

**MEETING MINUTES**  
**Policy and Advocacy Committee**  
**July 13, 2007**

Burbank Airport Marriott Hotel and Convention Center  
2500 Hollywood Way  
Burbank, CA 91505

**MEMBERS PRESENT**

Gordonna DiGiorgio, Committee Chair, Public Member  
Dr. Ian Russ, MFT Member  
Karen Roye, Public Member  
Renee Lonner, LCSW Member

**MEMBERS ABSENT**

None

**STAFF PRESENT**

Paul Riches, Executive Officer  
Mona Maggio, Assistant Executive Officer  
Kristy Schieldge, Legal Counsel  
Christy Berger, Legislation Analyst  
Cassandra Kearney, Regulatory Analyst

**GUEST LIST**

On File

**I. Introductions**

Gordonna DiGiorgio, Committee Chair, called the meeting to order at 9:29 a.m. Committee members introduced themselves in place of roll, and a quorum was established. Staff and audience members also introduced themselves.

**II. Review and Approval of the April 4, 2007 Policy and Advocacy Committee Meeting Minutes**

Ms. DiGiorgio referred to page 3, paragraph 5. The sentence should begin as *Mr. Riches*.

KAREN ROYE MOVED, DR. IAN RUSS SECONDED, AND THE COMMITTEE VOTED TO APPROVE THE APRIL 4, 2007 MEETING MINUTES AS AMENDED.

**III. Review of Requirements Relating to Marriage and Family Therapist Trainee Agreements**

Ms. DiGiorgio reported that previously there had been written agreements between schools and sites where trainees earned hours of supervised practicum. California Association of Marriage and Family Therapists (CAMFT) has asked the Board to consider

collecting the trainee's written agreement between the school and work site when a person applies for licensure.

Paul Riches explained that the law requires the practicum site and university to have a written agreement regarding students practicing at the sites. CAMFT and other agencies have requested that the Board begin collecting these agreements. The Board has received a number of comments regarding inadequate communication between trainee work sites and schools, lack of oversight, and about problems with the effective assessment of trainee performance. The greater issue is how to ensure that the components of the agreement are being followed.

Dr. Ian Russ stated that this is a good idea, and asked what criteria will be required. Mr. Riches responded that the law outlines what must be contained in the agreement.

Mr. Riches added that the agreements would become part of the application packet, and adding more document requirements will create more deficiencies. One item to consider is at what point should the document be submitted. There is a burden to maintain these records for a long period of time.

Dr. Russ stated that the document should be submitted right away so that if there is a problem with the agreement or if the trainee is deficient, the trainee will know right away. Since trainees are not required to apply to become a trainee with the Board, as Christy Berger explained, then the agreement should be submitted with the application for internship.

Mr. Riches added that a 4-way agreement exists, which is a model agreement that schools and agencies through the consortium created and it utilized. Due to schools being out for the summer months, board staff was not able to obtain a copy of the model agreement.

Ms. Roye encouraged communication between the Board and the schools and random checks so that schools are aware of their responsibilities to students. She also encouraged random checks on schools to ensure that they are meeting those responsibilities.

Charlene Gonzales, Department of Children and Family Services (DCFS), stated from her experience that not all schools are on the same page. There needs to be a collaborative effort, and all three parties must be responsible: BBS, the schools, and the students. Students have contact Ms. Gonzales stating that the schools are not placing the students, when it is the schools responsibility to place them. Some schools tell students that DCFS is not an approved agency to acquire hours, some schools say otherwise. The dialogue is breaking down and the agencies, where the experience is gained, are left out of the dialogue.

Ms. DiGiorgio asked Ms. Gonzales if she had any suggestions. Ms. Gonzales responded that the Board's suggestion to have one contract for all the schools is a good recommendation.

Mr. Riches stated that from comments he received, a linkage between the schools and agencies is needed.

Dr. Russ asked if this should be addressed in the MFT Education Committee meeting.

