembly Committee on Business and Professions Chair Rudy Salas conducted the hearing. The Board presented a brief overview of the Board and responded to several issue questions raised in the Board's background paper.

On April 12, 2016, the Board submitted a written response to all of the issues in the Board's background paper.

Assembly Bill 2191 proposes to extend the Board until 2021.

**XV. Strategic Plan Update**

Management and staff continue to address the strategic goals and objectives. Some goals have been completed, and some goals are ongoing. Goal 4.5 review regulatory parameters for exempt settings, will begin after January 1<sup>st</sup> upon completion of the Supervision Committee's work.

The Board will begin working on the next Strategic Plan during the summer of 2017.

Janlee Wong, National Association of Social Workers California Division (NASW-CA), suggested some goals for next strategic plan: 1. Mobility, (not to be confused with "portability"); 2. Explore ways to improve the ethical education process to reduce disciplinary cases.

*The Board took a break at 9:41 and reconvened at 9:58 a.m.*

**XVI. Supervision Committee Update**

The Supervision Committee met on April 29, 2016. The goal is to present draft language at the November 2016 Board Meeting for consideration as a bill. The Committee looked at the proposed law changes to the LMFT supervision language. The Committee will look at the LPCC and LCSW supervision language.

Remaining topics:

- Supervisor not signing for hours/one-week notice requirement;
- Review BBS Unprofessional Conduct code sections pertaining to supervision;
- More thorough requirements to become a supervisor for individuals on probation;
- Issues with Offsite or Contract Supervisors.

Ms. Wong noted that Ms. Kohli stepped down from the Supervision Committee (Committee), and Ms. Lock-Dawson was appointed to the Committee in Ms. Kohli's place.

## **XVII. Examination Restructure Update**

Staff has been working on the transition to the new exam restructure requirements, and has been working with many challenges. The greatest challenge has been the processing of exam applications and examinee scores. These challenges existed because of the increased volume of exam applications and the fact that the Board had yet to implement system changes in BreEZe. Processes that had been automatic before January 1<sup>st</sup> now require manual processing and data entry.

System changes that are necessary for the BreEZe system to properly process applications under the new requirements, are beginning to be implemented. This is the last component necessary for the full implementation of the Exam Restructure project.

After the BreEZe system changes are implemented, the Board is hopeful that the current challenges regarding the processing of applications and the transfer of exam eligibilities will be greatly reduced. This will allow the Board to concentrate more resources to providing outreach and assisting the applicants in navigating the new exam restructure requirements.

*The Board heard agenda item XX immediately following item XVII. At the conclusion of item XX, the Board took a break at 11:30 a.m. and reconvened at 12:43 p.m.*

## **XVIII. Policy and Advocacy Committee Recommendations**

### **a. Recommendation # 1 – Neutral, Assembly Bill 796 (Nazarian) Health Care Coverage: Autism and Pervasive Developmental Disorders – Neutral**

AB 796 seeks ensure that individuals with pervasive development disorder or autism (PDD/A) are able to receive insurance coverage for types of evidence-based behavioral health treatment other than applied behavior analysis (ABA).

#### Current 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 PDD/A.



- 2) Defines “behavioral health treatment” as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, which develop or restore the functioning of an individual with PDD/A.
- 3) Defines a “qualified autism service provider,” which includes BBS licensees if the service and treatment is within their experience and competence.

#### AB 796:

- 1) Requires the Board of Psychology to form a committee to create a list of behavioral health evidence-based treatment modalities for PDD/A.
- 2) Extends the provisions in law requiring health care contracts and insurance policies to provide coverage for PDD/A from January 1, 2017 to January 1, 2022.

#### Comments:

- 1) Author’s Intent. SB 946 required health service plan and insurance policies to provide coverage for evidence-based behavioral health treatment for PDD/A. However, this bill only referenced one type of behavioral health treatment, which was ABA.

Although SB 946 intended that the type of evidence-based behavioral health treatment prescribed should be selected by the patient’s physician, the reference to ABA in the bill has caused insurance companies to develop networks of ABA practitioners, but not necessarily a network of practitioners of other forms of evidence-based behavioral health treatment.

Due to this, it is difficult for patients with PDD/A, who have been prescribed an evidence-based treatment that is not ABA, to obtain coverage for that treatment. Instead, they are forced to accept a form of behavioral health treatment that has not been prescribed.

- 2) Related Legislation. The California Association for Behavior Analysis is currently sponsoring AB 1715, which would create a licensure category for behavior analysts and assistant behavior analysts under the Board of Psychology.

SB 1034 would extend indefinitely the provisions in current law that all health insurance plans must provide coverage for behavioral health treatment for PDD/A.

- 3) Previous Position. AB 796 is a two-year bill. The bill was proposing to amend the definition of “qualified autism service professional” and “qualified autism service paraprofessional” to allow insurance coverage for types of behavioral health treatment other than ABA.

At its May 2015 meeting, the Board took a neutral position, and directed staff to bring the bill back to the Board for consideration if it moved forward.

At its April 2016 meeting, the Committee considered the latest version of this bill. It recommended that the Board take a neutral position on AB 796.

Ms. Helms explained that the Committee's recommended position was based on several factors:

- Current competing proposals (SB 1034, AB 1715);
- Licensure proposal for ABAs, not for other practitioners/modalities;
- Proposal for a state licensing board to compile a list of acceptable treatments.

*The Board deferred the vote on AB 796 in order to hear SB 1034 (item XVIII.k.) and AB 1715 (item XIX.). After hearing SB 1034 and AB 1715, the Board took a position on all three bills.*

Rebecca Gonzales, NASW-CA, stated that they are watching AB 796.

Alain Montgomery, California Association of Marriage and Family Therapists (CAMFT), stated that they are watching AB 796.

***Dr. Peter Chiu moved to take a neutral position on AB 796. Deborah Brown seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – not present during vote  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines - yes

**b. Recommendation # 2 – Support, Assembly Bill 1001 (Maienschein) Child Abuse: Reporting: Foster Family Agencies**

AB 1001 seeks to address a report that social workers who work for foster family agencies are sometimes prohibited by their supervisors from making mandated reports of child abuse. Foster family agencies are licensed by the Department of Social Services (DSS). The amendments in this bill give the DSS more authority to ensure that foster family agencies follow mandated reporting requirements.

### Current Law:

- 1) Specifies that BBS licensees are mandated reporters under the Child Abuse and Neglect Reporting Act.
- 2) Makes mandated reporting duties individual. Supervisors or administrators may not impede reporting duties, and mandated reporters shall not be subject to sanctions for making a report.
- 3) 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.
- 4) Defines a “foster family agency” (FFA), as a public agency or private organization engaged in the recruiting, certifying, and training of foster parents, or in finding homes for placement of children for temporary or permanent care.

