BOARD MEETING MINUTES
May 21-22, 2014

Embassy Suites Anaheim-Orange
Chapman Room
400 N. College Blvd.
Orange, CA 92868

Wednesday, May 21st

Members Present
Dr. Christine Wietlisbach, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Samara Ashley, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Dr. Peter Chiu, Public Member
Eileen Colapinto, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member (arrived at 9:05 a.m.)

Staff Present
Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

Guest List
On file

Members Absent
Patricia Lock-Dawson (left meeting at 11:34 a.m.)

FULL BOARD OPEN SESSION

Dr. Christine Wietlisbach, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:45 a.m. Christina Kitamura called roll, and a quorum was established with 12 members present.

I. Petition for Modification of Probation for Maatisak Amenhetep, LCS 19290

Judge W. Hewitt, Administrative Law Judge, opened the hearing at 8:50 a.m. Erin Sunseri, Deputy Attorney General (DAG), presented the facts of the case on behalf of the Board of Behavioral Sciences. Maatisak Amenhetep was not represented by an attorney.
Ms. Sunseri presented the background of Ms. Amenhetep’s probation. Ms. Sunseri provided an opening statement. Ms. Amenhetep was sworn in. Ms. Amenhetep presented her request for modification of probation and information to support the request. Ms. Amenhetep was questioned by Ms. Sunseri and Board Members. Ms. Sunseri gave closing argument. Judge Hewitt closed the hearing at approximately 10:17 a.m.

Karen Pines arrived at 9:05 a.m. The Board proceeded with 13 members present.

Dr. Wietlisbach called for a break at 10:17 a.m. The Board reconvened at 10:31 a.m.

II. Petition for Modification of Probation for Kimberly Kupfer, MFC 27299

Judge Hewitt opened the hearing at 10:32 a.m. Erin Sunseri, DAG, presented the facts of the case on behalf of the Board. Kimberly Kupfer was not represented by an attorney.

Ms. Sunseri presented the background of Ms. Kupfer’s probation. Ms. Kupfer was sworn in. Ms. Kupfer presented her request for early termination of probation and information to support the request. Ms. Sunseri and Board Members posed questions to Ms. Kupfer. Ms. Sunseri gave a closing argument. Judge Hewitt closed the hearing at approximately 11:25 a.m.

Dr. Wietlisbach called for a break at 11:26 a.m. The Board reconvened at 11:34 a.m.

Patricia Lock-Dawson did not return to the meeting. The Board maintained its quorum with 12 members present.

III. Petition for Early Termination of Probation for Kevin Gutfield, LCS 18523

Judge Hewitt opened the hearing at 11:34 a.m. Erin Sunseri, DAG, presented the facts of the case on behalf of the Board. Kevin Gutfield was not represented by an attorney.

Ms. Sunseri presented the background of Mr. Gutfield’s probation. Mr. Gutfield was sworn in. Mr. Gutfield presented his request for early termination of probation and information to support the request. Ms. Sunseri and Board Members posed questions to Mr. Gutfield. Ms. Sunseri gave a closing argument. Judge Hewitt closed the hearing at approximately 12:22 p.m.

The Board took a break at 12:22 p.m. and reconvened at 1:34 p.m.

IV. Petition for Early Termination of Probation for Troy Nickell, IMF 70464

Judge Hewitt opened the hearing at 1:34 p.m. Erin Sunseri, DAG, presented the facts of the case on behalf of the Board. Troy Nickell was not represented by an attorney.

Ms. Sunseri presented the background of Mr. Nickell’s probation. Mr. Nickell was sworn in. Mr. Nickell presented his request for early termination of probation and information to support the request. Ms. Sunseri and Board Members posed questions to Mr. Nickell. Ms. Sunseri gave a closing argument. Judge Hewitt closed the hearing at approximately 2:09 p.m.

V. Petition for Early Termination of Probation for Racheal Rhoades, MFC 43624

Judge Hewitt opened the hearing at 2:13 p.m. Erin Sunseri, DAG, presented the facts of the case on behalf of the Board. Racheal Rhoades was not represented by an attorney.
Ms. Sunseri presented the background of Ms. Rhoades’ probation. Ms. Rhoades was sworn in. Ms. Rhoades presented her request for early termination of probation and information to support the request. Ms. Sunseri and Board Members posed questions to Ms. Rhoades. Ms. Sunseri and Ms. Rhoades gave closing arguments. Judge Hewitt closed the hearing at approximately 3:04 p.m.

The Board took a break at 3:04 p.m. and reconvened in closed session at 3:25 p.m.

Items VI and VII were taken after closed session.

FULL BOARD CLOSED SESSION

VIII. Pursuant to Section 11126(c)(3) of the Government Code, the Board will Meet in Closed Session for Discussion and Take Action on Disciplinary Matters

FULL BOARD OPEN SESSION

VI. Suggestions for Future Agenda Items

Deborah Brown suggested a discussion regarding the creation of a task force to address telehealth issues. The task force would consist of representatives from all of the healing arts boards.

VII. Public Comment for Items Not on the Agenda

There were no public comments.

IX. Adjournment

The Board adjourned at 6:08 p.m.
Thursday, May 22nd

Members Present
\begin{itemize}
\item Dr. Christine Wietlisbach, Chair, Public Member
\item Christina Wong, Vice Chair, LCSW Member
\item Dr. Peter Chiu, Public Member
\item Samara Ashley, Public Member
\item Dr. Leah Brew, LPCC Member
\item Deborah Brown, Public Member
\item Betty Connolly, LEP Member
\item Dr. Harry Douglas, Public Member
\item Sarita Kohli, LMFT Member
\item Patricia Lock-Dawson, Public Member
\item Renee Lonner, LCSW Member
\item Karen Pines, LMFT Member
\end{itemize}

Staff Present
\begin{itemize}
\item Kim Madsen, Executive Officer
\item Steve Sodergren, Asst. Executive Officer
\item Dianne Dobbs, Legal Counsel
\item Rosanne Helms, Legislative Analyst
\item Christy Berger, Regulations Analyst
\item Christina Kitamura, Administrative Analyst
\end{itemize}

Guest List
On file

Members Absent
\begin{itemize}
\item Eileen Colapinto, Public Member
\end{itemize}

FULL BOARD OPEN SESSION

Dr. Christine Wietlisbach called the meeting to order at 8:55 a.m. Dr. Wietlisbach announced a change in the order of agenda items. Agenda item XXI will follow item XI, and item XXII will follow item XXI.

Christina Kitamura called roll, and a quorum was established.

X. Introductions

The Board Members, Board staff, and guests introduced themselves.

XI. Approval of the March 5-6, 2014 Board Meeting Minutes

The following corrections were made:

\begin{itemize}
\item Page 1, line 35: …Administrative Law Judge Karl S. Engeman…
\item Page 2, line 19: Dr. Chiu noted that he worked for Kaiser Permanente…
\item Page 6, line 5: Andrea Flores was hired as a Management Services Technician…
\item Page 9, line 42: Marriage, Family and Child Counseling Content
\item Page 10, line 15: Committee members expressed concern that the coursework as specified in BPC §4980.36(d) is only a list.
\item Page 12, line 41: …stated that one of the most common complaints…
\item Page 16, line 7: …stated that other states have various requirements regarding practicum…
\item Page 16, line 8: Many states measure the practicum by the total of hours instead of units; for example, 700 hours. Some states require a 3-credit practicum.
\item Page 16, line 10: Only five states list a direct client requirement.
\item Page 19, line 46: …the Board is currently pursuing.
\end{itemize}
Patricia Lock-Dawson moved to approve the minutes as amended. Sarita Kohli seconded. The Board voted unanimously (12-0) to pass the motion.

Items XXI and XXII were heard following item XI.

XXI. Election of Board Officers for 2014-2015

Dr. Leah Brew nominated Christina Wong for Board Chairperson. Patricia Lock-Dawson seconded. Christina Wong accepted the nomination. The Board voted unanimously (12-0) to elect Christina Wong as the Board Chairperson.

Renee Lonner nominated Dr. Leah Brew as Board Vice Chairperson. Dr. Peter Chiu seconded. Dr. Leah Brew accepted the nomination.

Sarita Kohli nominated Deborah Brown as Board Vice Chairperson. Patricia Lock-Dawson seconded. Deborah Brown accepted the nomination.

Dr. Leah Brew withdrew her nomination for Vice Chairperson.

The Board voted unanimously (12-0) to elect Deborah Brown as the Board Vice Chair.

XXII. Discussion and Possible Action Regarding Compensation for the Executive Officer

The current compensation for the Board’s Executive Officer position was established in 2000 following a 1999 salary review of 26 Executive Officer positions within Department of Consumer Affairs (DCA). Since then, there has not been an increase in compensation.

