



Board of Behavioral Sciences



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Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

BOARD MEETING MINUTES

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

August 13 (part 1): <https://www.youtube.com/watch?v=VLXIXIsV8bw&feature=youtu.be>
August 13 (part 2): <https://www.youtube.com/watch?v=Srr8CWRB7eo&feature=youtu.be>
August 14 (part 1): <https://www.youtube.com/watch?v=jRtMI0-xpFY&feature=youtu.be>
August 14 (part 2): <https://www.youtube.com/watch?v=mimQjqIfHMc&feature=youtu.be>

DATE August 13, 2020

MEETING PLATFORM Zoom Video Conference and Phone Conference

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

TIME 8:30 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Crystal Anthony, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Ross Erlich, Public Member (*left at 5:04 p.m.*)
Susan Friedman, Public Member
Christopher Jones, LEP Member
Jonathan Maddox, LMFT Member (*left at 5:04 p.m.*)
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Wendy Strack, Public Member

Members Absent: *All members present*

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

Other Attendees: John DeCure, Administrative Law Judge
Anahita Crawford, Deputy Attorney General
Public participation via Zoom video conference/ phone conference

OPEN SESSION

I. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:40 a.m. Roll was called, and a quorum was established.

II. Public Comments for Items Not on the Agenda

Greg Garrow, ASW Applicant: Code 4980.43, supervised experience for MFT associates or trainees. Subdivision c allows for up to 1300 hours and a total of 750 counseling and direct supervisor contact hours earned prior to the award date of the qualifying master's degree to be counted toward licensure. Proposing the possibility of allowing social work counseling and educational psychology associates to count the same number of qualifying hours prior to the award date of their qualifying master's or doctoral degree.

Peter Cellarius, Associate MFT: Telehealth and the effect of accumulating hours toward licensure. For those pursuing option one MFT licensure, any hours accumulating on couples, family and children has stopped and are now all counted only under telehealth. For those pursuing under option two, only 375 hours can count under telehealth. Requests that the Board consider addressing this issue by adding subcategories under telehealth that allow counting the hours for what they are and lifting the cap on option two telehealth.

"CB": Expressed the same concerns addressed by Peter Cellarius.

Rebecca Ruben, ASW: Requests the Board look into online proctored exams. Current testing situations at Pearson Vue sites are not mandating mask-wearing

Kimberly Miller: Expressed concerns regarding mask-wearing and difficulty in obtaining appointments at testing centers. Also, requesting online-proctored exams.

III. Suggestions for Future Agenda Items

Disposti: A presentation from Pearson Vue to answer the questions and concerns that licensees are bringing forward.

Administrative Law Judge John DeCure presided over the following petition hearings. Deputy Attorney General Anahita Crawford presented the facts of each case on behalf of the People of the State of California.

Some petitioners were heard out of order.

IV. Julann Nikolaisen, LCSW 14377, Petition for Early Termination of Probation

The hearing was opened at 10:50 a.m. Julann Nikolaisen was present and represented herself. Ms. Crawford presented the background of Ms. Nikolaisen's probation.

Ms. Nikolaisen was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 11:26 a.m.

V. Corey Thompson, APCC 4530, Petition for Early Termination of Probation

The hearing was opened at 2:35 p.m. Corey Thompson was present and represented himself. Ms. Crawford presented the background of Mr. Thompson's probation.

Mr. Thompson was sworn in. He presented his request for early termination of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 3:21 p.m.

VI. Anne Jones, AMFT 105311, Petition for Early Termination of Probation

The hearing was opened at 8:58 a.m. Anne Jones was present and represented herself. Ms. Crawford presented the background of Ms. Jones' probation.

Ms. Jones' was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 10:33 a.m.

VII. Robert Nelson, AMFT 91915, Petition for Early Termination of Probation

The hearing was opened at 1:27 p.m. Robert Nelson was present and represented himself. Ms. Crawford presented the background of Mr. Nelson's probation.

Mr. Nelson was sworn in. He presented his request for early termination of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 2:23 p.m.

VIII. Ronald Austin, LMFT 41803, Petition for Modification of Probation

The hearing was opened at 12:02 p.m. Ronald Austin was present and represented himself. Ms. Crawford presented the background of Mr. Austin's probation.

Mr. Austin was sworn in. He presented his request for modification of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 1:15 p.m.