### AB 1001:

AB 1001 focuses on mandated reporting from foster family agencies, which are licensed by DSS. The bill makes four new amendments in an effort to increase the DSS’ enforcement power over foster family agencies in order to ensure that they are following mandated reporting requirements.

- If the DSS requires orientation training for board members or administrators of a foster family agency, it must include training on mandated reporting duties.
- If the DSS requires an FFA to submit a written plan of operation as a requirement for licensure, that plan must include written policies, procedures, or practices to ensure that the foster family agency does not violate mandated reporting requirements.
- Requires the DSS to take reasonable action against a supervisor or administrator who impedes or inhibits mandated reporting duties.
- Allows FFA social workers to participate in DSS’s already-existing process for social workers to voluntarily report violations of mandated reporting requirements.

AB 1001 was amended on May 11th:

- Includes an administrator, board member or employee of an FFA in the definition of “mandated reporter”.
- Prohibits internal policies directing an employee to allow his or her supervisor to file or process a mandated report.

### Comments:

- 1) Author’s Intent. Social workers who work for FFAs, as well as one teacher, have reported that supervisors at some FFAs are willing to override child abuse mandated reporting requirements. AB 1001 would give the state

agency that licenses FFAs more authority to ensure mandated reporting requirements are followed.

- 2) Previous Position. AB 1001 is a two-year bill and was considered by the Board at its May 2015 meeting. That version of the bill amended the Penal Code section that addresses mandated reporting in an attempt to clarify 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 Board took a support position on the 2015 version of this bill. It has been amended significantly since then, and no longer amends the Penal Code.

At its April 2016 meeting, the Committee recommended that the Board support AB 1001.

***Patricia Lock-Dawson moved to support AB 1001. Karen Pines seconded. The Board voted unanimously to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines - yes

**c. Recommendation # 3 – Support, Assembly Bill 1808 (Wood) Minors: Mental Health Services**

Current Law:

- 1) Allows a minor who is 12 years of age or older to consent to mental health services on an outpatient basis or to residential shelter services, under the following circumstances:
  - a) In the opinion of the attending professional person, if the minor is mature enough to participate intelligently in the services; and
  - b) The minor would present a danger of serious physical or mental harm to self or others without treatment, or the minor is allegedly a victim of incest or child abuse.
- 2) Defines a “professional person” related to mental health treatment or counseling services in the treatment of minors on an outpatient basis as including the following:

- a) A marriage and family therapist;
- b) A marriage and family therapist intern, if under proper supervision;
- c) A licensed professional clinical counselor;
- d) A clinical counselor intern, if under proper supervision.

AB 1808:

- 1) Includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances.
- 2) Requires marriage and family therapist trainees and clinical counselor trainees conducting such treatment to be supervised by a person who meets the Board's requirements as a supervisor.
- 3) Requires the trainee, when assessing whether the minor is mature enough to participate intelligently in the mental health services, to consult with his or her supervisor as soon as reasonably possible.

Comments:

- 1) Author's Intent. The author states that leaving trainees off the list of eligible providers to treat consenting minors limits the number of providers available to treat minors, and limits MFT trainees' opportunities to gain experience hours toward licensure. Trainees already work with a variety of diagnoses and specialties. In addition, trainees must follow the same supervision requirements as interns, except that they are required to have more weekly supervision than interns.
- 2) Trainee Qualifications to Treat Minors. Currently, a minor may consent to mental health treatment or residential shelter services if he or she is age 12 or older, and if the attending professional person determines the minor is mature enough to participate intelligently in the process. AB 1808 was amended to require the trainee to consult with his or her supervisor when making this determination.
- 3) Recommended Position. At its April 2016 meeting, the Committee recommended that the Board support AB 1808. The Committee also asked the sponsors to consider adding LCSWs and ASWs to the list of designated professional persons who may provide mental health treatment services to consenting minors. The sponsors are willing to consider this amendment.

Mr. Montgomery stated that CAMFT is consulting with supervisors to determine how they would interpret the language requiring the trainee to consult with their supervisor when assessing the maturity of the minor.

***Dr. Leah Brew moved to support AB 1808. Patricia Lock-Dawson seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – not present during vote  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines - yes

*The Board took a break at 2:04 p.m. and reconvened at 2:15 p.m. and heard items XXIII and XXIV.*

**d. Recommendation # 4 – Support, Assembly Bill 1863 (Wood) Medi-Cal: Federally Qualified Health Centers: Rural Health Centers**

AB 1863 would allow Medi-Cal reimbursement for covered mental health services provided by a marriage and family therapist (LMFT) employed by a federally qualified health center or a rural health clinic.

Current Law:

- 1) Establishes that federally qualified health center services (FQHCs) and rural health clinic (RHC) services are covered Medi-Cal benefits that are reimbursed.
- 2) Allows an FQHC or RHC to apply for an adjustment to its per-visit rate based on a change in the scope of services that it provides.
- 3) 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.

AB 1863 adds LMFTs to the list of health care professionals included in the definition of a visit to a FQHC or RHC that is eligible for Medi-Cal reimbursement.

Comments:

- 1) Intent. The intent of this legislation is to allow FQHCs and RHCs to be able to hire an LMFT and be reimbursed through Medi-Cal for covered mental health services. Currently, a clinic may hire an LMFT. However, only clinical psychologists or licensed clinical social workers (LCSW) may receive Medi-Cal reimbursement for covered services in such settings. According to the author, the inability to receive Medi-Cal reimbursement serves as a disincentive for a FQHC or a RHC to consider hiring an LMFT. Allowing services provided by LMFTs to be reimbursed will maximize the availability of mental health services in rural areas.
- 2) Suggested Amendment. Staff suggests an amendment be made to include the word “licensed” in front of the term “marriage and family therapist” throughout WIC §14132.100.
- 3) Previous Legislation. The Board took a support position on AB 1785 (2012); however, the bill died in the Assembly Appropriations Committee.

The Board took a support position on AB 690 (2015); however, it died in committee. Its provisions were amended into AB 858 in 2015. AB 858 was part of a series of six Medi-Cal related bills that were vetoed by the Governor.

- 4) Recommended Position. At its April 2016 meeting, Committee recommended that the Board support AB 1863.

Dr. Brew asked why LPCCs were not considered as a health care provider to be included in the definition. Ms. Helms responded that AB 1863 had some opposition and that there could possibly be a fiscal impact. The author stated that if LPCCs were added, there would be more opposition.