Ms. DiGiorgio responded that this is part of the learning experience. She had to find her own placement during her practicum.

Renee Lonner agreed that some are told to find their own placement.

Cathy Atkins, CAMFT, stated that the original issue of minimum requirements is a procedural issue. The next issue is to determine if the sample provided is going to be the boilerplate. She encouraged the 4-way agreement as opposed to the sample provided. The issue regarding communication between the schools and agencies may not be solved by the BBS.

Dr. Russ stated that he sees no reason as to why the MFT Education Committee cannot detail the requirements and the terms of relationship.

Mr. Riches responded that this could be done through regulation, but we could begin by articulating the expectations and drawing attention to the issue that way. If that fails, then revisit and take another look at more approaches.

Ms. Roye responded that this is a policy consideration to open up dialogue with schools.

Dino Koutsolioutsos, Pacific Oaks College, stated that there are about 70 schools and a thousand different agencies. Therefore, some flexibility is needed in this policy. He welcomes a template from BBS outlining the minimum requirements. Some schools and agencies will have their own additional requirements. The MFT Education and Policy and Advocacy Committees should work together on this. Some schools are very selective regarding the agencies they collaborate with, and some are very open; either way is ok.

Dr. Russ agreed with Mr. Koutsolioutsos. In the end, the school is responsible for the education.

Mr. Riches clarified the two separate issues relating to qualifications: 1) the minimum requirement of the practicum, which is a curriculum requirement (coursework), and an element of that coursework is placement, and 2) what hours of pre-degree experience are counted as supervised experience. Those two issues overlap because the practicum hours count.

Ms. Atkins stated that it would be a good idea to put the minimum requirements in clear writing. This may be a solution to some of the communication breakdown because the agencies would not be put in the position of interpreting it for the agencies or for the students.

DR. IAN RUSS MOVED TO RECOMMEND TO THE BOARD THAT: 1) STAFF DEVELOP A NOTIFICATION TO THE SCHOOLS REGARDING THE MINIMUM REQUIREMENTS OF STANDARD AGREEMENT, 2) THE MFT EDUCATION COMMITTEE EXAMINE THE DETAILS REGARDING TERMS OF THE REQUIREMENTS. RENEE LONNER SECONDED, AND THE COMMITTEE VOTED TO ACCEPT THE MOTION.

#### **IV. Review of Requirements Relating to Employment Documents for Marriage and Family Therapist Interns**

Ms. DiGiorgio gave a brief background regarding requirements for licensure as a marriage and family therapist (MFT).

Business and Professions Code (BPC) Section 4980.43(b) requires all hours of experience gained by interns to be obtained as either an employee or volunteer, and prohibits experience from being gained as an independent contractor.

The California Association of Marriage and Family Therapists (CAMFT) has asked the Board to consider collecting W-2 forms as evidence that an intern was employed while gaining the required hours of experience. If a person was employed as a volunteer, a letter of verification from the employer would be required. These documents would be collected upon application for licensure.

Due to frequent calls from interns asking whether they could be employed as an independent contractor, BBS staff and CAMFT believe that interns are frequently employed as independent contractors, and the Board currently has no way of verifying this information. To do so would require a legislative change.

Mr. Riches stated BBS has 3 separate practice acts, and one statute has language stating that BBS has the authority to collect these documents and the other does not.

Kristy Schieldge, BBS Legal Counsel, recommended that there must be a procedure in place to process the W-2 and shred it immediately due to its confidentiality.

Dr. Russ asked what other means of verification can be used.

Mr. Riches responded that there are self-certifications. The responsibility statement requires a signature, stating that they understand the laws, and that they are compliant with the laws. The verification of hours that requires a signature state that the hours have been completed. An independent certification, however, cannot be assumed as compliant.

Dr. Russ asked if a random audit would be necessary.

Mr. Riches responded that BBS continues to have a 15% fail rate on CE audits. The W-2 is an incontrovertible proof of employment, and the procedures to process and shred already exist for LCSWs.

