



## BOARD MEETING MINUTES

Open sessions of this Board Meeting were webcasted. Records of the webcasts are available at the following links:

May 9: <https://www.youtube.com/watch?v=WjdNfBdWwIA&feature=youtu.be>

May 10 (part 1): <https://www.youtube.com/watch?v=eKjeCazrJxc&feature=youtu.be>

May 10 (part 2): <https://www.youtube.com/watch?v=BwpJuibVSmc&feature=youtu.be>

**DATE** May 9, 2019

**LOCATION** The Mission Inn  
The Galleria  
3649 Mission Inn Ave.  
Riverside, CA 92501

**TIME** 8:30 a.m.

### ATTENDEES

**Members Present:** Betty Connolly, Chair, LEP Member  
Max Disposti, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Alexander Kim, Public Member  
Gabriel Lam, LCSW Member  
Jonathan Maddox, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent:** Deborah Brown, Public Member  
Vicka Stout, LMFT Member

**Staff Present:** Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Jonathan Burke, Enforcement Manager  
Sabina Knight, Legal Counsel  
Christina Kitamura, Administrative Analyst

**Other Attendees:** Kimberly Belvedere, Administrative Law Judge  
Molly Selway, Deputy Attorney General  
*See voluntary sign-in sheet (available upon request)*

---

## **OPEN SESSION**

---

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

Betty Connolly, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:34 a.m. Roll was called. Quorum established.

### **II. Public Comment for Items Not on the Agenda**

No comments.

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

No suggestions.

***Administrative Law Judge Kimberly Belvedere presided over the following petition hearings. Deputy Attorney General Molly Selway presented the facts of each case on behalf of the People of the State of California.***

### **IV. Petition for Modification of Probation for Alyssa Renee Bradley LMFT 106426**

The hearing was opened at 8:37 a.m. Alyssa Bradley was present and represented herself. Ms. Selway presented the background of Ms. Bradley's probation.

Ms. Bradley was sworn in. She presented her request for modification of probation and information to support the request and was cross-examined by Ms. Selway and Board members.

Jimmy Bradley testified on Ms. Bradley's behalf. No cross-examinations. The record was closed at 9:44 a.m.

### **V. Petition for Modification of Probation for Donald Lewis, ASW 80267**

The hearing was opened at 9:57 a.m. Donald Lewis was present and represented himself. Ms. Selway presented the background of Mr. Lewis' probation.

Mr. Lewis was sworn in. He presented his request for modification of probation and information to support the request and was cross-examined by Ms. Selway and Board members. The record was closed at 10:45 a.m.

**VI. Petition for Early Termination of Probation for Chelsea Salas, LMFT 85487**

The hearing was opened at 11:00 a.m. Chelsea Salas was present and represented herself. Ms. Selway presented the background of Ms. Salas' probation.

Ms. Salas was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Ms. Selway and Board members. The record was closed at 11:22 a.m.

**VII. Petition for Early Termination of Probation for Berek Sharif, LMFT 100734**

The hearing was opened at 11:25 p.m. Berek Sharif was present and represented himself. Ms. Selway presented the background of Mr. Sharif's probation.

Mr. Sharif was sworn in. He presented his request for early termination of probation and information to support the request and was cross-examined by Ms. Selway and Board members. The record was closed at 12:04 p.m.

---

**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.**

The Board entered closed session at 12:05 p.m.

---

**OPEN SESSION**

---

**IX. Recess Until 8:30 a.m. on Thursday, May 10, 2019**

The Board reconvened in open session and recessed until Thursday, May 10<sup>th</sup>.

**DATE** May 10, 2019

**LOCATION** The Mission Inn  
The Grand Parisian Ballroom  
3649 Mission Inn Ave.  
Riverside, CA 92501

**TIME** 8:30 a.m.

### **ATTENDEES**

**Members Present:** Betty Connolly, Chair, LEP Member  
Max Disposti, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Alexander Kim, Public Member  
Gabriel Lam, LCSW Member  
Jonathan Maddox, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent:** Deborah Brown, Public Member  
Vicka Stout, LMFT Member

**Staff Present:** Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Sabina Knight, Legal Counsel  
Rosanne Helms, Legislative Analyst  
Christina Kitamura, Administrative Analyst

**Other Attendees:** *See voluntary sign-in sheet (available upon request)*

---

## **OPEN SESSION**

---

### **X. Call to Order, Establishment of Quorum, and Introductions**

Ms. Connolly called the meeting to order. Roll was called. A quorum was established. Board staff and meeting attendees introduced themselves.

### **XI. Department of Consumer Affairs Update**

Kim Madsen reported:

- Departure of Department of Consumer Affairs (DCA) Director Dean Grafilo
- DCA is moving forward with Director's Quarterly meeting on June 3<sup>rd</sup>.

- Executive Officer Salary Study
  - KH Consulting retained to conduct the executive salary study.
  - Estimated completion of project was March 2019.
  - Delay due to challenges receiving timely responses from other states. Timeline has been extended.
- Future Leadership Development Program

Steve Sodergren reported:

- DCA's Open Data Portal
  - Licensing statistics and information regarding licensing data
  - Accessible to the public
  - Data goes back three years
  - Filter by individual board/bureau
  - Filter by license type

## **XII. Consent Calendar**

### **a. Approval of the February 28 – March 1, 2019 Board Meeting Minutes**

This item was deferred to the next Board meeting.

## **XIII. Board Chair Report**

Dr. Christine Wietlisbach's term as a Board member ends on June 1<sup>st</sup>. Ms. Connolly presented a Resolution to Dr. Wietlisbach for her service.

## **XIV. Executive Officer Report**

### **a. Budget Report**

#### 2018/2019 Budget

- Budget for fiscal year (FY) 2019/2020 is \$12,547,000, which included an augmentation to support enforcement operations
- Total expenses to date: \$8,091,382 (64%)
- Experiencing delays in receiving reports from FI\$Cal

#### General Fund Loans

Fund condition reflects \$3.3 million loan repayment in FY 2018/2019 (last payment).

#### Board Fund Condition

Fund Condition reflects a 4.5-month reserve.

## **b. Operations Report**

### Licensing Program: 3<sup>rd</sup> Quarter

- Application volumes increased 18%
- Increased processing times due to recent staff vacancies
- Issued 1,418 initial licenses
- 115,753 licensees and registrants as of April 9<sup>th</sup>

### Examination Program: 3<sup>rd</sup> Quarter

- Administered 3,873 examinations
- Conducted 10 examination development workshops

OPES continues work on the LMFT Occupational Analysis. LMFT licensees are urged to complete the occupational analysis survey.

