

MEETING MINUTES

Consumer Protection Committee

April 11, 2007

9:30 a.m. – 12:30 p.m.
Ayres Hotel and Suites
325 Bristol Street
Costa Mesa, CA 92626

MEMBERS PRESENT

Judy Johnson, Chair, LEP Member
Renee Lonner, LCSW Member
Howard Stein, Public Member
Joan Walmsley, LCSW Member

STAFF PRESENT

Paul Riches, Executive Officer
Mona Maggio, Assistant Executive Officer
Christy Berger, Legislation Analyst
Justin Sotelo, Regulation Analyst
George Ritter, Legal Counsel

MEMBERS ABSENT

None

GUEST LIST ON FILE

I. Introductions

Judy Johnson, Committee Chair, called the meeting to order at 9:40 a.m. Committee members introduced themselves in place of roll. A quorum was established. Staff and guests also introduced themselves.

II. Review and Approve January 10, 2007 Consumer Protection Committee Meeting Minutes

Howard Stein moved, Joan Walmsley seconded, and the Committee concurred to approve the January 10, 2007 Consumer Protection Committee Meeting Minutes.

III. Review Strategic Plan Goal #3 – Promote Higher Professional Standards Through Rigorous Enforcement and Public Policy Changes – Report on Progress

Mona Maggio stated that a number of the objectives under this agenda item are covered as separate issues during today's meeting. Ms. Maggio provided an update on the following objectives:

Objective 3.3 - Complete 12 Substantive Changes in Laws and Regulations by January 1, 2008. At this time, there were no legislative changes since the February 2007 Board Meeting. The legislature reconvened in January and staff is currently analyzing a number of bills, including proposals for licensure of Alcohol and Drug Abuse Counselors and Licensed Professional Counselors.

The proposal to give Delegation of Authority to the Executive Officer, Title 16, California Code of Regulations (CCR) Section 1803 was submitted and approved by the Office of Administrative Law and was sent to the Secretary of State on March 20, 2007. The regulation becomes effective in 30 days.

Objective 3.7 – Complete Annual Review of Examination Program and Report the Results at a Public Meeting. Staff has identified this objective as being met. The Department of Consumer Affairs (DCA) has contracted with a new examination vendor Psychological Testing, Inc. (PSI). The last day for candidates to test with Thomson/Prometric will be May 31, 2007. Paul Riches and Steve Sodergren met with PSI representatives to prepare for the transition between vendors. Staff has developed a letter to inform candidates of the change in vendors; however, there is still a lot of information we do not know. Additional meetings will be held with PSI and the Office of Examination Resources for information sharing prior to the June 1, 2007 implementation. There will be 13 test sites devoted to DCA licensure candidates. This alone will alleviate many problems that candidates experience when testing with Thomson. Candidates will be able to schedule exams within 5 days of receiving their eligibility notification compared to 14 days previously required by Thomson.

Mr. Riches indicated that staff is receiving a bit of a "crash course" as this is a big change. Ten DCA agencies will use this contract, with the Board as one of the largest based on candidates and the number of exams. New candidate handbooks are under review and will be sent to candidates once available. The professional associations will assist the Board by sharing information on the change in exam vendors, the scheduling process, etc. PSI is headquartered in Burbank, California. Mr. Riches stated that we had a positive kick-off meeting with PSI and we have heard good things about this company. Their bid was the only one submitted in the last round of bidding. Mr. Riches shared that in past we have had an assortment of problems reported about the professionalism and knowledge of the proctors employed by Thomson. We have been assured that the proctors employed by PSI will be fully trained and will have access to PSI headquarters to assist them should problems arise they cannot handle. The 13 DCA sites are brand new sites. PSI has test sites in 23 states – so there may be the opportunity for candidates seeking licensure in California to test in other states; however, currently, only about half of the sites meet our requirements.

Ms. Johnson inquired as to the kind of growth projection we foresee in candidates sitting for the examinations. Mr. Riches responded that licensure growth is 1%-2% increase each year. He added that we would see reduced testing in May due to the transition, and then an increase most likely in July. Additionally, we should see a reduction in the vendor cost of about \$40k-\$50k per year.