Dr. Russ and Ms. DiGiorgio expressed that they agree with collecting W-2s and would like to see consistency in the practice acts.

Ms. Schieldge stated that a statutory change is required to do this.

Ms. Atkins encouraged the collection of W-2s, as people do not always understand the difference between working as an employee or as an independent contractor. But they understand the W-2.

DR. IAN RUSS MOVED, GORDONNA DIGIORGIO SECONDED, AND THE COMMITTEE VOTED TO DEVELOP A STATUTORY PROPOSAL TO COLLECT W-2S AS EMPLOYMENT VERIFICATION FOR MFT INTERNS FOR PRESENTATION TO THE BOARD.

## **V. Discussion of Professional Experience in the Armed Forces As a Qualification for Licensure as a Marriage and Family Therapist or Licensed Clinical Social Worker**

Ms. DiGiorgio reported that staff recently became aware of a statute (Business and Professions Code Section 35) that took effect in 1994, which requires the Board to adopt regulations pertaining to methods of evaluating applicants who have received education, training or experience while in the armed services. This statute appears to be pertinent to applicants for Licensed Clinical Social Worker (LCSW) or Marriage and Family Therapist (MFT) licensure. Staff is not aware of any graduate programs run by the military, however, supervised experience obtained in the armed services would need to be considered.

Staff is requesting feedback from the Committee regarding what would be appropriate for the Board to accept in terms of experience gained in the military for MFT and LCSW applicants.

Dr. Russ requested staff to conduct research with all military branches, including the National Guard.

Janlee Wong, National Association of Social Workers (NASW), supports more veterans becoming licensed. However, he is concerned that the military does not always practice the best possible mental health care, and concerned about the quality of experience gained in that setting.

Dr. Russ replied that the Board cannot regulate the military and their policies; however, people are receiving experience in the military. This is necessary to do.

Mr. Riches stated that a motion was not necessary. Staff will do further research and bring information back to the Committee.

*The Committee adjourned for a break at 10:35 a.m.*

*The Committee reconvened at 10:50 a.m.*

## **VI. Discussion of Board Member Qualifications**

Ms. DiGiorgio briefly presented the current qualifications required to become a Board member. The Board's policy focus has expanded significantly in recent years to include public mental health practice. This broadened focus recognizes the changing practice patterns with more and more of the board's licensees operating in public mental health settings. Historically, significant numbers of LCSWs worked in public mental health settings, while MFTs were overwhelmingly in private practice. In recent years, the number of MFTs working in public settings has increased dramatically. The shift in board focus and practice reality raises a question regarding the qualification criteria for licensed board members. Should the current statutes be amended to require one or both the MFT and LCSW board members to have experience in public mental health practice?

Mr. Riches stated that he does not want to constrain the Governor's ability to make appointments. There is a need for a balance getting people with public setting backgrounds while not making the qualifications too prescriptive.

Ms. Atkins stated that this would be ideal for a well-rounded Board. However, CAMFT's position is that they would prefer the best person serve on the Board.

Ms. DiGiorgio and Ms. Lonner agreed with Ms. Atkins. Ms. Lonner added that it might be a mistake to amend the current statute.

Dr. Russ stated that an issue would be defining public mental health. This is the right direction, however, this may not be the way to go about it. Dr. Russ made several suggestions: 1) set time aside each year for the Board to meet with consumers of mental health and get them to the Board meetings so that the Board gets an understanding of the people the agencies are providing services to, 2) structure meetings to encourage involvement of community agencies, and 3) invite Department of Mental Health to meetings to provide information to conduct diversity conferences. Dr. Russ also stated that public agencies should be notified of upcoming meetings in their areas.

Ms. Roye stated that the Board should define itself through its strategic plan and its work to ensure that a robust understanding of public mental health is part of the future. The Board's responsibility is to ensure that all of the public and its needs are represented; that is the direction of the strategic plan.

