

## MEETING MINUTES

### Policy and Advocacy Committee October 5, 2007

Waterfront Plaza Hotel  
10 Washington Street  
Oakland, CA 94607

**Committee Members Present:**

Donna DiGiorgio, Chair, Public Member  
Renee Lonner, LCSW Member  
Karen Roye, 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

**Committee Members Absent:**

None

**Guest List:**

On File

#### I. Introductions

Donna DiGiorgio called the meeting to order at 8:53 a.m. Paul Riches called roll, and a quorum was established. Guests introduced themselves.

#### II. Review and Approval of the July 13, 2007 Policy and Advocacy Committee Meeting Minutes

Ian Russ indicated that there were a few areas missing a preposition.

Kristy Schieldge suggested stating *voted to* instead of *concurred to* in all future minutes to indicate that a vote was taken. She also pointed out on Item IV, paragraph 10, second sentence should indicate *for LCSWs*. Ms. Schieldge requested clarification under Item VII, paragraph 9 should state *reasonable person* and *reasonable practitioner*.

Ian Russ moved to accept the minutes as amended. Karen Roye seconded. The Committee voted unanimously to accept the minutes as amended.

#### III. Discussion and Possible Action Regarding Recommended Proposals for Technical Clean-up of BBS Statutes

Ms. DiGiorgio reported that the Committee is asked to recommend that the Board sponsor

legislation to make technical amendments to BPC Sections 128.5, 4980.30, and 4981, as follows:

**a. 128.5 (b) Reference to Board of Behavioral Science Examiners**

Karen Roye moved to recommend that the Board sponsor legislation to make the technical amendment to BPC Section 128.5 (b), deleting the word “Examiners” from the Board’s name. Ian Russ seconded. No public comments were made. The Committee voted unanimously to approve the motion.

**b. 4980.30 MFT License Requirement**

Ian Russ moved to recommend that the Board sponsor legislation to make the technical amendment to BPC Section 4980.30, clarifying that a person who desires to practice and advertise the performance of marriage and family therapy must obtain a license from the Board. Renee Lonner seconded. No public comments were made. The Committee voted unanimously to approve the motion.

**c. 4981 Obsolete Reference to LEP Statutes**

This section is an outdated reference to the application of Article 5, which formerly contained the Licensed Educational Psychologist (LEP) statutes. Article 5 does not currently exist.

Ian Russ moved to recommend that the Board sponsor legislation to make the technical amendment to BPC Section 4981, repealing this section. Renee Lonner seconded. No public comments were made. The Committee voted unanimously to approve the motion.

**IV. Discussion and Possible Action to Repeal Sections 4996.20 & 4996.21 Relating to Supervised Experience for Licensed Clinical Social Workers**

Mr. Riches explained that hours of supervised experience must be gained within the six years immediately prior to applying for licensure as a Licensed Clinical Social Worker (LCSW). Over the years, there have been evolving standards in hours of supervised experience required for LCSWs. The older provisions were kept over a period of time to allow the candidates who fall under those provisions to cycle through. Currently, three sections still exist; however, two of the older sections will be obsolete by the end of 2008.

Ms. DiGiorgio referred to the current statute, Section 4996.23(c)(2), stating that it is not clear, suggesting that it should indicate at least one hour per week of direct supervisor contact for a minimum of 104 weeks.

Mr. Riches explained that the section further states that no more than five hours of supervision will be counted during any single week.

Ms. Roye asked for public comment. No comments were made.

Mr. Riches stated that staff will bring back clarifying language on Section 4996.23.

**V. Review and Possible Action to Recommend a Position on Senate Bill 963 (Ridley Thomas) Regarding Sunset Review**

Mr. Riches explained that all the board and bureaus of the Department of Consumer Affairs (DCA) have been under the Sunset Review process since 1994. This is routine legislative oversight with the exception that each board and bureau had a “sunset” date amended into its authorizing statute. Absent legislative action to extend that date, the board or bureau would cease to exist. In this process, board and bureau performance is evaluated. The BBS was last subject to sunset review in 2005, and no negative findings were made. The collaboration of this process has worked well between the Legislature, the administration, and the entities. However, the collaboration began breaking down during the last two administrations. Governor Davis’ administration and Governor Schwarzenegger’s administration had different views regarding Sunset Review, existence of boards, and governmental structure. Governor Schwarzenegger’s California Performance Review (CPR) recommended the elimination of professional licensing boards in DCA, which is at odds with the Legislature’s perspective because the boards were reviewed and passed by the Legislature. The recommendation was not passed. With the existence of sunset dates, the Governor does not have to sign sunset extension bills in order to turn all boards into bureaus. Furthermore, the Joint Committee on Boards Professions and Consumer Protection, which is the entity that conducts the sunset review process, no longer exists.