CLOSED SESSION

IX. 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.

The Board met in closed session at 3:35 p.m.

Erlich and Maddox left the meeting at 5:04 p.m. A quorum of the Board remained.

The Board recessed following the conclusion of the Closed Session until Friday, August 14, 2020 at 8:30 a.m.

DATE August 14, 2020

MEETING PLATFORM Zoom Video Conference and Phone Conference

Pursuant to the provisions of Governor Gavin Newsom’s Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

TIME 8:30 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Susan Friedman, Public Member
Christopher Jones, LEP Member
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Wendy Strack, Public Member

Members Absent: Crystal Anthony, LCSW Member
Ross Erlich, Public Member
Jonathan Maddox, LMFT Member

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

Other Attendees: Public participation via Zoom video conference/ phone conference

OPEN SESSION

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

Meeting called to order at 8:35 a.m. Roll was called, and a quorum was established.

Kim Madsen: Announced her retirement effective November 2020.

Many comments and well wished were expressed by Board staff, Board members, and stakeholders.

XI. Public Comment for Items Not on the Agenda

“Almaz”: 1. Did not feel safe at a test center with mask and while pregnant. Is there an option for an online proctored exam in the future? 2. Requests the Board to consider allowing candidates re-exam within 90 days from the previous exam attempt because it is a one-year process to take the exam. Other states allow re-exam within 90 days.

“Viviana”: Continuing education for anti-racism is very important and is glad to see this topic on the agenda. 2. Requesting guidance from the Board regarding caseload at school district level.

Kimberly Miller: Candidates fear going to a test center to take exams. She has a subsequent registration number and has been trying to pass the exam. She also works for Department of Health Services in the jail. She has an accommodation and has been trying to get a test date. There are no available testing centers in her area to take the exam. To take the exam, she will have to travel a longer distance which is not possible due to her health issue. She is concerned that she will not be able to take the test before her registration expires and that she will lose her job.

Jennifer Alley, California Association of Marriage and Family Therapists (CAMFT): 1. Requests the Board to consider online proctored exams. 2. Requests the Board to review its advertising guidelines to reflect new mediums being used and to modernize the language. 3. Questions regarding option 1 and option 2, specifically if there is any data available for option 2.

“Cassandra,” Associate MFT: Requests online proctored exams due to safety concerns.

XII. Suggestions for Future Agenda Items

Rebecca Ruben: Online proctored exams; this is an emergency.

Kelly Ranasinghe: Requests testimony from Pearson Vue regarding safety accommodations for exam candidates.

Wendy Strack: 1. Discussion with Pearson Vue regarding accommodations. 2. Telehealth hours and how they are counted. 3. Advertising guidelines as requested by CAMFT.

Max Disposti: Discussion to address issues regarding availability and safety of exams; requests that Pearson Vue provide answers to these concerns.

XIII. Consent Calendar

a. Possible Approval of the June 5, 2020 Board Meeting Minutes

Christina Kitamura: Noted a correction on page 1 of the meeting minutes.

MOTION: Approve the June 5, 2020 Board meeting minutes as amended.

Wong moved. Disposti seconded. The motion carried; 12 yea, 0 nay.

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | x | | | | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | x | | | | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | x | | | | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

XIV. Board Chair Report

a. Introduction of New Board Members

New Board Members, Christopher Jones and Kelly Ranasinghe were introduced.

b. Board Member Activities

Disposti: Announced the members for the Policy & Advocacy Committee – Christina Wong (Chair), Deborah Brown, Wendy Strack, and Max Disposti. Announced the new Telehealth Committee and its members: Christina Wong (Chair), Crystal Anthony, and Susan Friedman. Announced the new Licensing Committee and its members: Wendy Strack, Susan Friedman, and Christina Wong.

Wong: Reported on the BBS video “Who We Are.”

XV. Executive Officer Report

a. Budget Report

2019/2020 Budget

The Board’s budget for fiscal year (FY) 2019/2020 was \$12,597,000. As of August 6th, the Board has expended 96% of its budget.

Current projections indicate that the Board will end the fiscal year with \$524,078 in unexpended funds.

Fund Condition

The Board's Fund Condition for FY 2019/2020 reflects a 2.8-month reserve.