### Administration Program: 3<sup>rd</sup> Quarter

- Received 8,163 applications (1% increase from last quarter)
- Received 12,408 renewal applications
- 96% of renewal applications were renewed online

### Enforcement Program: 3<sup>rd</sup> Quarter

- 391 consumer complaints received
- 252 criminal conviction notifications received
- 550 cases closed
- 28 cases referred to the AG's office for formal discipline
- 442 cases pending as of March 1, 2019
- 28 Accusations and 12 Statement of Issues filed
- 32 final citations issued
- 19 decisions adopted
- 370 average number of days to complete Formal Discipline (Performance measure is 540 days)
- 528 average number of days a case is with the AG's Office
- 194 average number of days to complete all Board investigations

### Continuing Education Audits

The Board temporarily suspended continuing education audits from February to April due to operational needs.

### Outreach Activity

Board staff attended/participated in 11 outreach events:

- MFT consortium meetings
- CAMFT Annual Conference
- NASW Lobby Days
- Chico School of Social Work

Board Move Update

Staff moved into the new suite during the week of March 11<sup>th</sup>.

**c. Personnel Report**

New Employees/Promotions

Steve Sodergren was promoted to Career Executive Assignment (CEA) and serves as the Board’s Assistant Executive Officer.

Departures

Tanya Bordei received a promotion at the Department of Water Resources.

Paula Gershon will retire from state service on July 19, 2019.

Vacancies

The Board has seven vacancies. Due to current budget constraints, the recruitment process for these vacancies will be conducted during the upcoming fiscal year.

**d. Strategic Plan Update**

The Strategic Plan was provided in the meeting materials for review.

**XV. Election of Board Chair and Vice Chair**

**MOTION:** Chiu nominated Betty Connolly as Board Chair.

Wietlisbach seconded. Connolly accepted the nomination. No further nominations were made. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**MOTION:** Wong nominated Max Disposti as Board Vice Chair.

Wietlisbach seconded. Disposti accepted the nomination. No further nominations were made. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

## XVI. Discussion and Possible Action Regarding Board Fee Audit

The Board contracted with CPS HR Consulting (CPS) to provide a fee audit to determine if fee levels are appropriate for the recovery of the actual cost of conducting its programs. In March 2019, CPS submitted the final report.

The report:

- Reviewed 25 main fees that represent approximately 90% of the Board’s fee revenue: applications for registrations, licenses, examination and renewals.
- Reviewed last four years of revenues and expenditures
- Projected 3-4 years of revenues and expenditures
- Determined necessary revenue to bridge the gap

### Summary of Findings

The following finding are listed on page 4 in the CPS report:

- The Board has grown steadily since FY 2014/15. In FY 2014/15, the Board was authorized 48.2 permanent positions and 1.8 blanket positions for a total of 50 positions. As of July 1, 2018, the Board has 58.2 authorized positions and 1.8 blanket positions for a total of 60 positions, a 20% increase. The DCA Budget Office uses an average of 1,776 available hours per personnel years, each fiscal year for workload budget projections. Employees are paid for 2,080 hours per fiscal year.
- In October 2013, the Board implemented DCA’s BreEZe online licensing and enforcement system. The Board incurred significant costs to implement BreEZe.



- Revenue associated with the 25 fees under examination has increased 39.3% from FY 14-15 through FY 2017-2018.
- On average, BBS Operating Expenses & Equipment costs constitute 58.1% of total expenses and Personnel Services constitute 41.9%.
- Overall revenue has not kept up with expenditures since FY 16-17.
- Beginning in FY 2020-21 and moving forward, revenue and expense projections indicate that BBS will have insufficient revenue to cover operational costs and maintain an acceptable 3 to 6-month fund reserve.
- Fees associated with the Licensed Marriage and Family Therapist (LMFT), Licensed Clinical Social Worker (LCSW) and Licensed Educational Psychologist (LEP) licenses have not increased in at least 20 years. The Licensed Professional Clinical Counselor (LPCC) program was established in FY 2011-12 and the fees have not increased since.

To determine appropriate fees, CPS used three years of average expenditures and staff hours. Dividing the average expenditures by staff hours for the three years resulted in a \$120 per hour/\$2.00 per minute fully absorbed cost rate. The resulting proposed fee increases ranged from \$0 to \$315. These proposed fees were used to make projections for the fund condition for the next five years. The fees proposed would increase the Board's revenue by \$6,016,000 per fiscal year and would result in a 5-month reserve by FY 2023-24.

Staff will develop a fee schedule based upon the recommendations. Staff will take into consideration the impact a fee increase may have on the registrants and licensees. The proposed fee schedule and corresponding draft bill language will be presented at the next Policy and Advocacy Committee meeting for discussion. The goal is to implement a new fee schedule on January 1, 2021.

Janlee Wong, National Association of Social Workers California Division (NASW-CA): NASW-CA requests the Board to consider the following:

- Statistics/data on average income of licensees and income growth per year of licensees
- Re-evaluate the cost per licensee/applicant
- Have less specialization and more generalization in Board personnel
- Consider longer or shorter renewal periods
- Is the cost of disciplinary proceeding and disciplinary monitoring commensurate with the fines and any recompense owed by those who violated the law?

Kim Madsen: Revenue received as reimbursement to investigative costs, citations and fines, goes to the fund condition and cannot be spent.

Luke Martin, California Association of Marriage and Family Therapists (CAMFT): suggested a cap on renewal fees based on a licensee's income.

Christina Wong: Suggested educating the associations regarding the fees so that they could educate their memberships.

Madsen: Agrees that there should be parity between the license types. The hardest hit will be associates, those with the least amount of income. Staff will look at this from a practical standpoint to keep operations moving forward and anticipate growth.

## **XVII. Update on Exam Vendor Contract**

The Board initiated a contract with Pearson VUE to administer the California Law & Ethics, LMFT Clinical and LEP Standard Written exams. Since February 2019, Board staff have been working with DCA's contract unit to execute the contract. The Board anticipates switching over to the new vendor in late summer or early fall. The Board intends for a smooth transition with minimal disruption to exam candidates.

During the next two months, the Board will be working to ensure that exam candidates are thoroughly informed about how this change will affect them. Information will be distributed by email, website updates, and social media postings. Staff is also working to identify the candidate populations that would be most affected and plans to communicate more directly with those candidates.

There will be no delays of scores for candidates during or after the transition.

## **XVIII. Discussion and Possible Action Regarding the Policy and Advocacy Committee Recommendations**

### **a. Recommendation #1: Support Assembly Bill 613 (Low) Professions and Vocations: Regulatory Fees**

AB 613 would allow the Board to increase any of its authorized fees once every four years by an amount up to the Consumer Price Index (CPI) for the preceding four years.

#### AB 613

1. Permits specified licensing boards and bureaus under DCA, including the Board of Behavioral Sciences, to increase any of its authorized fees

once every four years by an amount up to the CPI for the preceding four years.