Ms. Gonzalez expressed that NASW-CA opposes AB 1863 for the following reasons:

- The bill claims that this would increase the pool of mental health providers; however, NASW-CA believes that there is an adequate supply of social workers available for these jobs.
- Social workers are “ideally suited” to work in rural settings; social workers have the background to work in culturally diverse communities, and address issues beyond mental health.

Mr. Montgomery expressed that LMFTs are properly suited to work with individuals in culturally diverse communities and in rural settings, and are able to provide for the needs of those individuals. Mr. Montgomery requested the Board to support AB 1863.

Carla Cross, Ventura County Behavioral Health, stated that not all FQHCs are located in rural areas. Ventura County has a number of medical clinics that are designated as FQHCs. Their ability to adequately staff the mental health clinic is

causing a severe impact because LMFTs cannot be placed in the FQHCs and receive reimbursement. Furthermore, the FQHCs do not get enough social workers. Ms. Cross urged the Board to support AB 1863.

Ms. Kohli commented that she works at an organization that has designated FQHCs, and stated that there are not enough social workers to place at the HQFCs. They primarily serve a low-income, non-English speaking population. It is a challenge finding social workers, especially bilingual social workers. Ms. Kohli expressed that AB 1863 should open up the FQHCs to MFTs, LPCCs, and other mental health professionals.

*Sarita Kohli left the meeting at 3:05 p.m.*

Ms. Cross indicated that they do not have any objections to include LPCCs.

Olivia Loewy, American Association for Marriage and Family Therapy California Division (AAMFT-CA), stated that in her discussions with individuals from FQHCs, there are not enough social workers in FQHCs, and they need LMFTs. AAMFT-CA does not object to LPCCs working in FQHCs.

Ms. Porter expressed support for the concept of AB 1863, and requests that the sponsors include LPCCs.

Mr. Wong, NASW-CA, explained that welcoming all mental health professions creates a challenge in terms of non-diverse professions working in complex, diverse settings.

Dr. Brew asked if there is any evidence that opposition would be received if LPCCs were added. Mr. Montgomery did not have an immediate answer.

***Patricia Lock-Dawson moved to support AB 1863 and directed staff to work with the author's office to include LPCCs. Dr. Leah Brew seconded. The Board voted (10-0) to pass the motion.***

Board vote:

- Samara Ashley – yes
- Dr. Peter Chiu – yes
- Dr. Christine Wietlisbach – yes
- Max Disposti – yes
- Christina Wong – yes
- Deborah Brown – yes
- Dr. Scott Bowling – yes
- Patricia Lock-Dawson – yes
- Dr. Leah Brew – yes
- Karen Pines – yes



**e. Recommendation # 5 – Support, Assembly Bill 2083 (Chu) Interagency Child Death Review**

Current Law:

- 1) Allows counties to establish interagency child death review teams in order to review suspicious child deaths and to help identify incidents of child abuse or neglect.
- 2) Requires that records that are exempt from disclosure to third parties by law remain exempt from disclosure when they are in possession of a child death review team.
- 3) Establishes interagency elder and dependent adult death review teams and interagency domestic violence death review teams, and permits certain confidential information, including medical and mental health information, to be disclosed to the team, at the discretion of the person who has the information.

AB 2083:

- 1) Permits certain confidential information, including medical and mental health information, to be disclosed to a child death review team.
- 2) States that if such confidential information is requested by a child death review team, the person who has the information is not required to disclose it.

Comments:

- 1) Author's Intent. While the law provides domestic violence and elder and dependent adult death review teams the ability to review mental health information, it is silent about whether or not child death review teams may obtain this information. Allowing child death review teams to obtain this information could help with investigation and detection of child abuse and neglect.
- 2) Recommended Position. At its April 2016 meeting, the Committee recommended that the Board support AB 2083.

***Karen Pines moved to support AB 2083. Dr. Leah Brew seconded. The Board voted (9-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – not present during vote  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes

Dr. Leah Brew – yes  
Karen Pines – yes

**f. Recommendation # 6 – Support, Assembly Bill 2191 (Salas) Board of Behavioral Sciences**

AB 2191 would extend the Board’s sunset date until January 1, 2021. Currently, the Board’s sunset date is January 1, 2017.

At its April 2016 meeting, the Committee recommended that the Board support AB 2191.

CAMFT expressed support for AB 2191.

***Dr. Leah Brew moved to support AB 2191. Christina Wong seconded. The Board voted (9-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – not present during vote  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**g. Recommendation # 7 – Support, Assembly Bill 2199 (Campos) Sexual Offenses Against Minors: Persons in a Position of Authority**

AB 2199 would subject persons who engage in specified acts of a sexual nature with minor to additional jail terms if they held a position of authority over the minor. Persons in a position of authority include the minor’s counselor or therapist.

Current Law:

- 1) Specifies that a person age 21 or older who engages in unlawful sexual intercourse with a minor under age 16 is guilty of either a misdemeanor or a felony that is punishable by imprisonment for a term ranging from one to four years.
- 2) States that a person over age 21 who participates in an act of sodomy, an act of oral copulation, or an act of sexual penetration with a minor under age 16 is guilty of a felony.
- 3) Specifies that a person who commits a lewd or lascivious act upon a child of age 14 or 15 and is at least 10 years older than the child, is guilty of public

offense punishable by imprisonment for a term ranging from one to three years.

AB 2199:

- 1) Requires a person who commits any of the crimes listed to be punished by an additional two years of imprisonment if they held a position of authority over the minor.
- 2) Defines a person in a position of authority as including the child's counselor or therapist, among others.

Recommended Position. At its April 2016 meeting, the Committee recommended that the Board support AB 2199.

***Patricia Lock-Dawson moved to support AB 2199. Dr. Leah Brew seconded. The Board voted by majority to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – abstain  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**h. Recommendation # 8 – Support, Assembly Bill 2507 (Gordon) Telehealth: Access**

AB 2507 requires that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person. It also specifies the communications platforms that are acceptable for telehealth.

Current Law:

- 1) States that a health care service plan or health insurer shall not require in-person contact between a health care provider and a patient before payment is made for covered services that are appropriately provided through telehealth.
- 2) States that a health care service plan or health insurer shall not limit the type of setting where services are provided before payment is made for covered services that are appropriately provided through telehealth.

- 3) States that a health care service plan or health insurer shall not require the use of telehealth when the health care provider has determined that it is not appropriate.

AB 2507:

- 1) Specifies that telehealth includes communication via video and telephone.
- 2) Allows that patient consent for telehealth can be oral, written, or digital.
- 3) States that the law does not authorize a health care provider to require telehealth when it is not appropriate.
- 4) States that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person.
- 5) Prohibits a health care service plan or health insurer from altering the provider-patient relationship based on the modality used for appropriately provided services through telehealth.

