

## MEETING MINUTES

### Consumer Protection Committee October 5, 2007

Waterfront Plaza Hotel  
10 Washington Street  
Oakland, CA 94607

**Committee Members Present:**

Judy Johnson, Chair, LEP Member  
Victor Perez, Public Member  
Dr. Ian Russ, MFT Member

**Staff Present:**

Paul Riches, Executive Officer  
Mona Maggio, Assistant Executive Officer  
Cassandra Kearney, Regulatory Analyst  
Kristy Schieldge, Staff Counsel  
Jason Reinhardt, Licensing/CE Technician

**Committee Members Absent:**

Elise Froistad, MFT Member  
Joan Walmsley, LCSW Member

**Guest List:**

On File

#### I. Introductions

Judy Johnson called the meeting to order at 1:03 p.m. Paul Riches called roll, and a quorum was established. Guests introduced themselves.

#### II. Review and Approve July 20, 2007 Consumer Protection Committee Meeting Minutes

Kristy Schieldge noted a correction to the first sentence of the last paragraph on page 4 to *Bureau for Private Postsecondary*.

Dr. Ian Russ moved to approve the minutes as amended. Judy Johnson seconded. The Committee voted (2 approve, 1 abstention) to approve the minutes as amended.

#### III. Review and Discussion of Supervision Rules for Associate Clinical Social Workers

Mr. Riches stated since Joan Walmsley was not present to discuss this item, it will be deferred until January.

#### **IV. Discussion and Possible Action to Recommend Acceptance of Experience in Supervision Groups for Continuing Education Credit**

Cassandra Kearney reported that the agenda item title does not represent the information contained in the agenda item memo. She explained that the information is regarding continuing education credits for accountability groups.

Ms. Johnson reported on her suggestion to allow continuing education (CE) credits for accountability groups. In other professions, these groups are sometimes referred to as "Peer Review." Such groups consist of professionals who encourage and hold one another accountable to standards, and promote integrity.

Dr. Russ asked how to implement this as credit, and if someone wants to establish this group, would that person have to apply to obtain a CE provider approval. Mr. Riches responded yes, but that is not necessary. He added that the individual can also approach an existing CE provider to develop the course.

Geraldine Esposito, California Society for Clinical Social Work (CSCSW), provided a model that could be used as an example in creating an accountability group. CSCSW has a program known as Clinical Consultation Groups, in which peers can meet with a consultant. The group's focus is on clinical education related to a single theme/topic. She explained that the groups are lead by the consultant.

Dr. Russ asked how the group would be structured, how to determine which participant of the group would be the teacher or consultant of each session, how to determine themes, and recordkeeping.

Ms. Esposito responded that each presenter would have to submit his or her credentials in order to instruct the other members at any given point.

Mr. Riches added that the existing regulations separate instructors from students. The students receive credit for the course, and the instructors may claim credit for teaching the course. All of the mechanics of CE still apply under current law. Appropriately structured, this could be done under the current law.

Ms. Johnson asked how to publicize this. Mr. Riches responded that the website and newsletters can be used to publicize this; descriptions would have to be developed.

Dr. Russ asked what ability does the Board have to monitor content? Mr. Riches responded that the Board has the same limited ability to monitor content as it does on CE providers.

Ms. Schieldge recommended the Board to refer to Business and Professions Code Section 166, which contains general guidelines for the content of mandatory CE courses. There may be some elements there that can be used to validate it.

Dr. Russ asked if the associations interested in doing this. Ms. Riemersma replied that CAMFT is currently looking into implementing something similar.

Dr. Russ stated that he likes the idea; however, he is concerned about accountability.

Ms. Johnson stated that this is important for the profession. If this is successful, more people will apply for CE providers.

**V. Review and Possible Action to Propose Clarifying Rules Regarding Group Supervision**

Mr. Riches explained that for each week in which experience is gained, one unit of supervision is required. One unit of supervision is equivalent to one hour of individual supervision or two hours of group supervision. The law is unclear as to whether group supervision can be provided in segments of less than two hours, and staff has no way of knowing whether an applicant actually received two hours every week, or whether the number submitted is just an average over a one-year period. Staff learned at the last July 2007 meeting that it is common for groups meet in 2 one-hour sessions in a single week. The Committee directed staff to draft a clarification stating that 2 one-hour sessions in a single week are acceptable.