Budget Fiscal Year 2020/2021

The Board's budget for FY 2021/2022 is just under \$12.5 million. Expenditure figures for the current fiscal year are not available.

b. Operations Report

In mid-June, the Board office reopened to serve the public during business hours. Staff continues to work remotely with an ongoing rotating/staggered schedule for staff to work in the office with at least one manager onsite each day. Office procedures were updated to include recommended protocols to protect both the public and staff.

BOARD STATISTICS: 4th Quarter of FY 2019/2020

Licensing Program Applications

Licensing application volumes increased by 17%.

Licensing Population

- 2,071 initial licenses were issued.
- 121,226 licensees and registrants as of August 1, 2020 (1% gain)

Renewal Activity

Renewal activity increased by 20%.

Administrative Applications

Administrative application volumes decreased by 16%.

Examination Program

- 2,739 examinations were administered.
- 10 examination development workshops were conducted from April 1st to June 30th.

Enforcement Program

- 351 consumer complaints received
- 167 criminal conviction notifications received
- 463 cases closed
- 8 cases referred to the Attorney General's (AG) office for formal discipline
- 115 cases pending as of June 30th
- 20 accusations and 2 Statement of Issues filed
- 8 final citations issued

- 28 final disciplinary orders
- 407 average number of days to complete Formal Discipline. Performance measure is 540 days.
- 268 average number of days a case is with the AG's office
- 62 average number of days to complete all Board investigations

Continuing Education Audits

Audits are suspended due to the current continuing education waiver.

Outreach Activity

Board staff engaged in 5 outreach events via telephone or video conference: educator forums, MFT consortium meetings, and social work licensing presentations.

Exam Vendor

Transition to Pearson VUE

The interface difficulties between Pearson VUE and the Board's computer systems have been resolved, and communication through the interface is working.

The Impact of COVID-19

In March 2020, Pearson Vue closed its test sites in order to stop or slow the spread of COVID-19. Currently, Pearson VUE sites are open with a decreased capacity due to the need to create a safe test environment through social distancing. Recognizing the need to both maintain social distancing and get people into the exam as soon as possible, Pearson VUE opened third-party test sites in order to increase capacity.

Even with the re-opening of test sites and the Board's allowance of third-party sites, an unprecedented slowdown in test administrations occurred for the fourth quarter. During the fourth quarter, approximately 46% less exams were administered from FY 2018/19.

Because the continued impact of COVID -19 remains an issue, the Board is estimating that complications with scheduling could continue until the end of the year. Scheduling complications have a significant impact on candidates who are required to participate in an exam before their eligibility expires. They also have an impact on registrants who need to participate in an exam in order to renew or obtain a subsequent registration number.

Pursuant to the Governor's Executive Order, three waivers were enacted to minimize the impact the testing administration slow-down. On May 29th, these waivers were extended, and the Board continues to work with the Department on considering future waivers. The following waivers concerning examinations were implemented:

- A six-month extension of examination eligibility for exam, Board exam candidates that failed the clinical examination (for LMFT, LCSW, or LPCC applicants) or the written examination (for LEP applicants), and whose one-year eligibility to re-take the examination expired between March 31, 2020 and July 1, 2020.
- Waiving of the requirement that associates must pass the California law and ethics examination before a subsequent registration number is issued. The waiver applies to all associates who are in their last year of renewal, if that renewal expires between March 31, 2020 and June 30, 2020. This waiver has now been extended for associates whose registration expires between March 31, 2020 and August 31, 2020.
- Waiving of the requirement that associates must participate in the California law and ethics exam in order to renew their associate registration. The waiver applies to all associates that have a registration that expires between March 31 and June 30, 2020.

Exam Scheduling Challenges

Appointment availability continues to change due to COVID-19. In order to comply with local measures and maintain appropriate safety measures, Pearson VUE test sites are having to adjust testing schedules on a continual basis. To increase testing capacity, some Pearson VUE test centers in the United States are extending their hours to be open nearly 24 hours a day.

Candidates who have scheduled an exam may have their exam cancelled in order to comply with the ever-changing guidance from health and government organizations. When this happens, Pearson VUE will move the scheduled exam to a temporary appointment-holding test center to allow time to reschedule an appointment. Candidates should receive an email informing them of this change. Candidates will then be able to reschedule their exam, free of charge, through their online candidate profile.

Test Site Concerns

Board staff has been in consultation with candidates who are immune-compromised or have health concerns that they believe will necessitate a private room for testing. This is an option, but to exercise this option candidates must go through the special accommodations process, which requires obtaining a note from a physician that explains the medical need for a private room. Availability for a private room is limited, as each site only has one private room.