Comments:

- 1) Author's Intent. While a health insurer cannot limit the types of settings where services are provided, the law does not require health plans to include coverage and reimbursement for services provided via telehealth. Currently, these must be negotiated separately into each plan contract. They note that many other states require health plans to provide coverage for telehealth services to the same extent as in-person services. This is not currently the case in California.
- 2) Recommended Position. At its April 2016 meeting, the Committee recommended that the Board support AB 2507. It also directed staff to provide technical assistance to the author's office, requesting that the term "physician-patient relationship" used in HSC §1374.13(i) and IC §10123.85(h) be replaced with the term "provider-patient relationship" or "practitioner-patient relationship." This amendment was made.

NASW-CA and CAMFT expressed support for AB 2507.

CALPCC requests that professional clinical counselor interns and trainees be included in AB 2507. Ms. Helms explained that BPC §23.7 defines registered interns as licensed individuals; therefore, professional clinical counselor interns are included. MFT interns and trainees are specifically written in the bill because MFT trainees count some of those hours.

***Dr. Leah Brew moved to support AB 2507. Samara Ashely seconded. The Board voted (9-0) to pass the motion.***

Board vote:

Samara Ashley – yes

Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – not present during vote  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

*The Board took a break at 3:33 p.m. and reconvened at 3:41 p.m.*

**i. Recommendation # 9 – Neutral, Assembly Bill 2606 (Grove) Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities**

AB 2606:

- 1) Requires a law enforcement agency to report to a state licensing agency if the law enforcement agency receives or makes a report that one of the licensing agency's licensees has allegedly committed certain crimes. These crimes include the following:
  - a. Sexual exploitation by a physician or a psychotherapist;
  - b. Elder or dependent adult abuse;
  - c. Failure to report elder or dependent adult abuse, or interfering with such a report;
  - d. Sexual abuse;
  - e. Child abuse; and
  - f. Failure to report child abuse, or interfering with such a report.
- 2) Allows the law enforcement agency to delay the report if it determines that making the report will jeopardize their ongoing investigation, until either the investigation is complete or would no longer be jeopardized.
- 3) Requires a state agency receiving one of these reports to prioritize and process it in the same manner as similar reports, in order to ensure due process and equal protection.

Comments:

- 1) Author's Intent. The author is seeking to strengthen enforcement of laws that prohibit impeding or retaliating against mandated reporters of elder and dependent adult abuse and child abuse. The author notes that mandated reporters who fail to report, and supervisors who impede such reports, are rarely prosecuted.

There is currently no requirement for law enforcement to cross-report to licensing agencies, and because of this, licensing agencies do not learn of many of these cases; and therefore, cannot pursue them.

- 2) Effects if this Bill on Board Enforcement Process. Under AB 2606, law enforcement would report to the Board if it receives or makes a report of one of the specified crimes. If there were no other evidence to the claim, the Board would need to contact the client to obtain a release of records in order to investigate the case. The ability of the investigation to proceed would depend on the patient's willingness to consent to releasing the records to the Board. In a case of child abuse, a parent or guardian would need to provide consent. In a case of elder or dependent adult abuse, the patient may have a conservator, who would need to provide consent.

The Board would likely rely on DCA's Division of Investigation (DOI) in order to track down clients and their guardians for consent, and to conduct an investigation.

- 3) Fiscal Impact to the Board. It is likely that AB 2606 would lead to an increase in mandated reporting violation cases. Such an increase could have a fiscal impact due to the Board's need to utilize the DOI for additional investigations. At this time, the quantity of these cases and the extent of investigative resources they would require is unknown.
- 4) Inclusion of Registrants. AB 2606 requires law enforcement to make a report to the issuing state agency if the holder of a state credential, license, or permit is alleged to have committed a crime. However, the Penal Code, which is where the reporting requirement imposed by this bill is located, does not define "license."

To avoid confusion about whether or not the reporting requirement includes registrants, it may be helpful to amend the bill to either reference the definition in BPC Section 23.7, or to specifically include registrants.

- 5) Recommended Position. At its April 2016 meeting, the Committee recommended that the Board take a neutral position on AB 2606.

***Dr. Leah Brew moved to take a neutral position on AB 2606 and directed staff to work with the author's office to provide technical assistance. Karen Pines seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**j. Recommendation # 10 – Oppose Unless Amended, Senate Bill 614 (Leno) Medi-Cal: Mental Health Services: Peer, Parent, Transition-Age, and Family Support Specialist Certification**

SB 614 requires the Department of Health Care Services (DHCS) to develop a peer, parent, transition-age, and family support specialist certification program.

SB 614:

- 1) Defines “peer support specialist services.” These services can include support, coaching, facilitation, and education to Medi-Cal beneficiaries.
- 2) By July 1, 2017, requires DHCS to establish a certification body.
- 3) Requires DHCS to establish criteria for the various categories of peer support specialists, including:
  - a. The range of responsibilities and practice guidelines;
  - b. Curriculum and core competencies, including areas of specialization;
  - c. Training requirements;
  - d. Continuing education requirements;
  - e. Clinical supervision requirements.
- 4) Requires DHCS to amend its Medicaid state plan to include each category of peer support specialist as a provider type.
- 5) 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, 2019.

Comments:

- 1) Author’s Intent. The goal of SB 614 is:
  - Require DHCS to establish a peer support specialist certification program; and
  - Authorize DHCS to add peer support providers as a provider type within the Medi-Cal program.
- 2) Peer Certification in Other States. In 2013, 31 states and the federal Department of Veteran’s Affairs certified and employed peer specialists. The services peer specialists provide in these states are Medicaid billable.
- 3) Previous Position. SB 614 is a two-year bill. At its May 2015 meeting, the Board opposed SB 614 unless amended on a previous version of this bill. The amendments the Board requested at that time are:
  - a. Include in statute a clear definition of a peer and family support specialist and a clearly defined scope of practice.

Status: HSC §14045.13(k) now defines “peer support specialist services.” Although it is not labeled as a scope of practice, it might be construed as one. In addition, the current version of this bill specifies four types of peer support specialists, and provides a definition of each.

- b. Specify the required hours of supervision for a peer and family support specialist, and identify who may provide this supervision.

Status: The bill now states who may supervise a peer support specialist. Supervisors may be a mental health rehabilitation specialist, a substance use disorder professional, or a licensed mental health professional.

- c. Specify training requirements for a peer and family support specialist.

Status: WIC Section 14045.19 of the bill has been added to state that it is not the intent of the law to imply that a peer support specialist provides clinical services. However, staff believes that more clarity is necessary and will recommend clarifying language.

- d. Add a fingerprinting requirement for peer and family support specialists.