2. Requires a board seeking to increase its fees by the CPI to provide its calculations and proposed fees to the director. The director must approve the fee increase except in the following circumstances:
  - a. The Board has unencumbered funds that are equal to more than the board's operating budget for the next two fiscal years; or
  - b. The fee would exceed the reasonable cost to the board to administer the provisions the fee is paying for; or
  - c. The director determines the fee increase would injure public health, safety, or welfare.
3. States that this adjustment of fees and their publication is not subject to the Administrative Procedure Act.
4. Provides that the CPI adjustment is allowable for fees the Board is authorized to impose to cover regulatory costs. The CPI adjustment is not allowed for administrative fines, civil penalties, or criminal penalties.

#### Intent

The intent of this bill is to allow boards to raise their fees once every four years without going through the rulemaking or legislative process. The author's office notes that because the legislative and rulemaking processes are cumbersome, boards tend to delay raising fees until absolutely necessary to support ongoing operations, and the resulting fee increase is then significant and controversial. The author's office believes allowing a fee increase adjustment by the CPI will allow fees to adjust more modestly over time.

#### Current Process to Increase Fees

Currently, the Board must go through the legislative and/or regulatory process to raise a fee, depending on whether the fee is being charged at its statutory maximum or not. Both processes take approximately 1 to 2 years and can involve a significant amount of staff time.

#### Current Board Fee Audit

The Board has not raised its fees since the 1990s. The Board is in the process of conducting a fee audit and expects to pursue legislation and regulations to raise fees within the next year. It is unlikely that this bill would allow the Board to avoid pursuing a fee increase via legislation or regulations this time but having a CPI adjustment option in the future may allow the Board to keep pace with rising costs.

**MOTION:** Support AB 613 and direct staff to make any non-substantive changes.

Brew moved; Maddox seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**b. Recommendation #2: Support Assembly Bill 769 (Smith) Federally Qualified Health Centers and Rural Health Clinics: Licensed Professional Clinical Counselor**

AB 769 would allow Medi-Cal reimbursement for covered mental health services provided by an LPCC employed by a federally qualified health center (FQHC) or a rural health clinic (RHC).

AB 769

1. Adds an LPCC 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.
2. Describes technical procedures for how an FQHC or RHC that employs LPCCs can apply for a rate adjustment and bill for services.

Background

There are approximately 600 FQHCs and 350 RHCs in California. These clinics serve the uninsured and underinsured and are reimbursed by Medi-Cal on a “per visit” basis. Currently, psychologists, LMFTs, and LCSWs are authorized for Medi-Cal reimbursement in these settings. However, LPCCs are not, creating a disincentive for these clinics to hire them.

Intent

The intent of this legislation is to allow FQHCs and RHCs to be able to hire LPCCs and be reimbursed through Medi-Cal for covered mental health

services. Under current law, only clinical psychologists, LCSWs, or LMFTs may receive Medi-Cal reimbursement for covered services in such settings. The sponsor states that adding LPCCs to the list of Medi-Cal reimbursable provider types in these clinics will help rural areas meet the increase in demand for mental health services.

**MOTION:** Support AB 769 and direct staff to make any non-substantive changes.

Brew moved; Wong seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**c. Recommendation #3: Support Assembly Bill 1145 (Garcia) Child Abuse: Reportable Conduct**

AB 1145 specifies that voluntary acts of sodomy, oral copulation, or sexual penetration are not considered to be mandated reports of sexual assault under the Child Abuse and Neglect Reporting Act (CANRA) if there are no indicators of abuse, unless the conduct is between a person age 21 or older and a minor under age 16.

**Intent**

The author is attempting to clarify the law due to concerns and feedback that requirements for mandated reporters of child abuse are confusing, inconsistent, and discriminatory.

Some mandated reporters interpret the law to read 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. They argue that the same reporting standards do not apply to consensual heterosexual intercourse.

There are also contradictory opinions that the law does not read this way, and that sodomy and oral copulation are not treated differently from other acts in the code. However, lack of a clear answer leads to confusion about what is reportable and what is not.

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

### Background

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, Legislature staffers contacted the Board 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; therefore, it directed staff to obtain a legal opinion from DCA Legal Affairs.

### DCA Legal Opinion

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 PC Section 11165.1, unless there is reasonable suspicion of force, exploitation, or other abuse. DCA also found the following, based on past court cases:

- Courts have found that the legislative intent of the reporting law is to leave the distinction between abusive and non-abusive sexual relations to the judgment of professionals who deal with children.
- Review of other legal cases has found that the law does not require reporting of consensual sexual activities between similarly-aged minors for any sexual acts unless there is evidence of abuse.

### Board of Psychology Action

The Board of Psychology sought an opinion from the Attorney General's (AG's) Office. The Board of Psychology asked the AG to resolve the following legal questions:

1. CANRA requires mandated reporters to report instances of child sexual abuse, assault, and exploitation to specified law enforcement and/or

child protection agencies. Does this requirement include the mandatory reporting of voluntary acts of sexual intercourse, oral copulation, or sodomy between minors of a like age?

2. Under CANRA, is the activity of mobile device “sexting,” between minors of a like age, a form of reportable sexual exploitation?
3. Does CANRA require a mandated reporter to relay third-party reports of downloading, streaming, or otherwise accessing child pornography through electronic or digital media?

The opinion request was sent to the AG in February 2015. However, a related case is currently under review by the California Supreme Court, and the AG’s office suspended the opinion until the litigation is concluded.

#### Recommended Position

At its April 2019 meeting, the Policy and Advocacy Committee (Committee) recommended that the Board consider taking a support position. The Committee directed staff to reach out to the author’s office to discuss the possibility of also clarifying the reportability of filming, “sexting”, or similar use of technology between minors, as it noted there is also a lack of clarity in law regarding those activities.

The author’s office stated that it would consider including it. However, the bill, as currently written, was encountering some challenges in the committee process at the legislature.

#### Discussion

Dr. Leah Brew: Supports AB 1145. This would protect the LGBTQ community.

Max Disposti: In favor of AB 1145. In his center, about 99% of the time the parent is rejecting the consensual relationship between their minor child and another (LGBTQ) minor, and adults intervene and attempt to stop the relationship. There have been cases where abuse was reported and misinterpreted by the police. He has not seen a case where there was actual child abuse. The interpretation is always applicable to “queer kids.” Different interpretations by various agencies is detrimental.

Kathy Atkins, CAMFT: CAMFT supports AB 1145.

Rebecca Gonzales, National Association of Social Workers, California Division (NASW-CA): NASW-CA supports AB 1145.