Since 1999, the Board has grown, and the Executive Officer has taken on additional responsibilities. Dr. Wietlisbach suggested that the Board recommend a salary increase.

In July 2011, DCA contracted with CPS HR Consulting to conduct an executive officer salary assessment to determine any meaningful changes in job duties and responsibilities that could be supportive of a request for a salary increase. The study was limited due to budgetary constraints at that time. The review did not find major changes that had not been addressed in prior salary increase requests.

The Board’s Executive Officer position was included in the 2011 study. However, at the time the study was conducted, California was experiencing shortfalls in its budget, across state government, that resulted in furloughs, vacancies, and hiring freezes. The direction of the administration at that time was to reduce program expenditures, and increases in staffing levels were not permitted.

Dr. Wietlisbach outlined the major program changes that have increased the Board’s legislative and regulation activity since 1999, including the passage of SB 788 in 2009, which added a fourth mental health profession to the Board’s regulatory responsibilities. There has also been an increase in the Board’s licensing population, budget, and staffing since 1999.

Dr. Leah Brew moved to submit a letter to the Director of Consumer Affairs requesting that DCA submit the Board’s request to CalHR to increase the Executive
Officer’s salary range to the next appropriate level. Patricia Lock-Dawson seconded. The Board voted unanimously (12-0) to pass the motion.

Dr. Wietlisbach called for a break at 9:20 a.m. and reconvened at 9:38 a.m.

XII. Executive Officer’s Report

a. Budget Report

Kim Madsen provided a brief summary of the Board budget report:

- The 2013/2014 budget for the Board is $8,240,648. As of March 31, 2014, the Board has spent $5,126,675 reflecting 62% of the total budget. The Board is projecting an unencumbered balance of $160,000.

- As of March 31, 2014, total revenue collected is $6,246,068.

- The Board’s fund condition reflects 3.3 months in reserve.

- The Board’s loan balance to the General Fund is $12.3 million dollars. The Board is scheduled to receive a $1.4 million dollar loan repayment this fiscal year.

- The Board’s proposed budget for fiscal year 2014-15 is $9,139,000 and reflects an increase in Board staffing levels from 42.5 positions to 50 positions.

Annually the Governor submits an update to his budget in mid-May. The May revision contains a revised estimate of General Fund revenues for the current and ensuing fiscal years, and proposals to adjust expenditures to reflect updated revenue estimates.

According to the State Controller’s office, the forecast for the last quarter of the fiscal year is “good.” To date, revenues have exceeded expectations. However, the Governor remains focused on paying down debt and building up reserves with the increased revenue. Therefore, it is unlikely that any new or increased spending not already included in the Governor’s budget will occur.

b. Operations Report

Ms. Madsen provided a summary of the Operations Report. Due to challenges in obtaining statistical data to compile quarterly statistics, the reports are not available for review. Board staff continues to work with the BreEZe team and the vendor to resolve these challenges.

Construction to remodel the Board’s suite is scheduled to begin. This first phase builds the file room to accommodate the Board’s licensing and enforcement files as well as office supplies. The second phase will reduce the size of the Board’s existing file and break room, remove walls to open up the suite, and install additional cubicles. The project is scheduled to be completed in late June or early July. The total cost is estimated to be under $200,000.

Board management recently completed interviews to hire five of the eight positions in the Governor’s 2014/2015 budget. The new hires will begin with the Board in May. The new assignments will consist of three positions in the Licensing Unit and two positions in the Enforcement Unit.
The BreEZe system was implemented six months ago. Many of the issues that staff identified have been resolved with subsequent releases. There will be two additional releases. The first one will be mid-May and the second one in August. Board staff continues testing to confirm that the functionality issues are resolved prior to each release.

Board staff participated in various outreach events during the month of March. In one of those events, the Board’s social work evaluators conducted a webinar with the University of Southern California School of Social Work (USC) to explain the registration and licensure process. This is the second year Board staff has conducted a webinar with USC. This year, several other schools of social work joined the presentation. The webinar was recorded and is available on YouTube.

Board staff also participated in outreach events during the month of April, including the first conference sponsored by the California Association for Licensed Professional Clinical Counselors (CALPCC).

c. Personnel Update

Effective May 12, 2014, Gina Bayless joined the Board as the new Staff Services Manager I and will be responsible for the management of the daily operations of the Consumer Complaint and Investigations Unit.

Effective May 19, 2014, Deborah McAdams joined the Board as a Management Services Technician (MST) in the Licensing Unit. Ms. McAdams will perform the duties of a Licensed Clinical Social Worker (LCSW) Evaluator.

Effective May 19, 2014, Leontyne Lyles joined the Board as an MST in the Licensing Unit. Ms. Lyles will perform the duties of a Licensed Marriage and Family Therapist (LMFT) Evaluator.

Another MST position will be filled within the next few months. This is a 2-year limited-term position in the Licensing Unit.

There is a vacancy in the Enforcement Unit for a Staff Services Analyst. This opening is due to Angie Ramos-Zizumbo’s departure.

The Board hired two seasonal clerks effective March 10, 2014 to assist in the Cashiering and Enforcement Units.

Effective June 2, 2014, Relena Amaro will transfer to the Board as an Office Technician in the Licensing Unit. She will act as both the Licensing Educational Psychologists (LEP) Evaluator and as a Licensing Support Technician.

XIII. Strategic Plan Update

Steve Sodergren reported that management met with SOLID training solutions in February 2014 to complete the final step in the strategic planning process, identifying the tasks that are necessary to accomplish each objective in the strategic plan. The tasks and objectives were discussed and refined during subsequent management meetings.
Currently, management is continuing to discuss implementation strategies in order to ensure successful completion of tasks, objectives and goals.

Mr. Sodergren noted that steps have already been taken on objectives with due dates in 2014. If necessary, due dates on some objectives may change.

XIV. Supervision Committee Update

The Supervision Committee (Committee) held its first meeting in April 2014. The Committee was appointed to conduct a holistic review of the current requirements for supervised work experience and requirements for supervisors. Topics of discussion included:

- The purpose of the Committee.
- A survey conducted by the Board in 2005 to gain a better understanding of the quality and nature of an intern’s or associate’s supervision experience.
- The similarities and differences in supervision requirements for each Board license type.
- Results of staff research concerning the similarity of other states’ supervision requirements.
- Professional organizations that provide guidance on supervisory-related issues and/or have a program that provides certification for supervisors who meet the associations’ standards.
- The possibility of conducting a new supervision survey.

Staff was directed to draft a new supervision survey tool that will be discussed at the next Committee meeting.

Mr. Sodergren announced the next Committee meeting on June 27, 2014, will be at the Phillips Graduate Institute in Chatsworth, California.

Currently, the Committee is composed of two members: an LEP member and a LPCC member. Sarita Kohli suggested that a member from the LCSW and LMFT professions be added to this Committee. Ms. Kohli will consider joining the Committee as the LMFT member.

Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA), expressed that AAMFT-CA intends to be involved in the Committee meetings, and because of that, AAMFT-CA is not concerned with the composition of the Committee.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA), urged the Committee to include input from the employers.

XV. Policy and Advocacy Committee Report

a. Recommendation #1 – Oppose, Assembly Bill 1702 (Maienschein)

Rosanne Helms presented AB 1702 regarding Professions and Vocations – Incarceration. This bill would prohibit a board under the DCA from denying or delaying
an application solely on the grounds that some or all of the licensure requirements were completed while the individual was incarcerated.

Existing law permits a board under DCA to deny a license on the grounds that the applicant has been convicted of a crime, only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which they are applying for licensure.

This bill also states that the provision does not limit the ability of a board to deny a license if the conviction was for a crime substantially related to the qualifications, functions, or duties of the business or profession.

According to the author’s office, the intent of the bill is to remove obstacles preventing individuals who have obtained job training and education while incarcerated, from receiving a license for that particular profession.

Staff is concerned about delays in processing time. The Board does not delay application processing solely on the fact that education or experience was obtained during incarceration. However, all applicants with a conviction or other disciplinary action are automatically routed to the Board’s Enforcement Unit for further investigation. For these applicants, there will be a delay simply because additional staff time is needed to determine if the crime was substantially related and to determine if disciplinary measures are necessary. Delays due to the enforcement process can vary from weeks to several months, depending on the complexity of the case.

The Policy and Advocacy Committee (Committee) recommended that the Board take an oppose position on this bill. This bill has been amended since its consideration by the Committee. The author amended the bill in an attempt to clarify that the prohibition on delay and denial is based on the fact that the applicant completed some or all of the licensure requirements while incarcerated.