Status: The bill does not contain a fingerprinting requirement.

- 4) Requirements not Established in Legislation. Assuming this bill were to pass, it would become effective January 1, 2017, and the certification program must be established by July 1, 2017. Regulations must be adopted by July 1, 2019. However, the bill leaves discretion to DHCS to implement the program via various instructions, until regulations are adopted.

- 5) Recommended Action. At its April 2016 meeting, the Committee recommended that the Board oppose SB 614 unless amended. Three of the four requested amendments were not resolved.

Dr. Brew requested for a clear scope of practice, specifically to indicate what the peer support specialist cannot do. She also requested to add LPCCs to the definition of a licensed mental health professional.

NASW-CA expressed support for SB 614. Mr. Wong explained that the peer support certification is a career pathway towards licensure. Furthermore, it would assist the counties financially if the peer support services were billable, taking the financial strain off of the Mental Health Services Act funds.

CAMFT expressed concerns regarding whether DHCS has the capability and resources to provide the oversight to protect consumers.

CALPCC and AAMFT-CA shares the concerns expressed by CAMFT, Dr. Brew and Board staff.

AAMFT-CA supports the concept of SB 614, stating that there is a need for peer support in the workforce.



Ms. Cross confirmed that counties have a measure in place to conduct background checks for all employees, volunteers, and interns. Requiring fingerprinting may be duplicative. She also would oppose requiring a specified number of supervision hours. This puts restrictions on the counties that are not necessary. Each county may use their peer support specialists in different ways, may have different programs that the peer support specialists are working in, and may be providing different services. Because of these differences in each individual county, there is no way to standardize a supervision requirement.

Dr. Brew suggested removing the amendment to require fingerprinting and specified hours of supervision.

Ms. Helms outlined the requested amendments:

- 1) Clearly define what services are not provided by a peer and family support specialist;
- 2) Include LPCCs to the definition of mental health providers to be able to supervise;
- 3) Add suggested language, for clarity, to state that peer support specialists will not perform the duties of a licensed professional.

***Dr. Leah Brew moved to support SB 614 if amended. Samara Ashley seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**k. Recommendation # 11 – Support, Senate Bill 1034 (Mitchell) Health Care Coverage: Autism**

SB 1034:

- 1) Removes the January 1, 2017 sunset date on the law that requires health care service plans or insurance policies to provide coverage for behavioral health treatment for pervasive development disorder or autism, and requires health service plans and insurance policies to provide coverage for behavioral health treatment for PDD/A indefinitely.

- 2) Makes a change to the definition of “behavioral health treatment” to clarify that it includes not only behavior analysis, but also other evidence-based behavior intervention programs.
- 3) Requires that the setting, location or time of treatment shall not be used as a reason to deny medically necessary behavioral health treatment.
- 4) Removes the requirement currently in law that qualified autism service professionals must be approved as a vendor by a California regional center. However, it still requires them to meet the same education and experience requirements as those who work in regional centers.

Comments:

- 1) Author’s Intent. When SB 946 was signed in 2011 to require health plans and insurance policies to cover treatment for PDD/A, the bill included a sunset date because there was uncertainty regarding upcoming changes to mandated health benefits, the Affordable Care Act, and the State’s fiscal responsibility for benefits. At the time, the Legislature was awaiting federal guidance on how to implement essential health benefits under the Affordable Care Act.

This guidance has now been provided, and several uncertainties regarding health care coverage and the state’s role have been clarified. Therefore, it is now appropriate to remove the sunset date completely, ensuring that children with autism will continue receiving insurance coverage for medically necessary behavioral health treatment.

- 2) Recommended Position. At its April 2016 meeting, the Committee recommended that the Board support SB 1034.

*The Board deferred the vote on SB 1034 in order to hear AB 1715 (item XIX.). After hearing AB 1715, the Board took a position on all three bills.*

Ms. Gonzales stated that NASW-CA supports SB 1034.

Mr. Montgomery stated that CAMFT does not have a position on SB 1034.

***Dr. Christine Wietlisbach moved to support SB 1034. Dr. Scott Bowling seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – not present during vote  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes

Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**I. Recommendation # 12 – Support If Amended, Senate Bill 1101  
(Wieckowski) Alcohol and Drug Counselors: Regulation**

Current Law:

- 1) Requires the DHCS to review and certify alcohol and other drug programs.
- 2) Identifies 10 organizations as approved by DHCS to register and certify alcohol and drug counselors.

SB 1101:

- 1) Creates the Alcohol and Drug Counseling Professional Bureau (Bureau) under DCA for the purpose of licensing alcohol and drug counselors.
- 2) Prohibits a person from using the “licensed alcohol and drug counselor” title unless they have obtained a license issued by the Bureau.
- 3) Outlines the minimum qualifications for obtaining an alcohol and drug counselor license.
- 4) Allows for a one-year grandparenting period.
- 5) Allows DHCS to deny, suspend, or delay a license if it determines the person has a criminal conviction or criminal charge pending, that is substantially related to actions as a licensed alcohol and drug counselor.
- 6) Allows DCA to waive action to deny, suspend or delay a license under the following circumstances:
  - a. For a felony conviction, more than five years have passed since convicted; or
  - b. For a misdemeanor, the applicant must not be incarcerated, on work release, probation, or parole and must be in substantial compliance with all court orders.

Comments:

- 1) Author’s Intent. Most states already have a licensing program for such counselors, but California does not. This bill will help ensure public protection by specifying minimum education qualifications for a license, requiring passage of an examination, and requiring a criminal background check.
- 2) Scope of Practice. This bill does not explicitly define the scope of practice for an alcohol and drug counselor. A defined scope of practice would help clarify that an alcohol and drug counselor is not permitted to practice within the scopes of practice of the Board’s licensees.
- 3) Title Act Versus Practice Act. This bill is currently written as a title act.

If at any point this bill became a practice act, the Board would need to request that it be amended to contain language stating the following:

*“This bill shall not be construed to constrict, limit, or withdraw the licensing acts to practice marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling.”*

- 4) Single Modality License. SB 1101 would create a license to treat only one type of diagnosis. Staff requests the following language be added to SB 1101:

*“Alcohol and drug counseling includes understanding and application of the limits of the counselor’s own qualifications and scope of practice, including, but not limited to, screening and, as indicated, referral to or consultation with an appropriately licensed health practitioner consistent with the client’s needs. Every licensee who operates an independent counseling practice shall refer any client assessed as needing the services of another licensed professional to that professional in a timely manner.”*

- 5) Recommended Position: At its April 2016 meeting, the Committee recommended the Board support SB 1101 if amended. It directed staff to provide technical assistance to the author’s office regarding the following:

- Inclusion of a scope of practice;
- Inclusion of the proposed language regarding single modality; and
- Inclusion of the proposed language regarding practice act.