COMMUNICATION REPORT

Facebook

- Since January 2020, number of “likes” increased 87% from 4,610 to 8,630.
- Wednesday morning processing date posts are most popular.
- 9,545 followers
- Facebook Fridays with BBS continues.

Twitter

The average number of views per month this quarter:

- 767 in April
- 671 in May
- 842 in June

DCA Call Center

- Average wait time is between 30 seconds and 1 minute.
- Highest number of calls received in one day was 151.
- Lowest number of calls received in one day was 58.
- Average number of calls received in one day is 75-100.

c. Personnel Report

New Employees/Promotions

Staff Services Analyst (SSA) - Licensing

Valarie Enloe promoted to this position effective July 31, 2020.

SSA – Consumer Complaint & Investigations Unit/Enforcement

John Hicks promoted to this position effective July 31, 2020.

Management Services Technician (MST) – Licensing

Kelly France was hired in this position effective July 31, 2020.

Office Technician (OT) – Criminal Conviction Unit/Enforcement

Angelic Boutris transferred to the Board effective July 1, 2020.

Associate Governmental Program Analyst – Consumer Complaint & Investigations Unit/Enforcement

Julie Ruprecht promoted to this position effective August 3, 2020.

Departures

Examination Unit

Terri Jauregui retired from state service effective June 30th.

Discipline & Probation Unit/Enforcement

- Ravel Trammell separated from state service effective June 30th.

- Marry Nunez will separate from state service effective August 14th.

Vacancies

Currently, there are 8 vacancies:

- Staff Services Manager I – Licensing
- Staff Services Manager I – Registration, Examination & Cashiering
- SSA – Registration, Examination & Cashiering
- MST (2 positions) – Licensing
- MST – Registration, Examination & Cashiering
- OT – Discipline & Probation/Enforcement
- OT – Administration

d. Strategic Plan Update

The Strategic Plan Update was provided for review.

e. 2021 Meeting Dates

2021 meeting dates for Board and committees were provided.

XVI. Discussion and Possible Action Regarding Revisions to the Proposed Rulemaking to Implement Assembly Bill 2138

This item was removed from the agenda.

XVII. Discussion and Possible Action Regarding Request to Require Continuing Education Units in Anti-Racism Training

Over the past few months, many Board licensees and registrants have contacted the Board to request the inclusion of training and education related to anti-racism. Specifically, the licensees and registrants suggest a three (3) hour continuing education course as a condition of license renewal.

California's diverse population was the inspiration to require coursework in cultural competency in degree programs. Currently, qualifying degree programs include coursework in cultural competency. To the extent racism and injustice is included in the cultural competency coursework is unknown at this time. If the Board were to determine this content was included, and the instruction was at least three hours, it may or may not be necessary to require a three (3) hour continuing education course as a condition of license renewal.

Jennifer Alley, CAMFT: CAMFT would like to see anti-racism education incorporated throughout the education process, not just in continuing education (CE). Has concerns about adding additional CE to renewal requirements.

Curt Widhalm: A 3-hour course will not create the change intended and agrees with Jennifer Alley’s position. Encouraged the Board to look at this beyond a single course.

Janlee Wong, NASW-CA: Assured the Board that the schools of social work throughout the country are looking into infusing anti-racist and racial justice content throughout all their courses. The Board could infuse anti-racist and racial justice content in required courses, such as law and ethics, child abuse and reporting, human sexuality, aging, substance abuse, and suicide.

MOTION: Direct Board staff to conduct further research on this topic and recommend this topic as a future agenda item at an upcoming Policy and Advocacy Committee meeting.

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

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | x | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | | | | x | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | | | | x | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

XVIII. Discussion and Possible Action Regarding Assembly Bill 8 (Chu) Pupil Health: Mental Health Professional

This item was removed from the agenda.

XIX. Discussion and Possible Action Regarding Assembly Bill 465 (Eggman) Mental Health Workers: Supervision

AB 465

1. Requires that any program or pilot program where mental health professionals respond to emergency calls related to mental health crises in collaboration with, or in place of, law enforcement personnel, must ensure that the program is supervised by a licensed mental health professional.