Christina Wong stated that BBS licensees are required to obtain a graduate-level education as well as practicum. Since graduate-level education and practicum cannot be accumulated while incarcerated, this bill may not apply to the Board.

Ms. Helms recommended that the Board request to be removed from the bill.

Dr. Leah Brew expressed concern regarding online programs, stating that obtaining a degree online while incarcerated is not impossible. Practicum is not impossible if there is a supervisor at the prison.

**Renee Lonner moved to support AB 1702 if amended to remove the Board from the bill. Samara Ashley seconded. The Board voted unanimously (12-0) to pass the motion.**

b. **Recommendation #2 – Support, Assembly Bill 2058 (Wilk)**

Ms. Helms presented AB 2058 regarding Open Meetings. This bill would make an advisory body consisting of less than three members subject to the Bagley-Keene
Open Meeting Act if the body is a standing committee with a continuing subject matter jurisdiction or a has a meeting schedule fixed by formal action of a state body.

Existing law:
- Establishes the Bagley-Keene Open Meeting Act, which requires that actions and deliberations of state agencies be conducted openly;
- Defines a “state body” as an advisory board, commission, committee, or subcommittee that consists of three or more persons and is created by formal action by the state body or any of its members;
- Requires that all meetings of a state body be open and all members of the public permitted to attend; and
- Requires a state body to provide notice and an agenda at least 10 days prior to a meeting.

This bill revises the definition of a state body subject to the Bagley-Keene Open Meeting Act. Under the proposed change, an advisory body consisting of less than three members would be subject to Bagley-Keene if it is a standing committee with a continuing subject matter jurisdiction or a meeting schedule fixed by formal action of a state body.

According to the author’s office, current law allows standing committees of a state entity to hold closed door meetings as long as they contain fewer than three members and do not vote to take action on items of discussion. The author’s office is concerned that some state agencies are conducting meetings with two or fewer members specifically to avoid open meeting requirements. The author notes it is the intent of the Legislature and the public for government to conduct its business visibly and transparently.

Ms. Helms explained that local government entities must abide by the Brown Act, which is an open meeting act similar to Bagley-Keene. In the early 1990s, the Brown Act contained a similar allowance as Bagley-Keene. This was corrected as soon as the Legislature discovered it; however, a conforming change was not made to the Bagley-Keene Act at that time.

The Board commonly utilizes two-member standing committees to address issues requiring in-depth discussion and analysis. The intent is to create an environment that encourages discussion and sharing of ideas between Board members, staff, and stakeholders, which may eventually be used to generate a legislative or regulatory proposal. No votes are taken at these meetings; any action must be approved by the Board at a Board meeting.

The Board still notices an agenda for these two-member meetings ten days prior, as Bagley-Keene requires.

If this bill were to become law, additional staff time would be required to complete and post meeting minutes.

Samara Ashley moved to support AB 2058. Dr. Peter Chiu seconded. The Board voted unanimously (12-0) to pass the motion.
c. Recommendation #3 – Oppose, Assembly Bill 2165 (Patterson)

AB 2165 died in the Assembly, Business, Professions, and Consumer Protection Committee before it was heard by the Board.

d. Recommendation #4 – Support, Senate Bill 909 (Pavley)

Ms. Helms presented SB 909 regarding Dependent Children – Health Screenings. This bill makes it clear in law that a social worker may authorize a non-invasive initial medical, dental, and mental health screening for a child taken into temporary custody by a county welfare agency due to an immediate danger.

Existing law:

- Requires that when a minor is taken into temporary custody due to an immediate danger, the social worker may authorize the performance of medical, surgical, dental, or other remedial care only if recommended by the attending physician and surgeon or dentist, and if the parent or guardian is notified and does not object.
- Provides that if the parent or guardian is notified and objects to the care, the care shall only be given if the court orders it.
- Provides that if a child is placed under the supervision of a social worker and there is no parent or guardian available to authorize the care, the court may authorize that the social worker to obtain care.

This bill allows a social worker, in the absence of a court order, to authorize a non-invasive initial medical, dental, and mental health screening for a child taken into temporary custody due to an immediate danger. The screening may be prior to the required detention hearing, and may be for any of the following reasons:

- To determine if the child has an urgent medical, dental, or mental health need requiring immediate attention;
- To determine if the child poses a health risk to others; and
- To determine an appropriate placement to meet the child’s medical and mental health care needs as identified in the initial health screening.

This bill specifies that the provisions of the bill do not authorize a child to receive psychotropic medications without parental consent.

The bill also provides a definition for “mental health care.”

The author’s office states that there is no clear statutory authority for a social worker to provide consent for initial health screenings when a child is taken into temporary custody by a county welfare agency during the 72 hours prior to the detention hearing. Such screenings are important because these children sometimes have health conditions such as communicable diseases, chronic health conditions, or mental health crises that may not be immediately evident to the social worker. Because there is no clear authority for these screenings, the various counties have relied on a variety of local rules and blanket juvenile court orders to provide authority, leading to inconsistency in the screenings statewide.

Some situations that may be detected by an initial health screening are:
An infant with a urinary tract infection that may go unnoticed because it cannot be communicated;

A child with behavioral or medical effects of prenatal drug exposure;

A child with asthma who needs an inhaler; or

A child with vision or hearing issues which may require special home placement.

The Committee recommended that the Board take a support position on this bill.

Ms. Lonner expressed concerns with the amendment. In a situation where the child needs medical attention, the bill’s amended language places the burden on the social worker to obtain parental consent. If the parent is angry that the child was taken into custody, the parent can object. A court order must then be obtained, which can take from several days to weeks to obtain.

Rebecca Gonzales, NASW-CA, stated that NASW-CA supports SB 909. She noted that the intent is to address those cases where the county cannot find/contact the parent. She also noted that current law provides for the county to obtain a court order when the parent objects; therefore, the amendment does not change that requirement.

Betty Connolly shared Ms. Lonner’s concern; however, the bill as currently written is an improvement to what is currently in place. She expressed that she would not want this bill to fail due to the language regarding the court order.

Ms. Lonner agreed with Ms. Connolly.

Christina Wong moved to support SB 909. Dr. Leah Brew seconded. The Board voted unanimously (12-0) to pass the motion.

The Board took a short break at 11:03 a.m. and reconvened at 11:21 a.m.

e. Recommendation #5 – Support, Senate Bill 1148 (Yee)

Ms. Helms presented SB 578, sponsored by Senator Wyland. SB 578 was previously SB 1148. This bill would require an LMFT to retain patient records for a minimum of seven years from the date therapy is terminated. It also requires an LMFT to retain a minor patient’s records for a minimum of seven years from the date the patient reaches age 18.

Existing law sets the following statutes of limitations for enforcement actions:

- An accusation filled against a licensee must be filed within three years from the date of Board discovery, or within seven years of the act occurring, whichever occurs first. This may be tolled for the length of time required to gain compliance by the licensee to provide the information.

- There is no statute of limitations for an allegation that a license was obtained by fraud or misrepresentation.

- An accusation alleging sexual misconduct must be filed within three years from the date of Board discovery, or within ten years of the act occurring, whichever occurs first. However, if certain acts of sexual contact with a minor are alleged after the
limitations period expire, an accusation shall be filed within three years of the date of Board discovery if there is independent evidence corroborating the allegation.

- Provides that if the sexual misconduct involves a minor, the seven and ten year limitations are tolled until the minor reaches age 18.

Ms. Helms noted that this bill sets a time period for which LMFTs must keep patient records, but it does not specify a time period for the Board’s other three license types.

The Committee recommended that the Board take a support position on SB 1148, and requested that the sponsor consider including the Board’s other licenses.

Jill Epstein, California Association of Marriage and Family Therapists (CAMFT), stated that CAMFT does not have any problem adding the other license types to the bill as long as it does not garner opposition from the associations.

Mr. Caldwell stated that AAMFT-CA supports this bill.

Ms. Porter stated that CALPCC would like LPCCs to be included in the bill.

Luisa Mardones, California Society for Clinical Social Work (CSCSW), expressed support for the bill; however, she requested that records of minors be kept until the minor reaches age 21.

Sarita Kohli moved to support SB 1148 if amended to include all BBS licenses. Renee Lonner seconded. The Board voted unanimously (12-0) to pass the motion.

Ms. Helms tabled item XV.f. until later in the meeting. This item was presented after item XIX.

XVI. Discussion and Possible Action Regarding Other Legislation Affecting the Board

a. Assembly Bill 809 (Logue) – Healing Arts: Telehealth

Ms. Helms presented AB 809.