Gerry Grossman: The bill would eliminate the idea that a minor who is engaged in consensual intercourse with a minor close in age is not

reportable. However, Penal Code 11165.1 states that if a minor is engaged in consensual oral sex or anal sex is reportable. This law is “homophobic.” Most mental health professionals are not reporting consensual oral or anal sex. However, some are reporting. The consequence is that it harms the therapeutic relationship on these consensual sexual acts and the possibility that these people are accused of being sex offenders.

Maddox: This bill would also protect minors engaging in heterosexual activities that would be considered sexual curiosity or alternatives to intercourse.

**MOTION:** Support AB 1145 and direct staff to make any non-substantive changes.

Wong moved; Disposti seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**d. Recommendation #4: Neutral on Assembly Bill 1540 (Holden) Music Therapy**

AB 1540 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.

**AB 1540**

1. Establishes the Music Therapy Act.
2. Defines “music therapy.”
3. Provides a scope of practice for music therapy.
4. Defines music therapy interventions.



5. Prohibits referring to oneself as a “Board Certified Music Therapist” unless the person has completed all of the following:
  - a. Has a bachelor’s degree, equivalent, or higher from a music therapy degree program approved by the American Music Therapy Association.
  - b. Completes at least 1,200 hours of supervised clinical work.
  - c. Completes the current certification requirements established by the Certification Board for Music.
6. States that this act does not authorize someone engaging in music therapy to state or imply that they provide mental health counseling, psychotherapy, or occupational therapy. Also states that the use of music does not imply or suggest that a person is a Board-Certified Music Therapist.
7. States that it is an unfair business practice for a person to use the title “Board Certified Music Therapist” unless they are certified.
8. States that the bill shall not be construed to require a music therapist currently employed by the State of California to obtain certification as a Board-Certified Music Therapist.

#### Intent

The author notes inconsistencies in law and is seeking to create a uniform definition for music therapy in statute.

#### Single Specialty Recognition

Music therapy is one of several sub-types of specialty therapies. Many of these specialty therapies have an independent certification board that will issue a certification or credential if requirements are met.

#### Effect on Board Licensees

AB 1540 contains language stating that the use of music therapy is not restricted to any profession. This would permit Board licensees who use music therapy to continue doing so, as long as they do not state that they are a Board-Certified Music Therapist unless they hold that certification.

#### Position

The Board did not take a position on AB 1540.

**e. Recommendation #5: Support if Amended Assembly Bill 1651 (Medina)  
Licensed Educational Psychologists: Supervision of Associates and  
Trainees**

AB 1651 would allow applicants for licensure as a marriage and family therapist, professional clinical counselor, or clinical social worker to gain some supervised experience hours under a licensed educational psychologist (LEP).

AB 1651

1. Would permit the Board's LEP licensees to be supervisors of marriage and family therapist and professional clinical counselor associates and trainees, and associate clinical social workers, if they meet all of the Board's other requirements to supervise.
2. Limits hours that may be gained under supervision of an LEP to no more than 1,200 hours.
3. Adds unprofessional conduct provisions into LEP statute related to supervision of unlicensed persons.

Intent

The California Association of School Psychologists (CASP) states that a 2011 law change shifted the responsibility to provide special education students' mental health services from county mental health departments to school districts.

School districts provide Educationally Related Mental Health Services (ERMHS) to students with disabilities. ERMHS can occur in both educational and clinical settings, and the purpose is to provide mental health support so that students can access their educational programs.

CASP notes that many school districts are employing BBS associates to provide ERMHS, and that the law requires ERMHS service providers to be supervised by someone with a pupil personnel services (PPS) credential. LEPs have a PPS credential and training in the educational system, but they are currently not permitted to supervise BBS associates. They point out that allowed supervisors of BBS associates do not necessarily have a PPS credential or the specialized educational system experience that LEPs have.

LEP Supervisor Settings

This bill would permit LEPs to supervise a BBS associate for up to 1,200 of the required experience hours.

### Recommended Position

The Policy and Advocacy Committee (Committee) recommended that the Board consider taking a “support if amended” position on this bill. It recommended that the bill be amended to limit LEP supervision of associates to ERMHS services only.

Staff has been working with CASP to define ERMHS services and define the appropriate setting in which LEPs could supervise.

### Discussion

Rosanne Helms: Written statement from Kenneth Edwards, California Association of Licensed Professional Clinical Counselors (CALPCC): CALPCC will not take a position on AB 1651.

Connolly: In regard to defining ERMHS, the education code and federal law is non-prescriptive when it comes to defining related services and that applies to all related services (speech therapy, occupational therapy, mental health services). The definition of any of those related services is that they are necessary for the student with disabilities to be able to access their education.

Jonathan Maddox: The proposal speaks to the needs of the school districts and the students; however, it does not speak to the needs of the developing therapists. Questioned if LEPs are equipped to supervise associates in areas that they must be proficient in: theoretical orientation, relational therapeutic stance, documentation that meets Medi-Cal standards and the Department of Health Care Services standards.

Brew: At a previous meeting, LEP degree coursework was discussed, which included theoretical orientation, documentation.

Connolly: The LEP’s role is misunderstood. Testing is a component and evaluating functions of behavior is a component of what LEPs do. There is a significant counseling component that addresses beyond a function of what the behaviors are and looks much more at the full range of mental health needs that students have in schools.

Maddox: 1,200 hours is significantly high; it’s a lot for someone who will not become an LEP or will not work long term in ERMHS setting. Suggested cutting the hours to 500-600. Associates typically receive one hour of supervision for every 10 hours of client contact (40 hours/month x 12 months = 500 hours). That is a fair opportunity to be supervised in ERMHS setting and to get majority of hours in another setting that is more aligned with their specific scope.

Brew: Typically, students who go into school settings want to make it their career. 1,200 is the maximum number of hours – they do not have to obtain the full 1,200 hours in that setting. Professional clinical counselor students need 1,750, which would require them to get 500 hours in another setting. Furthermore, an employer will not hire someone for 3 months to earn 500 hours. LEPs do more similar work to the LMFT and LPCC fields than what is realized.

Wong: 1,200 hours is acceptable.

Connolly: If associates do not want to work with students, they will not be drawn towards this. This will appeal to those who want to work in school settings as a profession.

Helms: Presented supplemental materials: The first CASP proposed amendment states that an LEP may only supervise the provision of ERMHS and other services consistent with the scope of practice of an educational psychologist. The second proposed amendment adds the scope of practice to the first proposed amendment.

Rebecca Gonzales, NASW-CA: NASW-CA is in support of AB 1651.

Kathy Atkins, CAMFT: CAMFT has not taken a position on AB 1651. Has concerns regarding the consumer protection, number of hours, supervision availability and competence, how they're implementing the services and how the associates are being utilized. Feels that this is moving too fast.