IV. Review and Possible Action on Proposal to Adopt a Retired License Status for Marriage and Family Therapists (MFTs), Licensed Clinical Social Workers (LCSWs), and Licensed Educational Psychologists (LEPs)

Justin Sotelo reported that at the January 10, 2007 meeting, the Committee discussed the possibility of creating a retired licensed status for the Board's licensees. This proposal came from staff that receive numerous inquiries and requests from licensees regarding a retired licensed status. Currently, if a licensee retires from practice, he/she can request that his/her license be placed on inactive status and pay a biennial fee of one half the standard active renewal fee, or not pay the fee and allow his/her license to expire. If a licensee allows his/her license to expire, the Board's web site labels his/her license status as "delinquent" until the license is cancelled after five years.

At the January 2007 meeting the committee reviewed a comparison table that illustrates the differences and similarities between those boards that offer a retired license status, (Board of Pharmacy, California Architects Board, Board for Professional Engineers and Land Surveyors, Medical Board of California, and the Board of Registered Nursing) as well as model statutory language that the Board could emulate. The Committee members expressed interest in creating a retired license status and requested that staff come back with proposed legislative language that it could consider recommending to the Board.

At the April 11, 2007 meeting the Committee reviewed the proposed language. Ms. Johnson asked if a licensee would be able to reinstate his/her license from a retired status to an active status. Staff suggested allowing a licensee to reactivate from a retired status license to an active status license within the first three years of going to a retired status. This would be consistent with the existing policy of allowing a delinquent license to be renewed to active status.

The Committee recommended that the Board pursue legislation to create a retired license status for marriage and family therapists, licensed clinical social workers and licensed educational psychologists. This proposal includes amendments to include a reinstatement process within the first three years of the license being in a retired status.

V. Discussion and Possible Action on Proposal to Amend California Code of Regulations (CCR) Section 1887.2 Regarding Exceptions to Continuing Education Requirements

Mr. Sotelo reported that at the February 15, 2007 meeting, the Board reviewed the proposed language and the request for exception form as recommended by the Committee. However, there was discussion to modify the minimum timeframe for CE exceptions pertaining to a disability [under CCR Section 1887.2, subsection(c) (3)] Staff had originally recommended that the timeframe be established at a one-year minimum in order to provide consistency with subdivision (c) (1) [exceptions pertaining to military service] and (c) (2) [exceptions pertaining to residing in another country}. However, the Board voted to modify the minimum timeframe under (c) (3) to "at least nine (9) months."

Staff brought this issue back to the Committee for further discussion. Ms. Maggio stated that the purpose of an exception to the continuing education requirement is for those individuals who were 1) disabled; 2) the main caregiver for an ill family member; 3) lived out of the country for a year; or 4) was serving in the military. However; staff is finding that some licensees are abusing the exception process to get out of completing the CE requirement for their license renewal. Keeping the one-year minimum will provide

consistency with the subdivisions and help eliminate those who are abusing the exception process.

The Committee recommended that the Board proceed with the recommendation that the timeframes for requesting an exception to the continuing education requirement be consistent within the subsections of CCR 1887.2.

VI. Review and Possible Action on Proposal to Clean-Up Continuing Education Regulations

Mr. Sotelo reported that in an effort to meet the Board's strategic planning objectives, staff has reviewed the continuing education regulations and has recommended minor clean-up amendments.

The Committee recommended that the Board proceed with the suggested clean-up regulations.

VII. Review and Possible Action on Proposal to Amend CCR Section 1870 Regarding Two-Year Practice Requirement for LCSW Supervisors

Mr. Sotelo reported that Section 1870 of Title 16, Division 18 of the California Code of Regulations sets forth the requirements for supervisors of Associate Clinical Social Workers (ASW). Section 1833.1 sets forth the requirements for supervisors of Marriage and Family Therapist (MFT) Interns and Trainees.

Currently, Section 1833.1 requires that supervisors of MFT Interns and Trainees be licensed for at least two years prior to commencing any supervision; Section 1870 does not have a comparable requirement for supervisor of ASWs.

In order to provide consistency between the two regulations, staff recommended that language be added under Section 1870 which would require that supervisor of ASWs also be licensed for at least two years prior to commencing any supervision.

A member of the audience suggested that there should be a percentage of required supervisor time with a supervisee. The Committee agreed this might be an issue for discussion at a future meeting.

Charlene Gonzalez suggested a work group be formed so that licensees could discuss these types of issues.

The Committee recommended that the Board proceed with the suggested amendment to Title 16, California Code of Regulations Section 1870.