Dr. Russ stated that the clarification will be useful to agencies.

Ms. Johnson asked for public comments. No public comments were made.

Victor Perez moved to recommend the proposed language got to the Board for review and approval. Dr. Ian Russ seconded. The Committee voted unanimously to approve the motion.

**VI. Discussion and Possible Action to Recommend Rulemaking Changes Regarding Exceptions to Continuing Education Requirements**

Jason Reinhardt reported that licensees are applying for continuing education (CE) exceptions for reasons that staff feels do not meet the qualifications. However, staff approved those exceptions based on the current law. Staff recommends modifying the Request for Continuing Education Exception form and the regulations to clarify that other reasonable accommodations may be provided rather than a complete exception for persons with a disability or medical condition.

Dr. Russ asked how many of those exception requests were received. Mr. Reinhardt responded that out of 20 requests that were received, approximately seven requests warranted a complete exception and the remainder were questionable.

Ms. Schieldge added that California state agencies must comply with both the Federal American Disabilities Act and the California Fair Employment and Housing Act. The two statutes were nearly identical in determining disabilities when the Board first adopted the regulation. About five to six years ago, the definition of disability changed under California law. The proposed language is consistent with that change. This will avoid the need for staff to evaluate whether a person has a disability or medical condition. Staff will instead focus on whether the requested accommodation is reasonable given the disability or medical condition. This will allow more flexibility to address different types of disabilities or medical conditions.

Ms. Esposito and Ms. Riemersma both expressed support for this idea.

Dr. Ian Russ moved to recommend that the Board pursue changes regarding exceptions to continuing education requirements through the regulatory process. Judy Johnson seconded. The Committee voted unanimously to approve the motion.

## **VII. Review Enforcement Program Statistics**

Mr. Riches presented the enforcement statistics. The following activity took place through the end of September:

- 284 complaints were received
- 125 criminal convictions
- 37 citations were issued
- 2 accusations filed
- 3 final decisions

Dr. Russ asked when looking at the increase in complaints, is it relatively the same percentage as the increase in the number of licensees. Mr. Riches responded that it is well above the percentage. The licensee base grows 2 – 2.5 percent a year. These numbers reflect a growth in excess of 2 - 2.5 percent a year.

Dr. Russ asked if there were any specific reason for the increase. Mr. Riches believes that the increase is due to an increase of consumer reporting.

Ms. Maggio added that this is also a result of the Board's outreach efforts.

Dr. Russ asked what types of complaints fall under personal conduct. Mr. Riches responded that some are related to substance abuse incidents.

Mr. Riches announced a new addition to the BBS staff. Marlon McManus joined the enforcement unit in September. He came from Workers Compensation and has several years experience in investigations.

## **VIII. Discussion of Concerns Regarding Language Usage on Sample Examination Items**

Catherine Ralph from University of California, Berkeley presented on behalf of Dr. Stan Taubman. Dr. Taubman has concerns regarding the LCSW exam and its validity. Some of his concerns stem from the fluctuation of the pass rates for each six-month period. The pass rate ranges from 36% to 75%. The schools have an established curriculum, and are all preparing students the same manner. Why are students not passing the exam? The exam may be changing or fluctuating a bid.

Dr. Taubman provided indicators of exam invalidity such as errors he found when reviewing the sample exam questions that were used in the past. Ms. Ralph stated that if BBS is consistently making errors in sample exam questions that are available to the public, there may be invalid exam questions contributing in errors in answering the questions. It is a problem for consumer protection when the errors contained in the exam do not reflect good assessment in diagnosis and treatment planning.

Ms. Riemersma stated that CAMFT had similar concerns. She pointed out that the items selected to serve as examples are those that did not pre-test well, so they were not appropriate for use in an actual examination. She recommended that the Board use only items that have tested well.