Dr. Wendell Callahan: 1,200 hours equates to an academic school year for services that would equal to 20-25 hours of clinical contact. He searches for student placements that are an academic year so they can develop a sense of their therapeutic stance. As an employer, he is not going to hire a counselor that cannot commit to more than an academic year because that is disruptive to the student. ERMHS is long term, and IEPs are written year-to-year, and therefore, 1,200 hours is reasonable. It would be disruptive to have associates rotating into year-long services.

Chris Jones, CASP: The need for mental health services in schools has increased tenfold in the last 5-10 years. With the passage of AB 114 to develop ERMHS programs, the traditional model is shifting. School psychologists are being hired or transferred specifically to ERMHS programs where they are only counseling. Within the last 15 years, there has been a movement away from traditional assessment with the implementation of RTI (response to intervention), a multi-tiered system of support and TSS (trauma-skilled schools model). Schools are developing more comprehensive mental health programs for children, and school psychologists are involved in those programs full time.

Agrees with Dr. Callahan regarding 1,200 hours; school districts are not going to hire an associate for 400 hours. 1,200 hours is a school year. Removing an associate partway through the year because they maxed out their hours, would be cause for concern regarding the effect of the therapeutic relationship with the student.

1,200 hours formula: 180 school days in a year; 6-hour school day; within 6-hour school day, about 5-6 hours are spent with clients. 6 hours x 180 days = 1,080 hours plus supervision hours.

Maddox: Feels that this legislation is being rushed.

Dr. Christine Wietlisbach: Clarified that the language allows **up to** 1,200 hours.

Connolly: There has been a lot of conversation on this and does not feel that this matter has been rushed.

Helms: Referred to Supplemental Materials for discussion - CASP Proposed Amendments, LMFT laws §4980.03(g) and §4980.43(c)(9).

After Board discussed proposed amendments, Ms. Helms summarized Board discussion to strike “and other services” from §4980.03(g); strike “providing educationally related mental health services and other services that are consistent with the scope of practice of an educational psychologist” from §4980.43(c)(9) and apply the same amendments to the other BBS license laws.

**MOTION:** Support AB 1651 if amended to strike “and other services” from §4980.03(g); strike “providing educationally related mental health services and other services that are consistent with the scope of practice of an educational psychologist” from §4980.43(c)(9) and apply the same amendments to the LPCC and LCSW sections.

Brew moved; Chiu seconded. Motion carried; 8 yea, 1 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox		x			
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**f. Recommendation #6: Support Senate Bill 10 (Beall) Mental Health Services: Peer, Parent, Transition-Age, and Family Support Specialist Certification**

SB 10 requires the State Department of Health Care Services (DHCS) to establish a certification body for adult, parent, transition-age youth, and family peer support specialists. It also requires DHCS to amend the state’s Medicaid plan to include these providers as a provider type within the Medi-Cal program.

**SB 10**

1. Defines “peer support specialist services.”
2. Requires DHCS to establish a certification body.
3. Requires the certifying body to define responsibilities and practice guidelines for each type of peer support specialist using best practices, and to determine specific curriculum and core competencies.
4. Requires the certification body to specify training requirements.
5. Requires the certification body to establish a code of ethics.
6. Provides minimum requirements for adult peer support specialists, transition-age youth peer support specialists, family peer support specialists, and parent peer support specialists.
7. States that this Act does not imply that a certification-holder is qualified or authorized to diagnose an illness, prescribe medication, or provide clinical services. It also does not alter the scope of practice for a health care professional or authorize delivery of services in a setting or manner

not authorized under the Business and Professions Code or Health and Safety Code.

8. Allows DHCS to implement this law via notices, plan letters, bulletins, or similar instructions, until regulations are adopted. Regulations must be adopted by July 1, 2022.

#### Intent

The goals of SB 10:

- Requires DHCS to establish a certification program for peer support providers; and
- Provides increased family support and wraparound services.

The author notes that California lags behind the rest of the country in implementing a peer support specialist certification program. Currently, the Department of Veteran's Affairs and 48 states either have or are developing such a program.

#### Scope of Practice and Scope of Practice Exclusions

SB 10 appears to outline a scope of practice for peer support specialists, although somewhat indirectly, in WIC §§14045.12, and 14045.13(I).

Section 14045.19 contains language that excludes "providing clinical services" from work that peer support specialists are qualified or authorized to do.

#### Identification of Supervisors

SB 10 does not mention supervision requirements for peer support specialists or specify the amount of supervision that would be needed. Past versions of the bill have identified acceptable supervisors but left out LPCCs.

#### Fingerprinting not Required for Certification

SB 10 does not specify fingerprinting as a requirement to obtain certification as a peer support specialist.

#### Recommended Position

At its April 2019 meeting, the Committee recommended that the Board consider taking a "support" position. It also directed staff to discuss the concerns regarding scope of practice exclusions, identification of supervisors, and fingerprinting.

Staff contacted the author's office to discuss concerns and received the following feedback:

- Scope of practice exclusions: Staff recommended more specific language. The author's office expressed a willingness to review and consider the language.
- Identification of supervisors: The author's office indicated that the lack of identification of appropriate supervisors for peer support specialists was an oversight.
- Fingerprinting: The author's office indicated that the bill permits DHCS to include a fingerprinting requirement via regulations if it chooses.

### Discussion

Helms: Written statement received from Kenneth Edwards, CALPCC:

*"While CALPCC is supportive of the peer specialist bill, it is important to note that LPCCs are still not able to bill under the state's Medi-Cal program. Through multiple emails to agency directors, there has been little movement on remedying this issue."*

Maddox: This is a good opportunity to standardize the certification process for many of these staff who are already providing this work in many systems of care. Certification with core competencies would serve the interests of those with learned experience who are an asset. Licensed staff is a luxury and some agencies have few licensed staff who are over worked. Questioned if it could be considered to open supervision up to associates.

Brew: Agrees that it may be difficult for an agency to hire a licensee. However, hesitant to allow an associate to supervise because they are still "too green." A complaint can ruin an associate's opportunity for licensure. Associates may not be trained enough to work through crisis situations or personality disorders. Some associates struggle to pass the exam or intend to be a career associate.

Helms: Currently, there are no specifications regarding supervision. The Board is requesting that if licensees are included on the list, that all of the Board license types are included.

Brew: Added that LEPs should also be included.

Wong: Requests requirements specified for supervision that includes BBS licensees and requests the language that Board staff provided to address scope of practice exclusions.

Gabriel Lam: Language should specify oversight.



Janlee Wong, NASW-CA: Peer support and peer specialists are built into the Mental Health Services Act. One of the intents was for people with mental illness to have a career pathway through recovery. The National Certified Peer Specialist certification program included a minimum of 3,000 hours of supervised work or volunteer experience providing direct peer support. It also requires a supervisory letter of recommendation for certification. Supervision is always provided for entry-level positions in the mental health system.