Status. The author plans to amend the bill to include a clearly defined scope of practice. Staff provided the two amendments that the Committee requested.

***Dr. Leah Brew moved to support SB 1101 if amended. Christina Wong seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**m. Recommendation # 13 – Neutral, Senate Bill 1155 (Morrell) Professions and Vocations: Licenses: Military.**

Current Law:

- 1) Allows a licensee or registrant of any board, commission, or bureau within DCA to reinstate his or her license without examination or penalty if the license expired while he or she was on active duty, if certain conditions are met.
- 2) Requires boards under DCA to waive continuing education requirements and renewal fees for a licensee or registrant while he or she is called to active duty, if he or she held a valid license or registration upon being called to active duty, and substantiates the active duty service.
- 3) Requires every board under DCA to ask on all licensure applications if the individual serves, or has previously served, in the military.
- 4) Requires Boards under DCA to expedite the initial licensure process for applicants who are honorably discharged from the military, or who are spouses of active military members who are already licensed in another state.

SB 1155:

- 1) Requires licensing boards within DCA to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged military members.
- 2) Prohibits fee waivers for license renewals.
- 3) Only allows one fee waiver per person.

Comments:

- 1) Author's Intent. To assist honorably discharged military veterans with entrance into the workforce. The author notes that initial application and occupational license fees can act as barriers into the workforce for veterans.
- 2) Fiscal Impact. The initial license fees that would qualify for a military service waiver under this bill are as follows:
  - LMFTs: \$130
  - LEPs: \$80
  - LCSWs: \$100
  - LPCCs: \$200

The Board recently began tracking the number of licensees in military service when the BreZE database system was implemented in late 2014. Since October 2014, the Board has received applications from 259 military

individuals who successfully qualified for an expedited license. However, this number includes initial licensees, registrants and those in the exam cycle.

The Board cannot make an accurate estimate at this time about how many individuals per year would qualify for the fee waiver.

- 3) Proration of Initial License Fees. The Board prorates the initial license fee for all applicants based on their birth month and the month the initial license application is received by the Board. Licenses always expire in the licensee's birth month. If the fee were not prorated, some would pay the full amount but receive less than the full two years of licensure.

Because the initial license fee is prorated, allowing a fee waiver for it may cause some inequity. Some applicants will get more of a savings from the waived fee than others.

- 4) Fees Intended for Waiver is Unclear. Boards under DCA collect fees at a variety of times during the licensure process. Some boards only require fees to be paid for the issuance of a license. This Board requires fees to be paid for: initial registrations, registration renewals, exam eligibility, licensing exams, and initial license applications.

The Board's initial license fee is the only fee that appears to meet the requirements for waiver under this bill. It is not known if the intent of the bill was for other fees in the process to qualify for waiver as well.

- 5) Recommended Position. At its April 2016 meeting, the Committee recommended that the Board take a neutral position on SB 1155.

Dr. Wietlisbach stated that the Committee supports the spirit and intent of SB 1155; however, the details of the bill needs more work.

Ms. Madsen added that the implementation on BreEZe would be challenging.

***Patricia Lock-Dawson moved to not take a position on SB 1155. Dr. Peter Chiu seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**n. Recommendation # 14 – Oppose Unless Amended, Senate Bill 1334 (Stone)  
Health Practitioners: Human Trafficking**

Current Law:

- 1) Requires any health practitioner who is employed in a health facility, clinic, physician’s office, or local or state public health department to make a report when he or she provides medical services for a physical condition to a patient as follows:
  - a) The patient is suffering from a wound or physical injury inflicted by his or her own act or inflicted by another, by means of a firearm; or
  - b) The patient is suffering from a wound or physical injury inflicted as a result of assaultive or abusive conduct.
- 2) Defines “assaultive or abusive conduct.”
- 3) Defines a “health practitioner” to include the Board’s license types.

SB 1334: Requires a health practitioner employed in a health facility, clinic, physician’s office, or local or state public health department to make a report when he or she provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct.

Comments:

- 1) Author’s Intent. The author states that there is a gap in the mandated reporting law that impacts reporting of sexual assault by health care providers. Currently such a mandated report is only triggered if there is a wound or injury. However, the author notes that there is not always a wound or physical injury resulting from a sexual assault.
- 2) Definition of Medical Services. SB 1334 requires a health care practitioner to make specified mandated report based on observations made while providing medical services to the patient. It is unclear if medical services include mental health services, as no definition is provided.
- 3) Effect on Psychotherapist-Patient Privilege. The effects on the psychotherapist-patient privilege, if a Board licensee is required to make a mandated report, may need to be considered.
- 4) Recommended Position. At its April 2016 meeting, the Committee recommended the Board oppose SB 1334 unless amended, and requested that the Board’s licensees be excluded from the provisions of the bill.

The author’s office is receptive to the Board’s concerns.

Mr. Wong, NASW-CA, expressed concerns with SB 1334, stating that the bill is confusing. He agreed with the Committee’s concerns and recommendation.

***Dr. Christina Wietlisbach moved to oppose SB 1334 unless amended to exclude the Board's licensees from the provisions of this bill. Dr. Leah Brew seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

**XIX. Discussion and Possible Action Regarding Assembly Bill 1715 (Holden) Healing Arts: Behavior Analysis: Licensing**

AB 1715:

- 1) Establishes the Behavior Analyst Act to license behavior analysts and assistant behavior analysts, and to register behavior analyst interns and technicians, 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, counseling, prescribing drugs, performing surgery, or administering electroconvulsive therapy.
- 4) States that nothing in the Behavior Analyst Act shall be construed to allow a licensee to engage in the scope of practices of other healing arts licensees. Such a violation subjects the licensee to disciplinary action by the Board of Psychology and the board overseeing the other healing art.
- 5) Defines education and experience requirements for behavior analysts and assistant behavior analysts.
- 6) Defines requirements to register as a behavior analyst intern and a behavior analyst technician.
- 7) Prohibits a person from engaging in the practice of behavior analysis, representing his or her self as a licensed behavior analyst or licensed assistant behavior analyst, or using the title or letters, without being licensed.
- 8) Exempts the specified practitioners, which includes BBS licensees, 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.



- 9) Exempts certain other, non-licensed persons from the provisions of this licensing act, including the following:
- A parent or guardian of a recipient of behavior analysis,
  - An individual who teaches or researches behavior analysis,
  - A behavior analyst licensed in another state, who provides services temporarily in California for a period of not more than 90 days per year.