Existing law defines “telehealth” as a mode of delivering health care via information and communication technologies. The patient’s location is the originating site, and the health care provider’s location is the distant site.

Existing law also states that prior to providing health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used. The patient must then provide a verbal consent, which must be documented in the medical record.

AB 415 updated the law by removing the term “telemedicine” and its corresponding outdated definition. In its place, the term “telehealth” was used, and telehealth was defined to include a more broad, up-to-date range of services.

Since AB 415 became effective, two unintended consequence have arisen:
1. Business and Professions Code (BPC) §2290.5(b) states that “Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use.”

The term “originating site” is defined as the location of the patient. This implies that if the health care provider does not physically go to the site where the patient is located to obtain the patient’s verbal consent, then he or she is guilty of unprofessional conduct and subject to disciplinary action of his or her license or registration. This runs counter to the purpose of telehealth, which is to use electronic means to make health care more accessible, especially for patients in rural areas.

2. BPC §2290.5(b) is also written to require that a health care provider must obtain verbal consent for telehealth prior to every visit with the patient. Several physicians have complained that this requirement is burdensome.

This bill requires the health care provider initiating the use of telehealth at the originating site to do the following:

- Inform the patient about the use of telehealth;
- Obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health during a specified course of health care and treatment;
- Document the consent in the patient’s medical record; and
- Transmit the documented consent to a distant-site health care provider who will be providing the telehealth services upon initiation of that treatment.

This bill requires the distant-site health care provider to either confirm the patient’s telehealth consent from the originating provider, or separately obtain and document telehealth consent from the patient.

A previous version of this bill was presented to the Board at its May 2013 meeting. The Board decided not to take a position on the bill at that time.

Ms. Brown opined that this bill seems vague. She stated that telehealth is growing quickly and must be addressed. Ms. Brown expressed that she would like to get input from licensees.

Ms. Helms added that the problem with the bill as written is that it requires a patient’s consent for each visit. She agreed that the bill needs more work to clarify procedures and guidelines.

Dr. Harry Douglas stated that if this legislation is going to help further define telehealth, then the Board should support it.

Dr. Brew suggested removing the Board from the bill and forming a committee to research this matter; she added that one bill cannot apply to all of the professions.
Ms. Madsen stated that this bill is a clean-up bill for what is already in law. The Board’s goal in the near future is to address telehealth as it relates to the BBS professions.

Ms. Helms responded that the Board is already included in the law, but it is something that could be made more specific later.

Renee Lonner moved to support AB 809. Dr. Harry Douglas seconded. The Board voted unanimously (12-0) to pass the motion.

Ms. Helms tabled items XVI.b.–d. until later in the meeting.

e. Assembly Bill 1775 (Melendez) – Child Abuse and Neglect Reporting Act: Sexual Abuse

Ms. Helms reported on AB 1775. This bill makes downloading and streaming or accessing via digital media any material in which a child is engaged in an obscene sexual act a mandated report under the Child Abuse and Neglect Reporting Act (CANRA).

Existing law establishes the CANRA which requires a mandated reporter to make a report in instances in which he or she knows or reasonably suspects that a child has been the victim of child abuse or neglect.

According to the author’s office, CANRA was written before downloading of material was a common occurrence, and therefore, it is not specifically mentioned. Therefore, CANRA does not specifically require a mandated report for downloading pornography via the internet.

CAMFT reports that it receives a number of calls from its members, who are mandated reporters under CANRA, asking if they are required to make a mandated report when they learn someone is downloading child pornography.

While the law mandates a mandated report for printing or copying of these materials, the law does not specifically mention downloading, and therefore CAMFT is unable to answer this question.

Sarita Kohli moved to support AB 1775. Dr. Leah Brew seconded. The Board voted unanimously (12-0) to pass the motion.

Ms. Helms tabled items XVI.f.-g., XVII., and XVIII. until later in the meeting.

XIX. Legislative Update

Ms. Helms reported on legislative proposals that the Board is currently pursing:

- AB 2213: LMFT and LPCC Out-of-State Applicant Requirements
  This bill passed the Assembly Business, Professions, and Consumer Protection Committee and has been referred to the Assembly Appropriations Committee

- SB 1466: Omnibus Legislation
  This bill has been referred to the Senate Appropriations Committee.
AB 1843 (Jones and Gordon): Child Custody Evaluations: Confidentiality

The Board is seeking statutory authority to access a child custody evaluation report for the purpose of investigating allegations that one of its licensees, while serving as a child custody evaluator, engaged in unprofessional conduct in the creation of the report. Currently, the law does not give the Board direct access to the child custody evaluation report. This leaves the Board unable to investigate allegations of unprofessional conduct of its licensees while they are serving as a custody evaluator, even though the Board is mandated to do so by law.

The Board conducted a series of stakeholder meetings in early March. These meetings consisted of representatives from the Assembly Judiciary Committee, the professional associations of the Board’s licensees, the Board of Psychology and their professional association, associations representing family law attorneys, and representatives from the Administrative Office of the Courts.

At these meetings, there was general consensus that licensees acting unprofessionally or unethically should be subject to discipline, and that the confidentiality of the child custody evaluation reports is essential. There were differing opinions on the conditions under which the report should be made available.

At the stakeholder meetings, two questions were raised:

1. Family Code (FC) §3025.5(b) states a federal or state law enforcement office is one of the parties to whom the report may be disclosed. The stakeholders inquired if a Division of Investigation (DOI) investigator could be used to obtain the report for the boards. DOI is a division within DCA that employs peace officers for investigative purposes. The Board sought guidance from the Attorney General’s (AG) office to determine if DOI investigators qualify as state law enforcement for purposes of receiving the reports, and if so, if the Board would be able use this report for investigative purposes and in a subsequent disciplinary action.

2. While the Board was advised by the Administrative Office of the Courts that it may not legally have access to the report, the Board of Psychology has been advised by their DAG that if a party provides the report, they may use it in their investigation. The Board of Psychology is required to use a different unit within the AG’s office, called the Health Quality Enforcement Unit. Board staff has asked the AG’s office for a clarification of why this direction is not consistent.

The AG’s office prepared an informal legal opinion evaluating the situation for the Board. The opinion stated the following:

- The law is uncertain regarding whether a child custody evaluation may lawfully be obtained by a DOI investigator. The AG’s office writes that while there is uncertainty as to whether the Legislature intended to include DOI investigators as state law enforcement officers in FC §3025.5, it appears that it intended to limit the definition to those law enforcement officers who are actively participating in the custody or visitation proceeding.

- The AG's office recommends that “In light of the uncertainty in the law regarding whether DOI investigators are considered law enforcement officers under this code section, and in the interest of saving the Board the time, expense, and uncertainty of petitioning the court for court orders permitting the disclosure of 730 reports in each and every case,” FC §3025.5 should be amended to specifically identify
licensing boards and their agents/investigators as parties the report may be disclosed to. They also recommended that the law should specify certain safeguards, including that the report may only be used to pursue disciplinary action against licensees, as well as confidentiality provisions.

Regarding the second question posed at the stakeholder’s meeting, the AG’s office advised that this opinion applies to the Board of Behavioral Sciences. While it may be possible that the same applies to the Board of Psychology, that board would need to make the same request of the AG’s office.

*The Board took a break for lunch.*

### XV. Policy and Advocacy Committee Report

#### f. Recommendation #6 – Support, Assembly Bill 1505 (Garcia)

Ms. Helms presented AB 1505. This bill will likely not be passed this year; however, there will be a stakeholder group convening this fall to discuss the issue and proceed with language.

This bill would specify that consensual acts of sodomy and oral copulation are not acts of sexual assault that must be reported by a mandated reporter, unless it involves either a person over 21 or a minor under 16.

Existing law:

- Establishes CANRA which requires a mandated reporter to make a report in instances in which he or she knows or reasonably suspects that a child has been the victim of child abuse or neglect.
- Defines “sexual abuse” for the purposes of CANRA as sexual assault or exploitation consisting of several acts specified in law.
- Declares, except under certain specified circumstances, that any person over age 21 who participates in an act of sodomy or oral copulation with someone under age 16 is guilty of a felony.

The Board examined this issue last year when stakeholders expressed concern that consensual oral copulation and sodomy among minors were mandated reports under CANRA, while other types of consensual sexual activity were not.

However, at the same time, staffers at the Legislature contacted Board staff to caution that there had been past legal opinions stating that this interpretation of CANRA was incorrect, and that amendments could potentially have ramifications for family planning agencies.