Mr. Wong agreed with Dr. Russ' suggestions and that the Board should educate the public about the Board and about appointment to the Board.

Dr. Russ encouraged staff, when talking to legislators, to encourage public member appointments of family members of mental health consumers.

No action was taken.

## **VII. Review and Discussion Regarding Assembly Bill 64 (Berg)**

Christy Berger reported that AB 64 would create the "Uniform Emergency Volunteer Health Practitioners Act." This bill would set up a registration system for volunteer health practitioners and during a declared emergency, volunteers would be sent outside of California to other states or come into California from other states.

This bill would permit the Emergency Medical Services Authority (EMSA) while an emergency declaration is in effect, in consultation with the Office of Emergency Services (OES), to limit, restrict, or otherwise regulate all of the following immediately without prior notice or comment: 1) the duration of practice by volunteer health practitioners, 2) the geographical areas in which volunteer health practitioners may practice, 3) the types of volunteer health practitioners who may practice, and 4) other matters necessary to coordinate effectively the provision of health services during the emergency.

This bill would require a host entity that uses volunteer health practitioners to provide health services in this state to consult and coordinate its activities with the EMSA to the extent practicable to provide for the efficient and effective use of volunteer health practitioners and to comply with any laws relating to the management of emergency health services.

This bill would require that the volunteer health practitioner must be licensed and in good standing in the state where their license is based as if they were licensed in California. If the volunteer is licensed in more than one state and any license is suspended, revoked, or their practice is restricted, the volunteer would not be able to practice in California.

This bill would require a volunteer health practitioner to adhere to the scope of practice for a similarly licensed practitioner established by California law. This bill would not allow the scope of practice to be broader if their state's scope of practice was smaller.

This bill would permit a California licensing agency to impose administrative sanctions upon a practitioner who is either licensed in California for conduct outside of California in response to an out-of-state emergency or not licensed in California for conduct in California in response to an in-state emergency.

Ms. Berger reported that some states do not require a criminal background check on their licensees, so this is a necessary amendment to the bill.

Ms. Berger explained that there is also a conflict in the bill regarding authority. It is unclear then which entity would have the greater authority to regulate the services provided by volunteer health practitioners during a declared emergency. The bill permits

EMSA to regulate matters to coordinate the provision of health services during an emergency. The bill also permits a licensing board to "...modify or restrict the health services...regulated by that body that volunteer health practitioners may provide pursuant to this article." The concern is that the Board cannot take action until it meets. An emergency Board meeting would take time to arrange and would require a quorum. An option would be to designate a single person to act on behalf of the Board.

Ms. Berger explained the difficulty in disciplining a person licensed in another state for conduct during an emergency in California. This bill would permit the Board to take administrative sanctions, but the only tool currently permitted is a citation and fine. This would be unenforceable against an out-of-state licensee since the only authority the Board has to collect an unpaid fine is an intercept through the Franchise Tax Board or enforcement action for unprofessional conduct.

The bill permits different types of agencies to act as registries of volunteer health practitioners. A single registry would be more effective than multiple registries.

Ms. Berger explained that this bill does not require health practitioners to have specific training in disaster response. People without training may actually compound problems during an emergency.

Ms. Schieldge pointed out some of her concerns with this bill, referring to the language in Section 8599.55 (c), which states that the licensing requirements imposed on any health practitioner by California law can be modified during an emergency.

Ms. Schieldge referred to Section 8599.57(e), which states that a volunteer shall not be found to have engaged in unauthorized practice unless the practitioner has reason to know of any limitation. It continues on to define the "know or shouldn't know" standard. Currently, there are violations in the BBS practice act that are strict liability violations that do not require the "know or shouldn't know" standard. This section would lower California laws during an emergency for all registered volunteers. Ms. Schieldge recommended that this be stricken, or limited to practitioners licensed in other states and are not residents in California.

Ms. Schieldge referred to Section 8599.57(e)(2) where *reasonable person* should be *reasonable practitioner*. Section 8599.57(f) is ambiguous.