**MOTION:** Support SB 10 if amended to include the language in paragraph number three (page 267) and include a supervision component, including but not limited to the Board’s license types, including LEPs and LPCCs.

Wong moved; Maddox seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**g. Recommendation #7: Support Senate Bill 163 (Portantino) Healthcare Coverage: Pervasive Developmental Disorder or Autism**

SB 163 seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment for pervasive developmental disorder or autism (PDD/A). It also revises the definitions of a “qualified autism service professional” and a “qualified autism service paraprofessional.”

**SB 163**

1. Modifies the definition of “behavioral health treatment.” The new definition: professional services and treatment programs based on behavioral, developmental, behavior-based, or other evidence-based models, including applied behavior analysis and other evidence-based behavior intervention programs.

2. Specifies that the behavioral health treatment's intervention plan utilizes evidence-based practices with demonstrated clinical efficacy.
3. Makes the following changes to the definition of a "qualified autism service professional":
  - a) Specifies that they may provide behavioral health treatment, provided that the services are consistent with their experience, training, or education.
  - b) Requires them to meet one of the following criteria:
    - i. Meet the education and experience requirements to be classified as a vendor by a California regional, or
    - ii. Have a Bachelor of Arts or science degree and:
      - Be an ASW, AMFT, or APCC.
4. Tightens up the definition of a "qualified autism service paraprofessional".
5. Removes the clause exempting health care service plans and health insurance policies in the Medi-Cal program from the requirements to provide behavioral health treatment for PDD/A.
6. Specifies that the setting, location, or time of treatment recommended by the qualified autism service provider cannot be used as the only reason to deny or reduce coverage for medically necessary services.

#### Intent

Patients with PDD/A are being denied treatment coverage for prescribed behavioral health treatment, due to loopholes in the law. This bill seeks to remove these loopholes and to increase the requirements to qualify as an autism service paraprofessional.

#### Prior Year Legislation

Last year, the Board considered a similar bill, SB 399. At its May meeting, the Board took a "support if amended" position on the bill and asked that LEPs also be included as a "qualified autism service professional."

Upon discussion with the author's office and sponsor, staff learned that LEPs are already included as qualified autism service providers, which is a higher category than qualified autism service professionals and can supervise qualified autism service professionals and paraprofessionals. The sponsor advised that including LEPs as professionals could be counter-productive, because it could allow insurance companies to require them to be supervised and to be paid at a reduced rate.

SB 399 was vetoed by Governor Brown.

Rebecca Gonzales, NASW-CA: NASW-CA supports SB 163.

**MOTION:** Support SB 163 and direct staff to make any non-substantive changes.

Brew moved; Wong seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**h. Recommendation #8: Support Senate Bill 601 (Morrell) State Agencies: Licensees: Fee Waiver**

SB 601 would allow the Board to reduce or waive fees for a license or registration, license or registration renewal, or replacement of a physical display license if the licensee or registrant can demonstrate being affected or displaced by a state or federal emergency.

SB 601 would require this to be done within one year of the proclaimed or declared emergency and requires the requestor to demonstrate being displaced or affected to the satisfaction of the state agency.

Existing law defines three types of state emergencies:

1. State of emergency: proclaimed existence of disaster or extremely perilous conditions to safety of persons or property in the state.
2. Local emergency: proclaimed existence of disaster or extremely perilous conditions to safety of persons or property in a county and/or city.

3. State of war emergency: a condition in which the state or nation is attacked by an enemy or warned by the federal government that an attack is probable or imminent.

Intent

In recent years, California has experienced several costly natural disasters, including the Tubbs Fire, the Southern California mudslides, and the Camp Fire. The author’s office states that these disasters have affected an estimated 381,700 businesses, and many of these individuals must replace licensing documents. The goal of this bill is to help relieve pressure on these individuals and help them get back to work.

Potential Fiscal Impact

It is difficult to predict the potential fiscal impact to the Board of lost fee revenue due to declared emergencies. In most cases, any impact would be minor if several hundred licensees or registrants were affected. However, the fiscal impact could be significant if a major disaster were to occur in an area with a high concentration of licensees.

Need for Regulation

If this bill were to pass, the Board may need to consider regulations to determine the process to request a fee waiver and to determine acceptable proof of being displaced or affected. Alternatively, the Board could choose to leave this decision to be made on a case-by-case basis.

**MOTION:** Support SB 601.

Wietlisbach moved; Wong seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**i. Recommendation #9: Support if Amended Senate Bill 660 (Pan)  
Postsecondary Education: Mental Health Counselors**

SB 660 would require specified higher educational entities in California to hire one full-time equivalent mental health counselor per 1,500 students enrolled at each of their campuses.

SB 660

- 1) Specifies that this requirement is a minimum requirement.
- 2) Defines a “mental health counselor” as someone who meets both of the following:
  - Provides individual and group counseling, crisis intervention, emergency services, referrals, program evaluation and research, or outreach and consultation interventions to the campus community, or any combination of these; and
  - Is licensed in California.
- 3) Requires educational institutions subject to this requirement to report to the legislature every three years on how funding was spent and on the number of mental health counselors employed on each of its campuses. The report must include the following:
  - Results from a campus survey and focus groups regarding student needs and challenges regarding their mental health, emotional well-being, sense of belonging, and academic success; and
  - Campus data on attempted suicides.

Intent

The International Association of Counseling Services (IACS) recommends one full-time equivalent mental health counselor for every 1,000 to 1,500 students. The UC system reports that their ratio falls within this recommended range; however, it is estimated to be significantly higher for the CSU system. It is difficult to know exact ratios due to a lack of reporting and data. The author believes this bill will address the mental health crisis facing California’s public higher education system.

Recommended Position

At its April 2019 meeting, the Committee recommended that the Board consider taking a “support if amended” position on the bill, and suggested the following amendments:

- The bill defines a “mental health counselor” as someone who provides specified services and who is licensed in the State of California by the applicable licensing entity. The Committee suggested that it would be clearer to specify the acceptable licensing boards or license types.

- The bill specifies that acceptable “mental health counselors” hold a license. However, the Committee suggested that the Board’s registrants be considered acceptable and count toward the ratio as well.

Staff relayed these suggestions to the author’s office. They noted the potential for some concern about including registrants, as it could encourage schools to hire more registrants for less pay.

### Discussion

Brew: The model in many mental health service clinics on campuses provide for trainee-level staff, and currently, they do not receive pay. Half of associates do not receive pay, so this is not problematic. Campuses are good training grounds. Her students are currently working in college counseling settings. Current CSU ratios are 2,500 students to one counselor, and many students are referred out due to the long wait list.

Concerned about funding. If registrants are not included, funds will be cut from students in some other area to hire licensees.

Wietlisbach: Mental health on campus is vital and should be priority for students.