2. Does not prohibit the supervising licensed mental health professional from also responding to calls and providing care.
3. States that if law enforcement collaborates with county behavioral health agencies, supervision of mental health professionals must be consistent with the county behavioral health agency standards and requirements for supervision.
4. Defines a licensed mental health professional, for purposes of the required supervision, as one of the following:
 - A licensed clinical social worker;
 - A licensed professional clinical counselor;
 - A licensed marriage and family therapist;
 - A licensed psychologist;
 - A licensed physician who is either a board-certified psychiatrist or has completed a residency in psychiatry; or
 - A licensed registered nurse with a master's degree in psychiatric-mental health nursing who is listed as a psychiatric-mental health nurse by the Board of Registered Nursing, or an advanced practice registered nurse certified as a clinical nurse specialist and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.
5. States that this law does not alter the scope of practice for health care professionals or authorize the delivery of health care services in a setting or manner that is not authorized by the Business and Professions Code (BPC) or the Health and Safety Code (HSC).

Author's Intent

In their fact sheet, the author's office states the following:

"Following the killing of George Floyd, nationwide protests have asked us to reevaluate the role of police in public safety and the range of issues in which they intervene. Programs around the country are looking at improving response to emergency calls related to mental health crises, including sending mental health workers along with, or in place of, law enforcement. While these programs show a lot of promise, it is important to ensure that mental health professionals that respond are properly supervised by licensed clinicians to maintain the quality of care and safety of the person in crisis."

Discussion with Author's Office

Staff reached out to the author's office for clarification on the following concern:

The Board's licensing law requires individuals providing psychotherapeutic services to hold a license unless they are working in an exempt setting. It appears likely that the mental health professionals referenced in this bill, if

they are unlicensed, would be working in an exempt setting. However, if this is not the case, it seems possible this bill might imply that someone could provide psychotherapeutic services in any setting if they are supervised by a licensee, which is contrary to the Board's licensing law.

Due to this concern, the author added WIC §5848.7(d), in order to clarify that the bill does not change the scope of practice for health care professionals or authorize any delivery of services that in a manner not authorized by the BPC.

MOTION: Support the June 30, 2020 version of AB 465 and support the mock-up version of AB 465 if amended to reflect changes in the mock-up version, and direct staff to work with the author's office on non-substantive changes.

Strack moved. Brew seconded. The motion carried; 9 yea, 0 nay.

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | x | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | | | | x | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | | | | x | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

**XX. Discussion and Possible Action Regarding Assembly Bill 1145 (Garcia)
Child Abuse: Reportable Conduct**

This item was removed from the agenda.

**XXI. Discussion and Possible Action Regarding Assembly Bill 1616 (Low)
Department of Consumer Affairs: Boards: Expunged Convictions**

This item was removed from the agenda.

**XXII. Discussion and Possible Action Regarding Assembly Bill 1850 (Gonzalez)
Worker Classification: Employees and Independent Contractors**

This item was removed from the agenda.

XXIII. Discussion and Possible Action Regarding Assembly Bill 2028 (Aguiar-Curry) State Agencies: Meetings

Current law establishes the Bagley-Keene Open Meeting Act (Act), which specifies requirements that public agencies must follow in its proceedings. This bill proposes two changes to the Act:

- A change to require state bodies to post all meeting materials online at specified times in advance of the meeting depending on the types of materials.
- A change to allow the public to comment on any agenda item of a state body's meeting, regardless of whether the item had already been considered and public comment allowed, at a committee meeting of the state body.

AB 2028

1. Requires that the required meeting notice posted online 10 days in advance of a meeting must also include all writings or materials provided to members of the state body by its staff or another body member, that are connected to a matter to be discussed or considered at the meeting. The state body may only distribute or discuss writings or materials that meet this requirement. The writings or materials to be considered and provided to the members in advance must be made available on the state body's internet website no later than the first business day following the distribution of the writings/materials to members of the state body, or at least 48 hours prior to the meeting, whichever is sooner.
2. Provides that any writings or materials provided to members of the state body by another state body after the time periods described in #1 above must be posted on the body's website no later than the first business day following dissemination of the materials to the members, but prior to the meeting.
3. States that this does not apply to writings/materials prepared for a matter to be discussed in a closed session of the state body.
4. States that if the writings/materials on an agenda for discussion are related to current legislation, or are related to changing financial market conditions, the state body can satisfy the posting requirements by posting these writings/materials as they become available after the ordinarily prescribed time periods described above. The state body must make it clear what date the new or changed writings/materials were posted, and what changes have been made.
5. Deletes the subdivision of statute permitting a state body to disallow the public to comment on an agenda item if the agenda item has already been

considered by a committee composed only of members of the state body at a public meeting where the public could address the committee on the item.