VIII. Discussion and Possible Action to Allow Supervision of MFT Interns and ASWs Via Videoconferencing

Christy Berger reported that in January 2006 the Committee discussed allowing supervisors to conduct required one-on-one supervision sessions with interns via video conferencing. The Committee directed staff to bring back a specific proposal for limited use of video conferencing for remote locations and specialty access for ASWs and IMFs. The Committee reconsidered the proposal at its April 2006 meeting and it was suggested that perhaps a pilot study should first take place due to concerns regarding confidentiality. After further consideration, however, it was not clear what would be

gained from a pilot study. In the revised proposal presented at the April 2006 meeting, it was discussed that the supervisor would be responsible for maintaining the client's confidentiality. This could be done by ensuring a secure, private connection and data encryption, for example.

The Committee also discussed the amount of direct supervision hours that could be gained via video conferencing. The original proposal would have allowed a maximum of 12 hours of direct supervision via videoconferencing when a hardship existed in obtaining supervision at the setting. The supervisor would have been required to certify that a hardship existed, and the applicant would retain that certification for submission with his or her licensure application. However, after further consideration, staff recommended that the maximum number of hours be capped at 30 hours with or without a hardship situation. There is not good reason to limit this type of supervisor to twelve hours out of a minimum of 104 hours. Additionally, it would be difficult for the supervisor and staff to make a judgment regarding a qualifying hardship situation.

Ms. Gonzalez voiced that she is not in favor of this proposal. The proposal does not speak to the quality of supervision one would receive by video conferencing. She believes the Board may wish to make an exception to those who live in a rural setting.

Ms. Johnson stated that video therapy is growing. She believes 30 hours is sufficient, minimal, but just enough.

A member of the audience inquired as to how the supervisor would read a client's file? How would a supervisor review the supervisee's documentation? How would a supervisor sign off on the hours log?

Mr. Riches responded that the supervisor is still responsible to the supervisee. Face to face meetings would still be necessary and supervision by video conferencing would not be allowed in private practice settings.

It was suggested that a category for video supervision be added to the supervisor responsibility statement.

The Committee recommended that the Board sponsor legislation to permit supervision via videoconferencing consistent with the proposal submitted by staff.

IX. Discussion and Possible Action to Revise LEP Statutes Affected by Senate Bill 1475

Ms. Berger stated that Senate Bill 1475 made a number of changes to the statutes governing Licensed Educational Psychologists (LEP), including:

- Establishing a continuing education (CE) requirement for LEPs. The legislation set the CE requirement at 60 hours every two years. At the time of the legislation, LEPs who received their school psychologist credential on or after July 1, 1994 were required to complete 150 hours of professional development every five years, and average of 30 hours per year.
- Requiring qualifying experience to have been gained in the six years prior to application for licensure.
- Deleted the Board's ability to deem a degree with a title other than those specified in statute as equivalent.

Ms. Berger noted that draft language contained in SB1475 was shared with interest groups prior to its passage but the Board received no comment or opposition to the proposal at that time. However after passage, a number of stakeholders voiced the following concerns:

- The Commission on Teacher Credentialing (CTC) deleted the requirement for 150 hours of professional development effective January 1, 2007 (SB 1209)
- The one year of supervised professional experience required in an accredited school psychology program often takes place more than six years prior to applying for licensure. Many school psychologists do not apply for LEP licensure until later in their careers.
- Many degrees that would otherwise qualify do not have one of the titles specified in statute.

The Committee agreed with staff's recommendation to amend as follows:

- The CE requirement to 36 hours every two years, consistent with MFT and LCSW statutes.
- Permit the one-year of supervised professional experience required in an accredited school psychology program to have been gained at any time prior to the application for licensure.
- Restores the Board's ability to deem a degree with a title other than those specified in statute as equivalent.

Ms. Johnson requested further discussion regarding the supervision of educational psychologists – she prefers only LEPs provide clinical supervision. The Committee discussed if this was feasible. Are there enough LEPs to provide supervision?

Mr. Riches suggested the Committee address supervisor issue later so that this proposal can move forward.

The Committee recommended that the Board sponsor legislation to implement the amendments to the LEP Statutes consistent with this proposal.