Maddox: Associates who provide services are a benefit as they develop professionally. The sponsor’s argument that associates are going to be abused is a disingenuous argument because any behavioral health program will have sufficient supervisory oversight. It should not be limited to licensed individuals.

Chiu: The Board should support this bill.

Kathy Atkins, CAMFT: CAMFT struggled with the lack of definition of mental health counselor, concerns about unintended consequences to associates and trainees with current positions or future positions. CAMFT is waiting for analysis coming out of suspense file in Appropriations Committee. The sponsor is aware of CAMFT’s concerns. CAMFT will re-engage with the sponsor following the current committee status.

Rebecca Gonzales, NASW-CA: NASW-CA supports SB 660 as written.

**MOTION:** Support SB 660.

Wietlisbach moved; Disposto seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**XIX. Discussion and Possible Action Regarding Assembly Bill 184 (Mathis) Board of Behavioral Sciences: Registrants and Licensees**

This item was removed from the agenda.

**XX. Discussion and Possible Action Regarding Senate Bill 425 (Hill) Health Care Practitioners: Licensee’s File: Probationary Physician’s and Surgeon’s Certificate: Unprofessional Conduct**

SB 425

1. Requires a health facility, clinic, or other entity that makes arrangement allowing healing arts licensees to practice or provide care for patients, to report any allegation of licensee sexual abuse or sexual misconduct to the applicable licensing board within 15 days of receiving the allegation. This includes, but is not limited to, arrangements where licensees have full staff privileges, or active, limited, auxiliary, provisional, temporary, or courtesy staff privileges, locum tenens arrangements, and contractual arrangements.
2. Requires any employee or healing arts licensee that works in any health facility, clinic, or other entity as described in item 1 above, who has knowledge of any allegation of sexual abuse or sexual misconduct by a healing arts licensee to file a report with the applicable licensing board and the administration of the health facility, clinic or other entity, within 15 days of knowing about it.
3. Makes a willful failure to file a report punishable by a fine of up to \$100,000 per violation and may also constitute unprofessional conduct. The fine can be imposed in a civil or administrative action or brought by the applicable licensing board.

4. Makes any failure to file a report punishable by a fine of up to \$50,000 per violation. The fine can be imposed in a civil or administrative action or brought by the applicable licensing board and shall be proportional to the severity of the failure to report.
5. States that a person or entity shall not incur civil or criminal liability as a result of making the required report if made in good faith.
6. Requires the applicable licensing board to investigate the circumstances underlying a required report it receives.

#### Background and Intent

The author is seeking to close legal loopholes that can allow a practitioner with repeated sexual abuse and misconduct complaints to keep practicing at a health facility for years without their licensing board being notified.

The issue was brought to light by a May 2018 report by the L.A. Times, which disclosed multiple unresolved complaints by a USC gynecologist who had worked at the university for almost 30 years. None of the complaints had been reported to the Medical Board.

The author of this bill conducted a hearing on sexual misconduct reporting in the medical profession in response to the L.A. Times report. The hearing found that there are different reporting standards for different types of health facilities. For example, some facility types have no requirement to report sexual abuse or misconduct allegations to a licensing board. Some have peer review groups that decide whether a report should be sent to the licensing board.

#### Expansion of Setting Reporting Requirements

Sections 805 and 805.01 require peer review bodies, licensed health care facilities, or clinics to make reports to the Board under certain circumstances. These circumstances include for sexual misconduct, if there has been a formal investigation and if a final decision or recommendation has been made. However, this does not guarantee a report will be made to the Board for sexual misconduct for two reasons: (1) different peer review bodies can have different standards; (2) a report is only required if a final decision or recommendation has been made.

This bill expands reporting by requiring a report to be filed for any allegation of sexual abuse or sexual misconduct. The individuals who must report are also greatly expanded: a health facility or clinic, or other entity that makes arrangements for a healing arts licensee to practice or provide care for patients. The reporting requirements also extend to employees of these entities.

Staff asked the author's office to clarify whether "other entities" that arrange for a Board licensee to practice or provide care for patients would include all



practice settings in the reporting requirements. The author's office indicated that their intent is to ensure that all instances or complaints of sexual misconduct be reported in any setting.

#### Potential Fiscal Impact on Board Operations

SB 425 could result in an increase in complaints because it significantly changes the reporting requirements to the Board for licensee sexual misconduct. It is unknown if the new reporting requirements will lead to a significant increase in complaints. Complaints by a 3<sup>rd</sup> party are more likely to close because the victim does not wish to participate and without their participation, there is often a lack of evidence. For this reason, staff believes that the increased caseload would be minimal and could be absorbed within existing resources.

#### Recommended Position

At its April 2019 meeting, the Committee decided not to recommend a position on continue to watch the bill.

#### Discussion

Wietlisbach: Concerned that there will be reporting when there is any allegation, regardless whether the allegation has been substantiated. However, if the allegation cannot be substantiated, then it goes nowhere. It's a slippery slope.

Chiu: Does not support SB 425. The bill lacks a definition of allegation and believes the bill is flawed.

Disposti: There's a need for this, but the bill is not responding to the need. The bill is not clear.

Connolly: Requested that staff reach out to the author's office and provide feedback regarding lack of specificity, definition of allegation and how that could be problematic.

Madsen: If an allegation came to the Board, it would have to investigate, but the Board usually waits for the entity to complete their investigation first. The Board may receive an allegation but may not receive any patient information. If patient information is received, the Board would have to reach out to that individual and ask the him or her to participate in the investigation.

Maddox: This does not hold the institutions, where the abuse occurred, accountable.

The Board did not take a position and directed staff to relay concerns to the author.

## **XXI. Discussion and Possible Action Regarding Assembly Bill 8 (Chu) Pupil Health: Mental Health Professionals**

AB 8 would require schools to employ at least one mental health professional for every 400 pupils.

### AB 8

1. By December 31, 2022 requires schools to have at least one mental health professional for every 400 pupils generally accessible to pupils on campus during school hours.
2. Requires schools with less than 400 pupils do at least one of the following:
  - a. Have at least one mental health professional generally accessible to pupils on campus during school hours; or
  - b. Employ at least one mental health professional to provide services at multiple schools; or
  - c. Enter into an agreement with a county or community-based organization for at least one mental health professional to provide services at the school.
3. Outlines the role of the required mental health professional in the school, which includes providing individual and small group counseling.
4. Requires a school mental health professional who does not hold a PPS credential or a services credential with a specialization in health to be under the supervision of an individual with a PPS credential or a services credential in administrative services in order to work with pupils.
5. Defines a “mental health professional” as:
  - a. An individual who holds a PPS credential that authorizes the person to perform school counseling, school psychology, or school social work.
  - b. An individual who holds a services credential with a specialization in health for a school nurse.
  - c. A professional licensed in California to provide mental health services, including, but not limited to, psychologists, marriage and family therapists, and clinical counselors.
  - d. A marriage and family therapist intern or trainee.
  - e. A clinical counselor intern or trainee.