Author's Intent

The author's office is seeking to close loopholes in the Act. They note that although agendas must be posted publicly 10 days in advance of a meeting, there is not a similar requirement for supporting documents. In the bill's fact sheet, they state the following:

"Documents distributed to members of a state body in relation to a meeting or agenda topic are part of the public record and are therefore public documents. The goals of public disclosure in Bagley-Keene clearly support the requirement that relevant background information that influences board members on their actions be provided publicly in advance of a meeting."

Impact on Board Operations

1. Meeting Material Provision

The version of the bill the Board previously considered contained a provision requiring meeting materials to be prepared and posted 10 days in advance of a meeting. This prompted a concern that the bill could have a chilling effect on the Board's ability to take positions on legislation. When the Legislature is in session, it is common for bills on the Board's agenda to be amended during the 10-day timeframe between when the agenda is posted and when the Board meets. If meeting materials can no longer be updated when there are bill amendments, then the Board cannot discuss and consider the most recent available information, and its voice in the legislative process is silenced.

The bill has now been amended to allow updating of materials related to current legislation.

2. Public Comment Provision

This bill also removes a provision from statute that allows a state body to disallow public comment if the same item has already been considered by a committee of the Board and public comment on the item was allowed. The deletion of this provision would not affect Board operations. The Board always allows public comment on all agenda items regardless of those items being discussed and publicly commented on at a previous committee meeting.

Previous Positions

At its March 2020 meeting, the Board took an "oppose unless amended" position on this bill, due to the concern that it would leave the Board unable to consider the most up-to-date information available at the time of its meetings. Based on subsequent amendments to the bill, at its June 2020 meeting, the

Board changed its position to “neutral.” AB 2028 has been significantly amended since that meeting.

MOTION: Take a neutral position on AB 2028, and direct staff to work with the author’s office to make non-substantive changes.

Brew moved. Disposti seconded. The motion carried; 9 yea, 0 nay.

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | x | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | | | | x | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | | | | x | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

XXIV. Discussion and Possible Action Regarding Assembly Bill 2112 (Ramos) Suicide Prevention

AB 2112

1. Establishes the Office of Suicide Prevention (Office) under the Department of Public Health.
2. Allows for specified responsibilities of the Office, including an amended responsibility:
 - Marshaling the insights and energy of medical professionals with mental health experience or expertise, licensed health care professionals with mental health experience, scientists, other academic experts, public health experts, public servants, and people with lived experience (including peers and survivors) to address the suicide crisis.
3. Requires the Mental Health Services Oversight and Accountability Commission to transfer its suicide prevention contracts to the Office.

Previous Position

The Board took a “support” position on a previous version of this bill at its June 2020 meeting. The Board also directed staff to reach out to the author’s office regarding the wording in the Health and Safety Code (HSC) §131300(a)(4).

The Board wanted to suggest that this sentence also include “licensed health care professionals with mental health experience.” The bill was amended to include this language.

MOTION: Support AB 2112.

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

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | x | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | | | | X | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | | | | X | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

XXV. Discussion and Possible Action Regarding Assembly Bill 2113 (Low) Refugees, Asylees, and Immigrants: Professional Licensing

This item was removed from the agenda.

XXVI. Discussion and Possible Action Regarding Assembly Bill 2253 (Low) Professional Licensure

This item was removed from the agenda.

XXVII. Discussion and Possible Action Regarding Assembly Bill 2257 (Gonzalez) Worker Classification: Employees and Independent Contractors: Occupations: Professional Services

This item was removed from the agenda.

XXVIII. Discussion and Possible Action Regarding Assembly Bill 3045 (Gray) Department of Consumer Affairs: Boards: Veterans: Military Spouses: Licenses

This item was removed from the agenda.

XXIX. Discussion and Possible Action Regarding Senate Bill 803 (Beall) Mental Health Services: Peer Support Specialist Certification

This bill requires the State Department of Health Care Services (DHCS) to establish a certification body for peer support specialists. It also requires DHCS to seek federal waivers or other state plan amendments to achieve certain objectives such as including peer support specialist services as a distinct service type under the Medi-Cal program.