The Board directed staff to obtain a legal opinion from the DCA legal office. In its legal opinion, DCA found that CANRA does not require a mandated reporter to report incidents of consensual sex between minors of a similar age for any actions described in Penal Code (PC) §11165.1, unless there is reasonable suspicion of force, exploitation, or other abuse. DCA also found past court cases that support DCA Legal’s opinion.
The Board of Psychology directed its staff to seek opinion from the AG’s Office in order to obtain further clarification on the matter.

The Policy and Advocacy Committee (Committee) recommended that the Board take a support position on this bill; however, this bill has been amended since the April 2014 Committee meeting, and staff has concerns regarding the amendments.

The version of the bill that the Committee considered stated that “sexual assault” does not include sodomy or oral copulation for the purposes of CANRA unless a person over age 21 is participating in the act with someone under age 16.

The revised version of the bill, which the Committee did not consider, states that “sexual assault” does not include sodomy or oral copulation for the purposes of CANRA unless it involves either a person over 21 or a person under 16.

Board staff is concerned that the most recent version of the bill does not resolve the lack of clarity in current law as effectively as the previous version did. The current version of the bill actually codifies that consensual sodomy or oral copulation among two minors under 16, is a mandated report of sexual assault under CANRA. This is in conflict with existing case law and the recent DCA legal opinion.

Staff believes that if the intent of the Board is to allow the professional to determine if sodomy or oral copulation among two 15 or 14 year olds, for example, is abusive and reportable or non-abusive and non-reportable, then the current version of this bill goes against that intent.

The author’s staff member stated the original intent of the bill remains, and that they are committed to continue working with stakeholders to find a solution that supports the original intent.

Patricia Lock-Dawson moved to table the position and direct staff to participate in the stakeholder discussions. Dr. Peter Chiu seconded.

Mr. Caldwell expressed that AAMFT-CA shares the Board’s concerns and is not happy with the current bill as written.

Ms. Gonzales expressed that NASW-CA has the same concerns.

Mr. Wong, NASW-CA, recommended a training course in the complex issue of minors and sex.

The Board voted (12-0) to pass the motion.

XVI. Discussion and Possible Action Regarding Other Legislation Affecting the Board

f. Senate Bill 1012 (Wyland) – Marriage and Family Therapists: Trainees

Ms. Helms presented AB 1012. This bill would revise the amount of supervision that may be credited by an intern toward the required experience hours in any one week from 5 hours to 6 hours.
Existing law:

- Requires an applicant for licensure as an LMFT to complete a minimum of 3,000 hours of supervised experience over a period of at least 104 weeks.
- Allows no more than 40 hours of supervised experience to be obtained in any seven consecutive days.
- Allows no more than a combined total of 1,000 hours of the required supervised experience to be direct supervisor contact and professional enrichment activities.
- Requires supervision to include at least one hour of direct supervisor contact for each week for which experience is credited in each work setting.
- Defines “one hour of direct supervisor contact” to mean one hour per week of face-to-face contact on an individual basis, or two hours per week of face-to-face contact in a group.
- Requires an intern to receive at least one additional hour of direct supervisor contact for every week in which more than 10 hours of client contact is gained in each setting.
- Requires the applicant to have a minimum of 52 weeks of supervised experience in which at least one supervised hour was individual, face-to-face supervision.

Currently, MFT interns are limited to counting five hours of supervision per week toward their required experience hours for licensure. The sponsor of this bill states that often, MFT interns are working in a number of settings simultaneously in order to gain the experience hours required for licensure. Interns working in multiple settings may be required by law to have more than five supervised hours per week. Therefore, these individuals may be required to obtain some hours of supervision that they cannot count.

CAMFT notes that many work sites are only offering their interns group supervision. Therefore, an intern may easily be required to have more than 5 hours of supervision, as one unit of supervision equals two hours of supervision in a group.

Current law limits hours of direct supervisor contact and professional enrichment activities to a combined total of no more than 1,000 hours. Of these 1,000 hours, no more than 550 may be professional enrichment activities. The Board’s LMFT evaluator reports that most applicants are already at or very close to this 1,000 hour limit.

If this bill were to pass, it would not apply retroactively. This means that supervision hours that were earned prior to January 1, 2015 would continue to count at a maximum of five hours per week.

Having two different standards for counting supervision hours depending on when they were earned could make the evaluation process more time-consuming. Evaluators must already apply two different standards for supervision hours that were earned before and after January 1, 2010 (when a new law took effect to reduce supervision hours), and this would add another level of review to supervised hours.
The Board has formed the Supervision Committee, which is tasked with conducting an in-depth review of the requirements for supervised work experience and the requirements for supervisors. This committee met in April and June.

Ms. Helms noted that the title of this bill may need to be revised. The change proposed by this bill would affect interns, not trainees.

The Policy and Advocacy Committee opted to not take a position on this bill, but to offer technical support.

Dr. Brew suggested including LPCCs.

Mr. Caldwell expressed that AAMFT-CA supports this bill.

The other associations were asked if they would want to be included in the bill. Mr. Wong, NASW-CA, stated that NASW-CA does not have a position and would need more time to consider it. Ms. Porter, CALPCC, stated that they would like to be included in the bill.

Christina Wong moved to support SB 1012 if amended to include LPCCs, to change the language to reflect “Interns” instead of “Trainees,” and to add the retroactive language. Dr. Leah Brew seconded. The Board voted unanimously (12-0) to pass the motion.

b. Assembly Bill 2198 (Levine) – Mental Health Professionals: Suicide Prevention

Ms. Helms presented AB 2198. This bill would require Board licensees to complete a six-hour training course in suicide assessment, treatment and management. It would also require new applicants who began graduate study after January 1, 2016 to take a 15-hour course in suicide assessment, treatment and management.

There is currently no specific requirement that a licensee of the Board must show coursework in his or her degree or must complete continuing education (CE) that covers suicide assessment. However, LPCC licensees are required to complete coursework in crisis or trauma counseling. Several organizations indicated a need for improved education and training in suicide assessment.

The intent of this bill is to ensure mental health professionals have concentrated training in suicide assessment, treatment, and management. The author’s office noted that suicide is the 10th leading cause of death in the United States.

Ms. Helms noted that it is not clear from the current language whether the intent is for coursework to be taken prior to registration as an intern/associate, or prior to licensure. The proposed LMFT and LCSW sections state the requirement is prior to licensure, while the LPCC section states the requirement is prior to exam eligibility or intern registration. The language should be amended to be consistent across all license types.

Language was proposed allowing acceptance of coursework that may have already been taken by the licensee, either in the degree program or as a separate course.
At its April 2014 meeting, the Policy and Advocacy Committee (Committee) decided not to take a position on this bill, as the author’s office had indicated the bill would be amended. However, the Committee directed staff to watch the bill and to provide the author’s office with technical support. Staff has provided technical assistance, and the bill has been amended substantially since the Committee met in April.

Ms. Lonner stated that this belongs in, and is included in, graduate school curriculum; therefore, a mandated course is not necessary. Ms. Lonner suggested that the author’s office should be provided with information regarding how/where the coursework is included in the graduate program.

Dr. Brew stated that the coursework should be required prior to exam eligibility.

Ms. Kohli disagreed that all graduate programs are providing training in suicide prevention. If this bill passes, she supports having this coursework required in graduate school, not after licensure.

Several board members agreed that this is an important issue.

Ms. Gonzales acknowledges that this is a serious issue; however, NASW-CA opposes this bill. Early in the process, NASW-CA and the author discussed forming a stakeholders group to establish best practices guidelines; however, this idea fell through. NASW-CA states that suicide prevention training is provided at the graduate-school level. NASW-CA also offers coursework to those who want more training in suicide prevention. Ms. Gonzales also noted that there is already a lot of coursework required for CE.

Mr. Caldwell agreed that suicide prevention is a serious issue; however, the bill, as written, seems unlikely to accomplish the author’s intent. He added that there is not a shortage in suicide intervention training at the graduate level. Mr. Caldwell explained that it is specifically mentioned in the law and ethics course that LMFTs must have this training. Currently, therapists are hampered with client autonomy and the lack of hospital beds. This bill does not solve the problem of access to care.

Ms. Epstein expressed that CAMFT opposes AB 2198 for the same reasons cited by NASW-CA and AAMFT-CA.

Ms. Porter also expressed that CALPCC opposes AB 2198 for the same reasons cited by NASW-CA and AAMFT-CA.

Ms. Helms suggested not taking a position, and to request a stakeholder process to work towards a solution.

Mr. Caldwell stated that AAMFT-CA took the position of oppose AB 2198 unless amended. AAMFT-CA wants to convene a stakeholder process as previously discussed.