### Intent

The author stated, “Schools provide the ideal place to reach all students, especially those who currently face barriers to access.”

The author also notes that he will be requesting funds through the budget process so that schools can implement the bill.

#### Debate over Appropriate License/Credential

This bill requires a mental health professional working in a school who does not hold a services credential to be supervised by an individual with a services credential. This appears to already be a requirement in regulations.

One group opposing the bill, the California Teachers Association (CTA), believes that only individuals holding a PPS credential should count toward the ratio. They note that these personnel are trained specifically to deal with children, as opposed to other mental health licensees trained to work in clinical, but not school, settings.

#### Inclusion of Clinical Social Workers

This bill does not include LCSWs, ASWs, or social work interns in the definition of “mental health professionals.” The definition does not necessarily limit clinical social workers from this definition, but they are not listed specifically.

#### Reference to Marriage and Family Therapist and Professional Clinical Counselor “Interns”

This bill refers to LMFT and LPCC registrants as “interns”. The “intern” references should be changed to “associate”.

Connolly: Supports AB 8, although some adjustments are needed in the language.

Wong: Supports AB 8. However, is concerned about other professionals (nurses) that should not be providing mental health clinical services. Should the Board insert language that excludes them from mental health clinical services?

Madsen: Comfortable the way the bill is written.

Helms: The bill is trying to accomplish something very specific and changing the language may change the intent and do more harm.

Rebecca Gonzales, NASW-CA: NASW-CA supports AB 8; however, associates and trainees should be defined separately in its own category. The author intends to amend the bill to include LCSWs and ASWs.

Kathy Atkins, CAMFT: CAMFT supports AB 8.

**MOTION:** Support AB 8.

Disposti moved; Chiu seconded. Motion carried; 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown				x	
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti	x				
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout				x	
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**XXII. Discussion and Possible Action Regarding Assembly Bill 544 (Brough) Professions and Vocations: Inactive License Fees and Accrued and Unpaid Renewal Fees**

AB 544

1. Prohibits boards under DCA, including this Board, from requiring a person to pay accrued and unpaid renewal fees as a condition of reinstating an expired license or registration.
2. Prohibits the fee to renew a license in an inactive status from being more than 50 percent of the active renewal fee.

Intent

The author’s office stated:

*“For someone who might have decided to let his/her license lapse for a period of time in order to focus on raising children, dealing with personal or family illness, etc., it does not seem fair to require them to pay several years of accrued renewal fees to reinstate the license and start working again.”*

Current Practice

The Board’s inactive renewal fees are already one-half of the active renewal fees.

The Board currently charges accrued unpaid renewal fees in order to renew any license that is within three years of its expiration date. Licensees that have been expired more than three years must reapply for licensure. The Board does not charge accrued unpaid renewal fees to renew a registration.

### Number of Delinquent Licensees Renewing

For each of the past 4 years, the Board has seen fewer than 50 cases per year of licensees owing back renewal fees for its four license types combined. Therefore, any fiscal impact of this bill is estimated to be minor.

### Amendment Needed: BPC §4989.68

Section 4989.68(a)(4) of the LEP licensing statute regarding accrued fees is not being amended in this bill. If the bill moves forward, this section should be amended to be consistent with section 4989.36. The author's office indicated they are working to address the issue.

### Amendment Needed: BPC §4999.104

The bill strikes section 4999.104(b) of the LPCC statute, which states that to renew an expired license, the licensee must "pay all fees that would have been paid if the license had not become delinquent." Striking this sentence is consistent with the intent of the bill to not charge back-fees; however, unlike the Board's other three license types, there is no specification in this section that the renewing licensee still has to pay the current renewal fee. This should be specified. The author's office indicated they are working to address the issue.

The Board did not take a position on AB 544.

## **XXIII. Discussion and Possible Action Regarding Assembly Bill 1529 (Low) Telephone Medical Advice Services**

This item was removed from the agenda.

## **XXIV. Update on Board-Sponsored Legislation**

Board staff is currently pursuing the following legislative proposals:

1. SB 679 (Bates) Healing Arts: Therapists and Counselors: Licensing  
Status: SB 679 passed the Senate and is now in the Assembly.
2. AB 630 (Low) Board of Behavioral Sciences: Marriage and Family Therapists: Clinical Social Workers: Educational Psychologists: Professional Clinical Counselors: Required Notice  
Status: AB 630 passed the Assembly and is now in the Senate.
3. SB 786 (Senate Business, Professions, and Economic Development Committee): Healing Arts (Omnibus Bill)

The Board requested eight items be included in SB 786. At this time, the Committee has indicated that one item has been rejected for inclusion. All other requested items will likely be included. The rejected item is as follows:

*Amend BPC Sections 4980.50, 4989.22, 4992.1, and 4999.52 – Pending Complaints or Investigations and Examinations*

*These sections outline, for each of the Board’s four license types, the parameters regarding examination when an applicant has a pending complaint against him or her or is under Board investigation. The sections permit the Board to deny admission to an exam, or to refuse to issue a license if an accusation or a statement of issues has been filed against the applicant. The Board’s Enforcement Unit also sees cases where it issues a petition to revoke, while the applicant is in the process of applying to take a Board exam or is applying for licensure. The Board believes it is also appropriate to deny exam admission or refuse to issue a license in this case as well.*

Status: SB 786 is in the Senate Appropriations Committee.

**XXV. Update on Board Rulemaking Proposals**

Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)

The proposal was submitted to DCA to begin the initial review process on April 18, 2019.

Enforcement Process

The proposal was submitted to DCA to begin the initial review process in July 2017. This regulation package was placed on hold due to the passage of AB 2138 and remains on hold pending passage of the AB 2138 regulations.

Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee

The proposal was submitted to DCA to begin the initial review process in April 2018 and was approved in January 2019 for filing with the Office of Administrative Law. The public comment period ended on April 8, 2019, and the package was submitted to DCA to initiate the final review process in April 2019.

Supervision

This proposal was submitted to DCA to begin the initial review process in April 2019.

Brew: Expressed concern regarding lengthy regulation process.

Wong: It has been taking so long to pass regulation proposals, and it has created more burden for Board staff.

Connolly: This concern was shared with legal, and stakeholders have expressed concerns.

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

Brew: Stated that Gabriel Lam, Alexander Kim, and Vicka Stout will not be continuing on the Board, and acknowledged them for their work this past year. Dr. Christine Wietlisbach will be missed.

**XXVII. Suggestions for Future Agenda Items**

Brew: Exploring continuing education, in general and in law & ethics, for those who have been associates for a lengthy period of time.

**XXVIII. Adjournment**

The Board adjourned at 4:15 p.m.