Comments:

- 1) Author's Intent. Applied Behavior Analysis (ABA) is commonly used to treat autism spectrum disorders. During the past decade, there has been increasing evidence that ABA therapy is effective in the treatment of autism, and there has been an increase in the practice of this profession in California. State law now mandates that insurance plans provide coverage for ABA treatment. However, the California Business and Professions Code does not apply any standard requirements to the practice of ABA.

Because there is no licensure for ABAs, it is difficult for consumers to make an informed decision when choosing an applied behavior analyst. In some cases, ABA programs may be designed, supervised, and/or implemented by someone who lacks training and experience.

The goal of this bill is establish licensure for behavior analysts and assistant behavior analysts, so that individuals with autism are protected from unqualified practitioners.

- 2) Ability of Board Licensees to Become Dually Licensed. If a BBS licensee wishes to obtain licensure as a behavior analyst, it may be difficult to do so. BPC §2999.32(d) requires an applicant to have a master's degree or higher in behavior analysis, psychology, education, or in a degree program with a behavior analysis course sequence approved by the Behavior Analyst Certification Board (BACB). These degree titles are required both by law, and are also required for a certification as a behavior analyst with the BACB.
- 3) Ability of Board Registrants and Trainees to Gain Supervised Experience Practicing Behavior Analysis. The exemptions from licensure listed in BPC §2999.38 no longer contain an allowance for BBS trainees and registrants to practice behavior analysis even if they are doing so to gain experience hours toward a BBS license.
- 4) Ability of Board Licensees to Supervise Assistant Behavior Analysts and Behavior Analyst Technicians. Although this bill allows BBS licensees to continue to practice behavior analysis if it is in the scope of their competence, it does not allow them to supervise licensed assistant behavior analysts, behavior analyst interns, or behavior analysis technicians.

Although Health and Safety Code §1374.73 and Insurance Code §10144.51 include BBS licensees in the definition of “qualified autism service providers” and allow them to supervise qualified autism service professionals and paraprofessionals, this bill would eliminate their ability to supervise such individuals.

- 5) Recommended Position. At its April 2016 meeting, the Committee chose not to recommend a position on AB 1715. Instead, it directed staff to contact the author’s office to provide technical support regarding three concerns:
- a) Education requirements may make it difficult for licensees of this Board to become dually licensed as a behavior analyst;
  - b) An exemption has been removed that would have allowed BBS trainees and registrants to practice behavior analysis if they were doing so to gain supervised experience hours toward a BBS license; and
  - c) Although the bill allows BBS licensees to continue to practice behavior analysis, it does not allow them to supervise licensed assistant behavior analysts, behavior analyst interns, or behavior analysis technicians. Those individuals must be supervised by a licensed behavior analyst or a licensed psychologist.

Staff discussed the above concerns with the sponsor of AB 1715. The discussions resulted in the following:

- The sponsor indicated that as written, it would be possible for a BBS licensee to become dually licensed. They note that the educational requirement set forth in BPC §2999.31(d)(2) calls for a master’s degree or higher, and completion of a behavior analysis course sequence approved by the certifying entity. The behavior analysis course sequence can be completed post-degree.
- The sponsor indicated that they will place the exemption for BBS trainees and registrants back in the bill. The exemption will be placed in §2999.38 and will apply to individuals pursuing supervised experience toward any of the licenses described in §2999.38(b).
- Regarding the concern that BBS licensees may not supervise behavior analysis assistants, interns, and technicians, the sponsor is open to the idea of allowing such supervision. However, they would like to negotiate an agreement where behavior analyst licensees could also supervise the interns and trainees of other boards, if those interns and trainees were practicing behavior analysis. The sponsor is currently working with DCA on this matter, as this affects the interns and trainees of other boards.

Ms. Gonzales stated that NASW-CA shares the same concerns as the Committee, but did not comment on NASW-CA’s position.

Mr. Montgomery shares the Committee’s concerns and expressed that this bill could result in job loss.

Ms. Porter also shares the Committee’s concerns.

***Dr. Leah Brew moved to not take a position on AB 1715, and directed staff to continue working with authors on concerns expressed by staff and the Committee. Dr. Peter Chiu seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – abstain  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines - yes

**XX. Discussion and Possible Action Regarding Senate Bill 1195 (Hill) Healing Arts: Professions and Vocations: Board Actions: Competitive Impact**

SB 1195 seeks to ensure that boards under DCA are in compliance with the recent Supreme Court ruling, *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. This ruling stated that state licensing boards consisting of market participants in the industry regulated by the board can be held liable for violations of antitrust law unless their anti-competitive decision meets two requirements:

- The anti-competitive action or decision must be based on a clearly articulated and affirmatively expressed state policy; and
- The board decision must be actively supervised by the state.

Existing Law:

- 1) States that the decisions of any board under DCA with respect to setting standards, conducting exams, passing candidates, and revoking licenses are final and not subject to review by the director, except in certain specified circumstances:
  - The director may initiate an investigation of allegations of misconduct in the preparation, administration, or scoring of a board-administered exam or in the review of licensing qualifications.
  - The director may intervene when DOI discloses probable cause that the conduct or activity of a board, its members, or employees has violated criminal law.
- 2) Allows the director to review a proposed regulation and disapprove it based on the grounds that it is injurious to public health, safety, or welfare, but the board within a specified period can override the director's disapproval.

- 3) Requires a public entity to pay a judgment against an employee or former employee resulting from a claim or action for an injury arising under specified circumstances.

SB 1195:

- 1) Requires the director of DCA to review any board decision to determine whether it unreasonably restrains trade, and outlines the procedure to conduct a review.
- 2) States that the decision of the director is final, unless the state or federal constitution requires an appeal.
- 3) States that the review conducted by the director as noted above does not apply when an individual seeks review of disciplinary or other action pertaining solely to that individual.
- 4) States that this process shall not be construed to affect, impede, or delay any disciplinary actions of a board.
- 5) Requires that if a state board has a controlling number of decision makers as active market participants, any regulation it submits to OAL must be reviewed for competitive impact.
- 6) Defines “competitive impact” as a demonstration that the regulation is authorized by a clearly articulated and affirmatively expressed state law, that the regulation furthers the public protection mission of the state agency, and that the impact on competition is justified in light of the rationale for the regulation.
- 7) Requires OAL to reject a regulation proposal that does not demonstrate the regulation is authorized by a clearly articulated and affirmatively expressed state law, does not further public protection, or the impact on competition is not justified by the rationale.

Comments:

- 1) Author’s Intent. This bill is a response to a recent Supreme Court ruling, *North Carolina State Board of Dental Examiners v. Federal Trade Commission*.

DCA has subsequently begun work with the Legislature to ensure that its boards are in compliance with the Supreme Court ruling. It has outlined three concepts, which this bill addresses, in order to ensure active state supervision of its boards.