Ms. Helms stated that the Board could choose to not take a position, and write a letter indicating the wishes of the Board to convene a task force to establish best practices; and later, submit a proposal to the Legislature.
Dr. Chiu stated that in graduate school, the student goes through the suicide prevention training; but if the training is mandated to require a number of hours in suicide prevention, it cannot be ignored. Dr. Chiu stated that perhaps this needs a mandated process even though it will not please the professions that are affected by this.

Ms. Kohli agreed that suicide prevention was infused in the curriculum, but the curriculum did not specifically address suicide prevention separately.

Mr. Caldwell stated that maybe the solution needs to be legislative, but to determine that could be emotionally-based instead of a scientifically-based. This is why a task force can effectively work this out. AAMFT-CA urges the Board to take the position of oppose unless amended so that it forces the conversation. If the Board does not take a position, the bill will continue forward.

Ms. Connolly asked if there would be any motivation from the author’s office to go back and discuss this if they see that legislatures are on board with the bill.

Dr. Chiu stated that the Board could write a letter requesting stakeholder involvement and list the Board’s concerns to modify the bill. If the author’s office does not want to entertain the stakeholder involvement, the Board could at least make its points to fix the legislation as long as the Board does not oppose the bill.

Ms. Helms agreed that clean-up language is needed. The Board could provide the technical clean-up and then request to have a stakeholder meeting.

Mr. Caldwell stated that AAMFT-CA took a position of oppose unless amended to recast the bill as a task force. Their recommendation is oppose unless amended to amend the technical issues as well as the address the involvement of stakeholders.

Ms. Helms outlined the technical issues to:
- Include equivalent education language;
- Change the timing of the requirement so that interns who began the degree program before 2016 are not excluded;
- Make LMFT and LPCC education references consistent; and
- Add psychiatrists to the bill.

Dr. Peter Chiu moved to oppose AB 2198 unless amended to include the technical cleanup provided by Rosanne Helms. Renee Lonner seconded. The Board voted (9 yea, 1 nay) to pass the motion.

c. Assembly Bill 2041 (Jones) – Developmental Services: Regional Centers: Behavioral Health Treatment

This item was removed from the agenda.

d. Assembly Bill 2396 (Bonta) – Expungement: Licenses

Ms. Helms presented AB 2396. This bill would prohibit the Board from denying a license solely based on the applicant having certain types of convictions that have been expunged.
Existing law:

- Allows a board under DCA to deny a license if the applicant has one of the following:
  1. A criminal conviction. A conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  2. Committed a dishonest, fraudulent, or deceitful act with intent to substantially benefit his/herself, or with the intent to substantially injure someone else.
  3. Committed an act that, if committed by a licensee, would be grounds to suspend or revoke the license.

- Only allows a board to deny a license if the crime is substantially related to the qualifications, functions, or duties of the profession.

- Allows the Board to deny a license or registration regardless of whether the conviction has been expunged.

- Requires the Board to consider the following when evaluating the rehabilitation of an applicant and his or her present eligibility for a license or registration:
  1. The nature and severity of the act or crimes;
  2. Evidence of committing any subsequent acts;
  3. The time elapsed since the acts;
  4. The applicant’s compliance with his or her terms of probation, parole, restitution, or other sanctions; and
  5. Any evidence of rehabilitation by the applicant.

Currently, the court is allowed to permit a defendant to withdraw a plea of guilty or nolo contendere and enter a not guilty plea, or allows a court to set aside a guilty verdict, if the defendant has fulfilled the conditions of probation, been discharged from probation, or otherwise been granted relief. The court must then dismiss the accusations and release the defendant from all penalties and disabilities. The defendant is still required to disclose the conviction in an application for state licensure. This provision of law does not apply to certain sex offenses.

The author’s intent is to reward rehabilitation and reduce employment barriers for those with criminal records who have been rehabilitated.

Examples of convictions that Board applicants sometimes have, that may be eligible for expungement, include convictions for petty theft, grand theft, drug or alcohol use, or fraud. These convictions may be substantially related to the practice of the profession, and may be especially relevant if there are multiple convictions showing a pattern of use, even if those convictions are expunged.

Under the current process prescribed by law, if the Board saw an applicant with a conviction that it determined was substantially related to the practice of the profession, the first step would be to deny the license. Then, under law, the applicant would have 60 days to request a hearing. At the hearing, the Board would ask the applicant to show evidence of rehabilitation. The Board would evaluate the applicant based on the criteria in the Board’s regulations.
If this bill were to pass, the Board would no longer be able to deny a license based on the fact that the applicant had a conviction, if that conviction had been expunged.

In such a case, if the Board would need to “prove up” the case in order to take disciplinary action if it had public protection concerns. This means that the Board would need to conduct its own investigation to substantiate the cause of the violation of law. If the Board was able to substantiate the violation, it may then present this information at a hearing. This type of Board investigation might involve interviewing parties involved in the incident. Requiring the Board to attempt to prove up these cases would lead to increased enforcement processing times and decreased public protection.

If the Board were required to prove up every case it would have normally denied due to a substantially related conviction, this would cause a significant fiscal impact to the Board. The Board would face increased costs in staff, Attorney General’s Office, and the Office of Administrative Hearings.

The proposed language in this bill contains language stating it is “notwithstanding any other provision of this code.” Therefore, the language in this bill would override current Board provisions.

Ms. Wong expressed serious concerns with this bill. The bill takes away the Board’s authority.

**Dr. Leah Brew moved to oppose AB 2396. Betty Connolly seconded. The Board voted (8 yea, 1 abstention) to pass the motion.**

_The Board took a break at 3:29 p.m. and reconvened at 3:36 p.m._

**g. Other Legislation As Needed**

There were no reports on additional legislation.

**XVII. Discussion and Possible Action Regarding Proposed Revisions to the California Code of Regulation, Title 16, Sections 1820.5 and 1822; Add New Sections 1820.6 and 1820.7 Licensed Professional Clinical Counselors: Requirement to Work with Couples and Families**

Christy Berger presented the proposed revisions.

At its meeting in March 2014, the Board approved a regulatory proposal pertaining to LPCCs and treatment of couples and families. Under current law, LPCCs may not treat couples or families unless they complete all of the following training and education:

- Six semester or nine quarter units focused on theory and application of marriage and family therapy, or a named specialization or emphasis area of the qualifying degree in marriage/marital and family therapy, marriage, family, and child counseling, or couple and family therapy;

- At least 500 hours of documented supervised experience working directly with couples, families or children; and
Six hours of CE specific to marriage and family therapy during each two-year renewal cycle.

The regulatory proposal contains a requirement that LPCCs obtain Board approval to treat couples and families, and that the LPCC must provide evidence of this approval to couple or family clients prior to treatment, or to a supervisee prior to supervision, beginning July 1, 2015.

The proposal was approved by the Board in March 2014, and staff began working on the regulation package for submission to the Office of Administrative Law. As part of the fiscal analysis required for that package, staffing needs for the approval process were determined, as well as changes needed to the Breeze database system.

Staff concluded that the July 1, 2015 effective date for the requirement that LPCCs provide a copy of the Board approval to clients and supervisees may not be feasible. Staffing for this new review process, as well as changes to the BreEZe database system, must be in place early enough for the Board to issue approvals prior to the deadline.

Christina Wong moved to direct staff to make any discussed changes, and any non-substantive changes, and to run as a revised regulatory proposal. Dr. Leah Brew seconded. The Board voted unanimously (9-0) to pass the motion.

XVIII. Discussion and Possible Action Regarding Proposed Amendments to the Omnibus Bill Amending Business and Professions Code Sections 4980.399, 4992.09, 4999.55

Ms. Helms presented the amendments to the Omnibus Bill.

Board staff is in the process of implementing the examination restructure, which will change the examination process for applicants who are seeking licensure as an LMFT, LCSW, or LPCC. The exam restructure becomes effective on January 1, 2016.

Once the exam restructure becomes effective, registrants must take the California law and ethics examination prior to registration renewal. In addition, any registrants needing a subsequent registration number will be required to pass the California law and ethics exam before receiving their subsequent number.

Due to concerns that a registrant renewing a registration in the months just after January 1, 2016 will not have had much time to attempt the California law and ethics exam, and that those needing a new registration number in the months after the exam restructure becomes effective will not have sufficient time to pass the California law and ethics exam, the Board approved the following exceptions to be included as amendments in the omnibus bill:

- To allow an applicant who holds a registration, who applies for renewal of that registration between January 1, 2016 and June 30, 2016 to, if eligible, to renew the registration without first participating in the California law and ethics examination.

- To allow an applicant who holds or has held a registration, who applies for a subsequent registration number between January 1, 2016 and January 1, 2017, if eligible, to obtain the subsequent registration number without first passing the California law and ethics examination.
The intent of the above amendment is that if someone’s registration expired during the grace period, he or she would be able to renew or obtain a new number without the hardship of unexpectedly having to take the California law and ethics exam.