Ms. Johnson reiterated that these are sample questions that did not test well, and have been removed for that reason. Ms. Johnson also recommended providing Ms. Riemersma's suggestion to the Office of Examination Resources (OER). She also added that staff is currently working with the Office of Examination Resources to produce study guides for candidates, which are expected to be published in spring of 2008.

Mr. Riches added that the study guides will include sample items that better represent the items in the examinations and are expected to contain a minimum of two sample items per content area.

Ms. Johnson stated that the examination development is a very rigorous process. There is a group of subject matter experts that develops and designs the exam questions. There is another group that reviews those questions, and then another group that also reviews those questions. There are internal validity statistics on each test question, not just the actual test. The sample items that were removed are not a valid reflection of what is on the exam.

Dr. Russ asked what could account for a range from 36% to 75%. He also asked if it is true that the Board of Psychology provides retired license exams to professionals for review. Mr. Riches responded that staff's endeavor is to get into the retired item bank and make those item banks available. However, releasing an entire form of an exam is not appropriate. Dr. Russ requested that staff find out if Board of Psychology is actually doing that.

Ms. Esposito added that certain cycles have a preponderance of repeat test-takers.

Mr. Riches stated that the Board's website breaks down exam results based on the number of times an exam is taken in different exam cycles. Variance narrows with first time test-takers. There is a significant intervening variable between school and examination, which is the course of supervising experience. There is an enormous variance in the nature, quality, and variety of supervised experience from candidate to candidate. That experience is very influential in their development as a practitioner. There can still be wide variance between programs in how they teach, the relative emphases they make available, and elective courses that are taken versus core courses are available. These variables will affect any individual's performance on the exam.

Mr. Riches explained that not everyone is going to get the equivalent quality or quantity of clinical experience. This exam tests one particular aspect of social work practice, it has a specific set of competencies attached to it, and much of it is fully creditable under current law in social work practice as supervised experience, however, that is not mental-health oriented. The minimum competent entry-level practitioner is the criteria, and many people will approach that criterion very differently, based on their experience.

Dr. Russ stated that he does not agree that because all the programs are accredited, they are all the same. It may not reflect the schools, but it may be a reflection that some are not being trained clinically, or choose to not be trained clinically.

Ms. Johnson stated that when looking at the numbers and the wide variances, we need to look at the specific breakdowns, such as the amount of time that passed from completion of school to the time that the exam was taken, and what was the individual's area of specialty and what competencies were required. This is what we are aiming at when developing the study guides.

Ms. Ralph stated that she is concerned that the study guide will take the candidates off track.

Mr. Riches responded that the candidate handbook is not a study guide, and the items in the handbook are provided to give a sense of structure and format of the exam questions, not content.

Ms. Esposito stated that if one were to wait for supervision practice in preparation of licensure, there is almost a consumer protection issue. Diagnosis and treatment planning are the basics one should know before beginning supervised practice. There are certain fundamentals about clinical practice that should be gained in the educational arena before supervision. Many agencies that are not mental health oriented have begun to demand licensure. There needs to be some preparation for what the graduate is going to meet in the field of practice. This is the only license for social workers, and education is critical.

Jennifer Rowland, NASW California Chapter (NASW-CA), read a response from NASW CA to Ms. Ralph's presentation on behalf of Dr. Taubman. NASW-CA was in agreement with Dr. Taubman's points regarding the need to ensure exam validity. Several concerns were noted regarding: 1) the shortage of LCSWs, 2) exam pass rates norms, 3) Association of Social Work Boards national examination. The NASW-CA is vested in protecting consumers, and ensuring that the examination system is reliable and valid. Their overall goal is ensuring consumer protection, while addressing the shortage of LCSWs, and addressing the needs of California's growing population. It is NASW's opinion that this could be done by utilizing the national exam.

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

No public comments were received.

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

Ms. Maggio asked if the Committee would like further information regarding enforcement statistics presented at future meetings. Ms. Johnson replied that she would provide that information at a later time. Mr. Perez agreed. Ms. Johnson requested that staff add review of disciplinary guidelines to the next agenda.

*The meeting adjourned at 2:30 p.m.*