- 2) Composition of the BBS. The membership is prescribed in statute as 13 members, specifically 6 licensee members and 7 public members. Unlike other DCA boards, BBS is a public-majority board. The inquiry into anti-competitive impact rests more strongly on control of the board by active market participants rather than the make-up of the board.

Additionally, if the Board was acting with the absence of any public members or any unfilled public slots, and the controlling number of decision-makers was active market participants, any regulations approved at that time would still be subject to competitive impact review by OAL.

- 3) DCA Director Authority. DCA's Director can only investigate board matters when there have been allegations of misconduct or when there is probable cause of criminal conduct. The Director is authorized to disprove a regulation on the grounds that it is injurious to public health, safety, or welfare. This bill would give new powers to the director as follows:
- Authority to review any board decision or other action to determine whether it unreasonably restrains trade;
  - Authority to audit and review inquiries and complaints regarding licensees, disciplinary case dismissals, the opening, conduct, or closure of investigations, informal conferences, and discipline by any DCA board or bureau; and
  - Authority to review regulations with respect to markets impacted and potential anti-competitive effects; and to approve, disprove, or modify the regulation.
- 4) Effect on Licensing and Disciplinary Decisions. The bill contains language stating that the review requirements shall not be construed to affect, impede, or delay any disciplinary actions of the Board. The bill also states that the anti-competitive effects review does not apply when an individual seeks review of a disciplinary order solely pertaining to that individual.

However, the power granted to the director to review licensure and disciplinary decisions is new. If such a request was made, the Director would be required to:

- Assess whether the action or decision reflects a clearly articulated and affirmatively expressed state law;
- Assess whether the action or decision was the result of the Boards exercise of ministerial or discretionary judgment;
- Conduct a full review of the anticompetitive effects of the action or decision (this would not apply to disciplinary decisions, as they are exempted, but would apply to all other decisions); and
- Post a final written decision approving, modifying, or disapproving the action or decision with an explanation.

The Board makes decisions regarding issuance of a license or provision of discipline by examining the circumstances of each particular case against current law. The proposed authority would create an appeal process that would likely be used by every licensee and applicant receiving an unfavorable outcome.

Disciplinary cases currently have the benefit of review by an administrative law judge and if appealed, by the Superior Court. For licensing cases, the Board consults with a subject matter expert who specializes in mental health education when it is unclear if an individual's particular degree qualifies him or her for licensure. A comparable review by the Director would result in a duplication of efforts and the expenditure of additional financial resources.

- 5) Definition of "Clearly Articulated and Affirmatively Expressed" State Law. While the board always strives to accurately reflect the intent of the law, sometimes the law

has ambiguities, and reasonable persons may interpret it in different ways. While regulations are generally run based on expressed authority, often times they are run based on implied authority as well. Use of the above statement calls into question whether a Board may still propose regulations based on implied authority.

In many cases, regulations must be run based on implied authority, because there is no way that law can account for all scenarios that may arise; and as written, the authority is therefore implied. Staff recommended an amendment redefining “competitive impact,” with regards to reviewing regulations.

***Dr. Christine Wietlisbach moved to support AB 1195 if amended. Deborah Brown seconded. The Board voted (10-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – not present during the vote  
Dr. Leah Brew – yes  
Karen Pines – yes

## **XXI. Status of Board Sponsored Legislation and Other Legislation Affecting the Board**

Board-sponsored legislation:

- 1) AB 1917: Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants

Status: Passed Assembly, and now in the Senate.

- 2) SB 1478: Omnibus Bill

Status: Passed the Senate and now in the Assembly.

Legislative proposals watched by Board staff:

- 1) AB 1084: Social Workers: Examination

This is a spot bill which contains a provision that is already included in the omnibus bill. Staff expects that AB 1084 will be amended to address a different topic.

- 2) AB 2649: Marriage and Family Therapist Intern and Professional Clinical Counselor Intern: Renaming

This Board is seeking these amendments in the omnibus bill. Staff expects that AB 2649 will be amended to address a different topic.

## XXII. Status of Board Rulemaking Proposals

- 1) Standards of Practice for Telehealth: Add Title 16, CCR Section 1815.5  
Status: This proposal is currently under final review by the Office of Administrative Law.
- 2) English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2  
Status: This proposal is currently under review by DCA.

## XXIII. Presentation Ethical Decision Making – Dianne R. Dobbs, DCA Legal Counsel.

Dianne Dobbs, DCA Legal Counsel, conducted a presentation on Ethical Decision Making. Ms. Dobbs reviewed the top 10 rules regarding openness of public meetings.

## XXIV. 2016 Board Elections

Karen Pines nominated Deborah Brown as Chairperson. Ms. Brown accepted the nomination.

***Karen Pines moved to elect Deborah Brown as Chairperson. Samara Ashley seconded. The Board voted unanimously (11-0) to elect Deborah Brown as Chairperson.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

***Patricia Lock-Dawson moved to establish June 1, 2016 as the effective date of the new Chairperson. Sarita Kohli seconded. The Board voted unanimously (11-0) to pass the motion.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes

Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

Ms. Lock-Dawson nominated Dr. Leah Brew. Dr. Brew declined the nomination.

Dr. Peter Chiu nominated Patricia Lock-Dawson as Vice Chairperson. Ms. Lock-Dawson accepted the nomination.

***Dr. Peter Chiu moved to close the nominations. Samara Ashley seconded. The Board voted to close the nominations.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

***Dr. Peter Chiu moved to elect Patricia Lock-Dawson as Vice Chairperson. Dr. Leah Brew seconded. The Board voted unanimously (11-0) to elect Patricia Lock-Dawson as Vice Chairperson.***

Board vote:

Samara Ashley – yes  
Dr. Peter Chiu – yes  
Dr. Christine Wietlisbach – yes  
Max Disposti – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Scott Bowling – yes  
Sarita Kohli – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Karen Pines – yes

## **XXV. Suggestions for Future Agenda Items**

Dr. Wietlisbach suggested a discussion to secure a staff television specialist and staff legal counsel.



Dr. Brew suggested a discussion to consider requiring the law and ethics exam as a term for probation.

Ms. Ashley suggested a discussion to research the Board's Administrative Manual concerning consent items on the agenda.

**XXVI. Public Comment for Items Not on the Agenda**

There were no public comments.

Kim Madsen announced the next Board Meeting date on August 17-19, 2016. The additional day is reserved for petition hearings. If no more than 5 petition hearings are scheduled, then the meeting will be held over 2 days, August 18-19, 2016.

**XXVII. Adjournment**

The meeting was adjourned at 5:04 p.m.