However, a concern has been raised that the language, as written, could allow any registrant, not just one expiring during the grace period, to apply for the renewal during the grace period in order to exempt themselves from later having to take the California law and ethics exam that year, even if they are not expiring during the grace period. This was not the intent of the grace period.

Staff is recommending an additional amendment, which would specify that in order to receive the exemption, the registration must be expire no later than the end of the grace period.

Dr. Leah Brew moved to direct staff to make any discussed changes, and any non-substantive changes to the proposed language, and submit to the Legislature as an amendment to the omnibus bill. Renee Lonner seconded. The Board voted unanimously (9-0) to pass the motion.

XX. Rulemaking Update

Ms. Berger presented an update on the following regulations:

- Continuing Education – Staff is working with the Office of Administrative Law (OAL). OAL has some concerns regarding the standards of the profession and how that affects the quality of the courses. Staff is likely to make changes and bring it back to the Board with a 15-day notice to the public. A special Board meeting will need to be scheduled.

  Ms. Helms noted that a special Board meeting will be scheduled for June.

- Disciplinary Guidelines, Uniform Standards – These regulations are at OAL and will be noticed on May 23rd. The hearing is scheduled for July 8th.

- Requirements for LPCCs to Treat Couples and Families – A minor language change was approved earlier today by the Board. Staff will submit the proposal to OAL for publication, which will begin the 45-day public comment period.

- Examination Restructure - A revised proposal was approved by the Policy and Advocacy Committee at its meeting in February 2014. Staff plans to bring this proposal for consideration by the Board at its meeting in August 2014 once additional details have been worked through.

XXIII. Suggestions for Future Agenda Items

Ms. Wong recommended a presentation of an overview of the Enforcement program.

Ms. Lock-Dawson would like to get an update on what is being done to address school violence. Dr. Chiu would like to discuss college violence, as well.
XXIV. Public Comment for Items not on the Agenda

Ms. Madsen proposed a CE regulation meeting in June with the Supervision Committee. The Board members agreed to a teleconference Board meeting on June 26th in Sacramento at 10 a.m. The Supervision Committee is scheduled on June 27th.

Ms. Madsen read an email submitted for public comment from Robert Werst:

My name is Robert Wertz, I address today’s BBS meeting (in writing) on the issue of the unconscionable time spans between an applicants submission of Licensed Marriage and Family Therapist Examination Eligibility Application and the eligibility date. A review of past meeting minutes reveals an awareness of the issue, however a review of the statistics, reveals little success or interest in effectively addressing the problem.

In many cases applicants have put careers aside to complete extensive coursework and complete professional hours, under supervision, at little or no financial compensation. Having completed the rigorous requirements, often at great personal, professional and financial sacrifice and being denied access to the licensing exam is noting short of unconscionable and is inconsistent with the board’s mission.

Solutions based solely on increased personnel have been, and will continue, to prove ineffective. Budget issues, staff turnover, training issues, projects competing for priority, will only continue to frustrate progress in reducing the time span.

A reasonable review time of six, or eight weeks at the very most, can only be achieved by effective modification of the process. I ask that this issue be an agenda item for the next meeting and any subsequent meetings until an eight-week goal is met.

Staff is asked to present an effective plan for this time span reduction, at the 8/27-28/14 board meeting.

Licensed Marriage and Family Therapist Examination Eligibility Applications
Per BBS Website:
“For the week noted, staff is working on applications received during the week(s) noted below.”
March 3, 2014 - June 13, 2013 (8 months, 18 days)
(At time of March 5-6/2014 Board meeting.)

(From minutes of 3/6/14 meeting: “As of today, the staff is processing the following applications according to receipt dates: MFT Examination Applications received April 1, 2013”) {11months, 5days}
Above is likely an error on the part of reporting staff.

March 10, 2014 - June 7, 2013 (9 months, 3 days)
April 7, 2014 - June 27, 2013 (9 months, 11 days)
April 14, 2014 - July 5, 2013 (9 months, 9 days)
May 5, 2014 - August 7, 2013 (8 months 28 days)
Dr. Wietlisbach presented a Resolution to Renee Lonner for her service to the Board of Behavioral Sciences. Ms. Lonner expressed her gratitude to the Board, staff, and stakeholders.

Dr. Wietlisbach thanked the Board, staff, counsel and associations for their work, commitment, and assistance to her during her term as Board Chair.

XXV. Adjournment

The Board adjourned at 4:08 p.m.
CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES
BILL ANALYSIS

BILL NUMBER: AB 1629  VERSION: AMENDED AUGUST 21, 2014
AUTHOR: BONTA  SPONSOR: YOUTH ALIVE
RECOMMENDED POSITION: NONE
SUBJECT: CRIME VICTIMS: COMPENSATION: REIMBURSEMENT OF VIOLENCE PEER COUNSELING EXPENSES

Overview: This bill would make costs incurred for certain services provided by violence peer counselors reimbursable to crime victims through the California Victim Compensation Board.

Existing Law:

1) Sets forth a procedure for the state to assist crime victims in obtaining compensation for certain losses suffered as a direct result of a criminal act. (Government Code (GC) §13950)

2) Defines “peer counseling” as counseling offered by a provider of mental health counseling services who does the following (GC §13951(f)):
   a. Has completed a course in rape crisis counseling skills development;
   b. Participates in continuing education in rape crisis counseling skills development; and
   c. Provides rape crisis counseling in California.

3) Permits the California Victim Compensation and Government Claims Board (CA Victim Compensation Board) to reimburse certain medical, outpatient psychiatric, psychological, or other mental-health counseling-related expenses incurred by a crime victim. This includes peer counseling services provided by a rape crisis center. (GC §13957(a))

4) Allows psychiatric, psychological, or other mental health counseling services to be reimbursed only if the services were provided as follows (GC §13957(a)):
   a. By a person who was authorized to provide the services pursuant to GC §13959 as it read on January 1, 2002;
   b. By a person licensed by the state to provide the services; or
   c. By a person properly supervised by a licensed person.

5) States that payments by the CA Victim Compensation Board for peer counseling provided by a rape crisis center may not exceed $15 per hour of service. (GC §13957.7(d))
This Bill:

1) Includes peer counseling services provided by a violence peer counselor at a service organization for victims of violent crime, as one of the services for which the California Victim Compensation Board is permitted to reimburse a victim. (GC §13957.9(a)(2))

2) Defines a “service organization for victims of violent crime” as a nongovernmental organization with a primary mission to provide services to victims of violent crime, and which provides such services to these victims and their families. (GC §13957.9(c)(1))

3) Defines “violence peer counseling services” as counseling by a violence peer counselor in order to render advice to a violent crime victim and his or her family. (GC §13957.9(c)(1)(2))

4) Defines a “violence peer counselor” as a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime, whether or not they are financially compensated. The violence peer counselor must meet the following criteria: (GC §13957.9(c)(3))
   a. Has at least six months full-time equivalent experience providing peer support services, acquired through employment, volunteering, or an internship;
   b. Has completed a training program to prepare an individual who was once a mental health services consumer to use his or her life experience with mental health treatment to promote the mental health recovery of others who were victims of a violent crime;
   c. Possess 40 hours of training in the following areas:
      i. The neurological, biological, psychological, and social effects of trauma and violence;
      ii. Peace-building and violence prevention strategies; and
      iii. Post-traumatic stress disorder and vicarious trauma.
   d. Requires a violence peer counselor to be supervised by a licensee of the Board of Behavioral Sciences when providing violence peer counseling services. The licensee must be employed by the same service organization as the violence peer counselor. (GC §13957.9(c)(3)(D))

Comment:

1) Existing Law. Under the Board’s current licensing law, a license is required to practice marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling in this state. The only exception is for employees working in an exempt setting, which must be one of the following:
   i. A governmental entity;
   ii. A school, college, or university;
   iii. An institution that is both nonprofit and charitable.
2) **Definition Unclear.** This bill defines a “violence peer counselor” who is eligible for reimbursement from the CA Victim Compensation Board as a provider of formal or informal counseling services, who is employed by a service organization for victims of violent crime. The violence peer counselor must have six months experience, complete specified training programs, and be supervised by a Board licensee.

This bill also defines a “service organization for victims of violent crime” as a nongovernmental organization with a primary mission of providing services to victims of violent crime, and which provides these services to both victims and their families.

Staff has two primary concerns with these definitions:

a. The bill permits a “violence peer counselor” to receive reimbursement for providing formal or informal counseling services. This definition is very broad. The term “formal counseling services” is not defined. It is unclear whether formal counseling services would rise to the level of psychotherapy or clinical practice for which a Board license would be required. In addition, the education and experience required for a violence peer counselor does not come close to the education and experience required for an associate or intern registration for any of the Board’s license types.