SB 803

1. Establishes the Peer Support Specialist Certification Program Act of 2020.
2. Defines “peer support specialist.”
3. Requires DHCS to establish a certification body by July 1, 2021.
4. Requires DHCS to define responsibilities, practice guidelines, and supervision standards for peer support specialists.
5. Requires the DHCS to specify training requirements.
6. Requires DHCS to establish a code of ethics.
7. Provides minimum requirements for applicants for certification.
8. Requires a process for certification renewal.
9. Permits DHCS to establish a certification fee schedule.
10. Provides 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 health care services in a setting or manner not authorized under the BPC or the HSC.
11. Requires DHCS to seek federal waivers or other state plan amendments, as necessary, in order to do all of the following
 - Include a peer support specialist as a provider type.
 - Include peer support specialist services as a distinct service type provided to eligible Medi-Cal beneficiaries in a county, if the county elects to opt in to provide peer support specialist services and fund the nonfederal share of those services.

Intent

The author notes that California is behind the rest of the nation in implementing a peer support specialist certification program. The Department of Veteran’s Affairs and 48 states either have or are developing such a program.

Previous Position

The Board took a “support” position at its June 2020 meeting.

MOTION: Support SB 803.

Wong moved. Friedman seconded. The motion carried; 9 yea, 0 nay.

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | x | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | | | | x | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | | | | x | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

XXX. Discussion and Possible Action Regarding Senate Bill 855 (Wiener) Health Coverage: Mental Health or Substance Abuse Disorders

SB 855 expands California’s 1999 Mental Health Parity Act. That act required health plans and insurers to provide coverage for the diagnosis and medically necessary treatment of severe mental illness for persons of any age, and for serious emotional disturbances of a child under the same terms and conditions applied to other medical conditions. Instead, this bill requires health plans and insurers that provide hospital, medical, or surgical coverage to cover all medically necessary treatment of mental health and substance use disorders under the same terms and conditions applied to other medical conditions.

Previous Position

The Board took a “support” position at its June 2020 meeting. It also directed staff to ask the author’s office to consider amendments related to the definition of a “health care provider.”

Definition of “Health Care Provider”

In the previously considered version of the bill, HSC §1374.72(a)(4) and IC §10144.5(a)(4) specifically included associate marriage and family therapists and marriage and family therapist trainees in the definition of a “health care provider” for purposes of the bill. Separate from its “support” position, the Board requested the following:

- That associate social workers and associate professional clinical counselors also be included in the definition for consistency, if associate marriage and family therapists are to be included.
- That marriage and family therapist trainees be removed from the definition of a “health care provider” for purposes of the bill. The Board had concerns about trainees, who are still in school and have not graduated from their master’s degree program yet.

Staff spoke with the author’s office and the Senate Health Committee staff member who included the definition. The committee staff member explained that the definition being used is the same as that already used for the definition of health care provider for purposes of telehealth used in BPC §2290.5(a)(3). She has concerns about removing MFT trainees from the language, citing that when the §2290.5 definition was developed for telehealth, MFT trainees needed to be included because some autism service providers are MFT trainees, and if they weren’t included that would potentially cause unintended limitations for autism providers.

Submitted Amendments

Staff submitted suggested amendments that were needed before the next Board meeting on August 14th due to legislative deadlines. The following amendments to the definition of a “health care provider” were provided, with the caveat that the Board would reconsider the trainee issue on August 14th. These have been included in the current version of the bill that the Board is considering today:

- Add the following to HSC §1374.72(a)(4):
(D) An associate clinical social worker functioning pursuant to Section 4996.23.2 of the Business and Professions Code.

(E) An associate professional clinical counselor or professional clinical counselor trainee functioning pursuant to Section 4999.46.3 of the Business and Professions Code.
- Add the following to IC §10144.5(a)(4):
(D) An associate clinical social worker functioning pursuant to Section 4996.23.2 of the Business and Professions Code.

(E) An associate professional clinical counselor or professional clinical counselor trainee functioning pursuant to Section 4999.46.3 of the Business and Professions Code.

MOTION: Support SB 855 and direct staff to continue working with the author’s office to discuss removing trainees from the bill.