X. Review and Discuss Advertising Guidelines and Use of Title for Inactive Licenses

Ms. Maggio stated that the Board receives a number of inquires regarding how a holder of an inactive license can represent himself/herself. Once a licensee places his/her license in inactive status, the licensee cannot practice. The Committee reviewed the advertising guidelines and samples of proper and improper advertisements. Ms. Maggio stated that the Board of Psychology allows licensees holding an inactive license to use the title psychologist, as long as they make it clear that they are not allowed to practice. Ms. Maggio stated that Board staff gives the same message to callers about BBS licensees who have placed their licenses in inactive status.

Ms. Maggio reported that currently, the Board has 3129 inactive LCSW licenses, 5850 MFT inactive licenses and 287 inactive LEP licenses.

Ms. Walmsley commented that an individual should not be handing out a business card if they cannot practice due to an inactive license.

George Ritter, Legal Counsel stated that some form of additional disclosure may be required; that would be consistent with other laws

The Committee recommended that staff draft language for inactive status licenses for the Committee's review.

XI. Discussion Regarding Life Coaching

Ms. Maggio stated that Board staff receives inquiries from consumers and licensees concerning the practice and advertising of life coaching. The standard response Board staff has been providing is that life coaches do not perform services within the scope of practice of our licensees and are not required to be licensed. Life coaches may advertise their services so long as they do not misrepresent themselves.

In an effort to educate ourselves on the differences between coaching and psychotherapy, the Enforcement staff met with Gary Yeatts, MSW, Executive Coach. Though Mr. Yeatts holds a valid LCSW license, he does not practice in that capacity. Mr. Yeatts explained that life coaches are experts in setting goals, providing strategies to achieve those goals and holding clients accountable in reaching their goals.

The Committee reviewed a comparison chart provided by Mr. Yeatts, as compiled by www.CoachVille.com, which identifies the differences between psychotherapy and coaching. He informed staff that ethical guidelines exist through two professional organizations that certify life coaches, the International Coaching Federation and the International Association of Coaches (ICF). According to the ICF, "Coaching is partnering with clients in a thought-provoking and creative process that inspires them to maximize their personal and professional potential."

Special education and/or training are not required unless an individual wishes to become certified through a professional association. Staff research found that no other states currently regulate the practice of life coaching.

Ms. Maggio stated that it is not known how many complaints have been received concerning life coaches as these types of complaints are generally opened for unlicensed practice. The Board does investigate those cases alleging misleading advertising and unlicensed practice.

Ms. Johnson stated that there appears to be a fine line between being a coach and therapy. She knows a lot of life coaches have religious backgrounds.

Ms. Maggio suggested possibly a newsletter article and a piece on the website that provides clarification between a life coach and the scope of practice of the BBS licensees.

A representative from the California Association of Marriage and Family Therapists (CAMFT) stated CAMFT receives a number of calls from individuals who were disciplined by the Board and who are now practicing life coaching. CAMFT believes this is becoming a serious problem as anyone can call themselves a life coach and there is no oversight.

Mr. Riches suggested staff prepare an article and bring back to the Committee for review and further discussion.

A guest suggested we look at how other states are addressing this issue.

XII. Review Enforcement Program Statistics

The Committee reviewed the Enforcement Program's statistical reports. Ms. Maggio reported the budget change proposal to hire two full time analysts for the Enforcement Unit was approved. Interviews will take place in July. She noted that the Division of Investigation is still struggling to fill its vacant positions. Board Enforcement staff has

attended investigative training and we are relying more on our expert witnesses to assist in the investigative process.

XIII. Review Examination Program Statistics

Ms. Maggio explained that examination statistics are provided twice a year after a new examination format is implemented. The next set of statistics will be provided in August.

XIV. Discuss Future Agenda Topics

The next meeting of the Consumer Protection Committee is scheduled for July 20, 2007 in Sacramento. Ms. Walmsley noted that she will be on vacation during the month of July and would not be able to attend the July meeting.

A recommendation will be made to the Board in May 2007 to change the committee structure from four committees to two standing committees, Consumer Protection and Policy and Advocacy. These committees will meet on the same day. A third committee that will have oversight of the Board's Communication Plan, Strategic Plan and budget will meet in conjunction with the Board meetings.

Mr. Riches reported that staff is in the process of developing study guides for examination candidates. The Committee will have an opportunity to review and provide comments as soon as the drafts are complete.

The meeting adjourned at 12:20 p.m.