   If the formal counseling services do rise to the level where a license would be required, the language seems to create an exemption from licensure, permitting only a minimal amount of training and experience, as well as supervision by a Board licensee, in order to obtain reimbursement for practice.

b. The definition of “service organization for victims of violent crime” is overly broad and does not specify that the service organization must be nonprofit and charitable. It simply states that it may be any nongovernmental organization that meets certain criteria. Under Board licensing law, psychotherapeutic or clinical services may only be performed by unlicensed practitioners if the entity is both nonprofit and charitable.

The consequences of the unclear language are twofold. First, it is misleading because it could imply to an unlicensed violence peer counselor that he or she may practice psychotherapy in a private practice setting without a license, even though that is a violation of the Board’s practice acts. Second, it could also mislead a Board licensee, who is supervising a violence peer counselor, into believing that his or her violence peer counselor supervisee does not need to be licensed or registered, even if they are in a non-exempt setting. If the violence peer counselor then provides clinical or psychotherapeutic services in a non-exempt setting, this would be grounds for the supervising licensee to receive disciplinary action for violating the Board’s licensing law.

3) **Recommended Amendment.** Staff recommends that definitions of a “violence peer counselor,” “violence peer counseling services,” and “service organization for victims of violent crime” be amended to clarify that services falling under the scope of practice of the Board’s licensing acts, conducted in a non-exempt setting, require licensure or registration with the Board.

4) **Support and Opposition.**

   **Support:**
   - Youth Alive (sponsor)
   - AFSCME
   - California Catholic Conference
   - California Equity Leaders Network
• California Pan-Ethnic Health Network
• Californians for Safety and Justice
• Children’s Defense Fund-California
• City of Oakland
• Crime Victims United of California
• National Network of Hospital-based Violence Intervention Programs
• PolicyLink
• San Francisco Wraparound Project
• Wellspace Health

Opposition:
• Taxpayers for Improving Public Safety

5) History.

2014
08/19/14 Read second time and amended. Ordered to third reading.
08/18/14 From committee: Do pass as amended. (Ayes 5. Noes 0.) (August 14).
08/04/14 In committee: Placed on APPR. suspense file.
06/24/14 In committee: Set, first hearing. Hearing canceled at the request of author.
06/17/14 From committee: Do pass and re-refer to Com. on APPR. (Ayes 5. Noes 0.) (June 17). Re-referred to Com. on APPR.
06/05/14 Referred to Com. on PUB. S.
05/28/14 In Senate. Read first time. To Com. on RLS. for assignment.
05/28/14 Read third time. Passed. Ordered to the Senate. (Ayes 79. Noes 0. Page 5242.)
05/27/14 Read second time. Ordered to third reading.
05/23/14 Read second time and amended. Ordered to second reading.
05/23/14 From committee: Do pass as amended. (Ayes 17. Noes 0.) (May 23).
04/09/14 In committee: Set, first hearing. Referred to APPR. suspense file.
03/26/14 From committee: Do pass and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (March 25). Re-referred to Com. on APPR.
02/20/14 Referred to Com. on PUB. S.
02/11/14 From printer. May be heard in committee March 13.
02/10/14 Read first time. To print.
An act to add and repeal Section 13957.9 of the Government Code, relating to crime victims, and making an appropriation therefor.

LEGISLATIVE COUNSEL’S DIGEST


Existing law provides for the compensation of victims and derivative victims of specified types of crimes by the California Victim Compensation and Government Claims Board from the Restitution Fund, a continuously appropriated fund, for specified losses suffered as a result of those crimes. Existing law sets forth eligibility requirements and specified limits on the amount of compensation the board may award. Existing law authorizes the board to reimburse a crime victim or derivative victim for the amount of outpatient mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by a rape crisis center, as specified.

This bill would additionally, until January 1, 2017, authorize the board to reimburse a crime victim or derivative victim for the amount of
outpatient violence peer counseling-related expenses incurred by the victim or derivative victim, as specified. By expanding the authorization for the use of moneys in a continuously appropriated fund, this bill would make an appropriation.


The people of the State of California do enact as follows:

SECTION 1. Section 13957.9 is added to the Government Code, to read:
13957.9. (a) (1) In addition to the authorization provided in Section 13957 and subject to the limitations set forth in Section 13957.2, the board may grant for pecuniary loss, when the board determines it will best aid the person seeking compensation, as follows:

(2) Subject to the limitations set forth in Section 13957.2, reimbursement of the amount of outpatient psychiatric, psychological, or other mental health counseling-related expenses incurred by the victim or derivative victim, including peer counseling services provided by violence peer counseling services provided by a service organization for victims of violent crime, and including family psychiatric, psychological, or mental health counseling for the successful treatment of the victim provided to family members of the victim in the presence of the victim, whether or not the family member relationship existed at the time of the crime, that became necessary as a direct result of the crime, subject to the following conditions:

(A) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars ($10,000):

(i) A victim.

(ii) A derivative victim who is the surviving parent, sibling, child, spouse, fiancé, or fiancée of a victim of a crime that directly resulted in the death of the victim.

(iii)
(C) A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars ($10,000) for not more than two derivative victims.

(B) The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed five thousand dollars ($5,000):

(A) A derivative victim not eligible for reimbursement pursuant to subparagraph (A), paragraph (1), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.

(B) A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses.

(C) A minor who suffers emotional injury as a direct result of witnessing a violent crime and who is not eligible for reimbursement of the costs of outpatient mental health counseling under any other provision of this chapter. To be eligible for reimbursement under this clause, the minor must have been in close proximity to the victim when he or she witnessed the crime.

(D) The board may reimburse a victim or derivative victim for outpatient mental health counseling in excess of that authorized by subparagraph (A) or (B) paragraph (1) or (2) or for inpatient psychiatric, psychological, or other mental health counseling if the claim is based on dire or exceptional circumstances that require more extensive treatment, as approved by the board.
(4) Expenses for psychiatric, psychological, or other mental health counseling-related services may be reimbursed only if the services were provided by either of the following individuals:

(i) A person who would have been authorized to provide those services pursuant to former Article 1 (commencing with Section 13959) as it read on January 1, 2002.

(ii) A person who is licensed by the state to provide those services, or who is properly supervised by a person who is so licensed, subject to the board’s approval and subject to the limitations and restrictions the board may impose.

(b) The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars ($35,000), except that this amount may be increased to seventy thousand dollars ($70,000) if federal funds for that increase are available.

(c) For the purposes of this section, the following definition shall apply:

1. “Service organization for victims of violent crime” means a nongovernmental organization that meets both of the following criteria:
   (A) Its primary mission is to provide services to victims of violent crime.
   (B) It provides programs or services to victims of violent crime and their families, and other programs, whether or not a similar program exists in an agency that provides additional services.

2. “Violence peer counseling services” means counseling by a violence peer counselor for the purpose of rendering advice or assistance for victims of violent crime and their families.

3. “Violence peer counselor” means a provider of formal or informal counseling services who is employed by a service organization for victims of violent crime, whether financially compensated or not, and who meets all of the following requirements:
   (A) Possesses at least six months of full-time equivalent experience in providing peer support services acquired through employment, volunteer work, or as part of an internship experience.
   (B) Completed a training program aimed at preparing an individual who was once a mental health services consumer to use his or her life experience with mental health treatment, combined
with other strengths and skills, to promote the mental health recovery of other mental health services consumers who are in need of peer-based services relating to recovery as a victim of a violent crime.

(C) Possesses 40 hours of training on all of the following:
(i) The profound neurological, biological, psychological, and social effects of trauma and violence.
(ii) Peace-building and violence prevention strategies, including, but not limited to, conflict mediation and retaliation prevention related to gangs and gang-related violence.
(iii) Post-traumatic stress disorder and vicarious trauma, especially as related to gangs and gang-related violence.
(iv) Case management practices, including, but not limited to, ethics and victim compensation advocacy.

(D) When providing violence peer counseling services, is supervised by a marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, a licensed educational psychologist licensed pursuant to Chapter 13.5 (commencing with Section 4989.10) of Division 2 of the Business and Professions Code, a clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4991) of Division 2 of the Business and Professions Code, or a licensed professional clinical counselor licensed pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code. For the purposes of this subparagraph, the supervision requirement is satisfied if a licensed marriage and family therapist, licensed educational psychologist, licensed clinical social worker, or a licensed professional clinical counselor is shall be employed by the same service organization as the violence peer counselor.

(d) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.