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

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | x | |
| Dr. Leah Brew | x | | | | |
| Deborah Brown | x | | | | |
| Max Disposti | x | | | | |
| Ross Erlich | | | | x | |
| Susan Friedman | x | | | | |
| Christopher Jones | x | | | | |
| Jonathan Maddox | | | | x | |
| Kelly Ranasinghe | x | | | | |
| John Sovec | x | | | | |
| Wendy Strack | x | | | | |
| Christina Wong | x | | | | |

**XXXI. Discussion and Possible Action Regarding Senate Bill 878 (Jones)
Department of Consumer Affairs Licensing: Applications: Wait Times**

SB 878

Beginning July 1, 2021, requires boards under the DCA to do the following at least quarterly:

1. Prominently display on its website either the average timeframes for processing initial and renewal license applications, or the combined current average timeframe for processing both initial and renewal license applications.
2. Prominently display on its website either the current average timeframes for processing each license type, or the combined current average timeframe for processing all license types that the board administers.

Intent

The author states that it is crucial for DCA licensing entities to process license applications in a timely manner so that businesses can open. They note that some boards provide applicants with average processing timeframes, but not all do.

Current Board Practice

The Board currently posts processing times by application type weekly on its Facebook and Twitter pages. The timeframes are not displayed by average timeframes. The Board processes applications based on date received; therefore, for each application type, the Board lists the range of receipt dates of applications currently in process.

Renewal Processing

Renewals processed online through BreEZe are posted instantly if all the required information and payment are provided.

Previous Board Position and Discussion with Author's Office

The Board took a "support if amended" position at its June 202 meeting. The following amendments were suggested:

- To allow for the posting on social media instead of the website, as social media can be updated more rapidly.
- To allow the posting of applications currently being processed by receipt date rather than "average timeframes."
- Specification of how often processing timeframes must updated.
- Clarification of "initial" application. The Board has several applications throughout its licensure process.

The bill has been amended to specify the frequency of processing time updates. However, the other requested amendments have not been made. The author's office provided the following reasons for this:

- They believe only allowing the timeframes to be posted on social media might be a barrier for some licensees/applicants, because not everyone has a social media account; and
- They believe average processing timeframes are best for students to estimate their wait time and plan accordingly.

MOTION: Support SB 878.

Sovec moved. Wong seconded. The motion carried; 9 yea, 0 nay.

Roll call vote:

| Member | Yea | Nay | Abstain | Absent | Recusal |
|-------------------|-----|-----|---------|--------|---------|
| Crystal Anthony | | | | X | |
| Dr. Leah Brew | X | | | | |
| Deborah Brown | X | | | | |
| Max Disposti | X | | | | |
| Ross Erlich | | | | X | |
| Susan Friedman | X | | | | |
| Christopher Jones | X | | | | |
| Jonathan Maddox | | | | X | |
| Kelly Ranasinghe | X | | | | |
| John Sovec | X | | | | |
| Wendy Strack | X | | | | |
| Christina Wong | X | | | | |

XXXII. Discussion and Possible Action Regarding Senate Bill 1474 (Senate Committee on Business, Professions and Economic Development) Business and Professions

This item was removed from the agenda.

XXXIII. Update on Board-Sponsored and Board-Monitored Legislation

The Board pursued sponsorship of the following legislative proposals:

1. AB 2363: Practice Setting Definitions

Due to the COVID-19 state of emergency, the Legislature prioritized and pared down its bill proposals to accommodate a shortened session. The author has informed staff that they will be unable to move forward with this proposal this year.

2. AB 2142: Board of Behavioral Sciences: Licensees: Licensing and Examination Fees

Due to the COVID-19 state of emergency, the text portion of this bill that increases the Board’s fees has been moved into a new bill (AB 3330) that also contains fee increases for several other DCA boards.

3. Board Omnibus Bill Proposal (Senate Business, Professions, and Economic Development Committee)

Due to COVID-19, the Senate Business, Professions, and Economic Committee postponed these items in the omnibus bill this year.

XXXIV. Update of Board Rulemaking Proposals

1. Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)

Status: Submitted to OAL for final approval.

2. Enforcement Process

Status: On Hold

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.

3. Supervision-Related Requirements

Status: DCA Final Review Process

4. Continuing Education and Additional Training Requirements

Status: Preparation for Initial Review Process

5. Examination Waiting Periods, Professional Corporations, Accrediting Agencies and Equivalent Degrees

Status: Preparation for Initial Review Process

XXXV. Adjournment

The Board adjourned at 2:08 p.m.