Regarding authority, Dr. Russ suggested that the Executive Officer be delegated the duty to act on behalf of the Board during an emergency.

Ms. Schieldge suggested a broad delegation language stating that in the Board's discretion it may delegate some or all of the duties for implementing this section to its Executive Officer, Chair or Vice Chair.

Dr. Russ and Ms. DiGiorgio agreed with Ms. Schieldge's suggestion.

Regarding the criminal background check, Dr. Russ stated this amendment is essential.

DR. IAN RUSS MOVED TO TAKE A POSITION OF SUPPORT AS AMENDED, AND THAT STAFF ADDRESS THE FOLLOWING ISSUES TO THE AUTHOR: 1) REQUIRE CRIMINAL BACKGROUND CHECKS, 2) PERMIT A LICENSING BOARD TO DESIGNATE AUTHORITY DURING A DECLARED EMERGENCY TO THE EXECUTIVE OFFICER, CHAIR, OR VICE CHAIR, 3) PROVIDE MORE SPECIFICITY TO PERMIT THE BAORD TO TAKE ACTION AGAINST A PERSON LICENSED IN ANOTHER STATE FOR

CONDUCT IN CALIFORNIA, 4) LIMIT SECTION 8599.57(e) TO LICENSEES FROM OTHER STATES, 5) CREATE A SINGLE OR MULTIPLE LINKED REGISTRIES VOLUNTEER REGISTRY, 6) REQUIRE MINIMAL TRAINING IN DISASTER RESPONSE AND TRAUMA, AND 7) MAKE TWO TECHNICAL AMENDMENTS. GORDONNA DIGIORGIO SECONDED, AND THE COMMITTEE VOTED TO ACCEPT THE MOTION.

Mr. Riches stated that feedback on the Board's comments and amendments will be available at the August Board meeting.

### **VIII. Review of 2007 Legislation**

This agenda item was intended for any legislation that needed to be reviewed by the Committee. However, there was no additional 2007 legislation to review.

### **IX. Legislation Update**

The Board has a number of items in the annual Senate Business, Professions and Economic Development Committee (committee) omnibus bill. The committee rejected the item allowing the Board to grant continuing education units for attending Board meetings.

Ms. Schieldge stated that it appears that AB 1525 will pass. The bill would be retroactive to July 1, 2007 and would temporarily extend school approvals issued by the Bureau of Private Postsecondary and Vocational Education (BPPVE) until July 1, 2008 for purposes of registration and licensure.

Ms. Schieldge stated that the Department of Consumer Affairs took a position of oppose on SB 823, the reform bill for the BPPVE.

### **X. Rulemaking Update**

Mr. Riches reported that administrative review on several regulations is nearly complete. A number of them should be passed and sent to the Office of Administrative Law by the next Board meeting.

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

Robin Emerson, California Society for Clinical Social Work, suggested a review of some of the regulations pertaining to ASWs and supervisors of ASWs. The language is creating confusion and anxiety that could be cleaned up, for example, the language on requirements for supervision courses. There is a lot of confusion in terms of how hours of experience should be calculated and how to complete the form.

Mr. Riches requested Ms. Emerson to submit the details of her suggestion in writing.

Mr. Koutsolioutsos commented on MFT trainee practicum requirements, stating that there is no clarity. On the Experience Verification Form is a box for MFT trainee and another box for MFT trainee in practicum. The regulation states that the school is responsible for monitoring the clinical experience of the students. It is unclear if BBS is allowing MFT trainees to work under non-practicum conditions.

Mr. Koutsolioutsos commented on criminal records of students, stating that they are not evaluated by the Board until the student applies for intern registration. There is a financial risk of about \$45K in school loans, to discover that a registration or licensure will not be granted due to a conviction. He suggested that BBS consider giving a preliminary answer

to students regarding possible denial.

*Meeting was adjourned at 12:06 p.m.*