Mr. Riches reported that the Legislature is no longer conducting Sunset Reviews. Senate Bill 963 eliminates the sunset dates for DCA boards and bureaus and contains all of the provisions contained in the memorandum. The Legislature needs to determine what to do about oversight, and they need to work out sunset dates with the administration.

Mr. Riches recommended that the Committee consider providing comment for the board’s consideration regarding elements of an effective oversight process.

Ms. Roye suggested that staff gather information regarding other boards’ views and how they are approaching this matter. She asked what the Board should do regarding this.

Mr. Riches recommended that the Board give tangible input into their considerations. The Board could provide broad parameters and ideas for different ways of structuring the oversight process, so that they can refer to them publicly. There is no interest in rewriting the bill. The Board should just provide some ideas for them to think about.

Geri Esposito, California Society for Clinical Social Work (CSCSW), commented that policy should be made by sampling the boards and attending the meetings. There are excellent recommendations that Board could make.

Mr. Riches stated that the bill in its current form may not go far. The larger concern is that the Board has a sunset date. A replacement for the sunset process is needed, and action needs to be taken on the sunset dates.

Dr. Russ asked the audience for their views on the Board becoming a bureau. Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), replied that they do not like it. The Board invites public comment and allows the public to have input on its decision-making. Without a board, it will be too difficult to have that input. It is critical that there is someone directly responsible for this Board, and that there is an

executive who is responsible for its operations. CAMFT would do everything it could to keep that from happening.

Dr. Russ added that the dialogue is necessary in order to make good decisions. Ms. Schieldge added that the Board has professionals who have the expertise to help make licensing decisions on enforcement cases; whereas bureaus have a bureau chief who reports to the director. After the administrative hearing, the case goes to the director for a decision.

Ms. Schieldge stated that the argument would be that "Advisory Committees" could be established to address issues. Mr. Riches stated that would be a discretionary act. The Board is required to conduct business in a public session. Bureaus choose when to solicit public input; however, they are not required to.

Ms. Esposito commented on the accountability issue. The Board selects its executive officer; however, that is not the case in bureaus.

Ms. Schieldge stated that support needs to come from the public and constituents to prevent this from happening.

Mr. Riches stated that the Legislature is committed to continuing with the board structure. The Governor's point of view regarding board structure is not favorable; however, he is responsive to public input and legislative input. He suggested a motion to make a recommendation to the Board, providing feedback to the Legislature and the administration regarding the structure of an ongoing oversight process. He also stated that staff will gather information on other state boards, how they are structured and organized, and which have sunset processes, and talk to other DCA executive officers.

Ian Russ moved to make a recommendation to the Board to provide feedback to the Legislature and the administration regarding the structure of an ongoing oversight process. Renee Lonner seconded. The Committee voted unanimously to approve the motion.

## **VI. Review and Possible Action Related to Advertising Guidelines**

Mr. Riches explained that the Board has a policy regarding advertising, primarily focusing on the use of the term "psychotherapy" or "psychotherapist". When reviewing documents and revising the website, that policy came forward and caused discomfort with the former board counsel, questioning whether or not this might not be considered underground regulation, which is a rule or general application that has not been adopted through the Administrative Procedures Act (APA).

Mr. Riches reported that neither the Board's regulations or Policy # E-95-2, require a licensee to provide their license number in advertisement; however the licensee is instructed to provide the license number in the guidelines. Staff supports the requirement that licensees provide their professional license number as a matter of practice and identification, and the requirement that only licensed psychotherapists can call themselves psychotherapists.

Ms. Riemersma stated that in the public's perspective, the license number is insignificant when the title is clearly used in advertisement, and would like to see the proposed regulation interpreted as it has been interpreted in policy.

Ms. Esposito stated that a contractor has to provide a license number in advertisement. Requiring the license number is consistent with the requirements of other licensees.

Ms. DiGiorgio expressed that she would like to see that the individual is licensed if they are using the title.

Mr. Riches added that the number indicates that the individual is licensed and that they are accountable to some entity.

Ms. Riemersma stated that if this becomes a requirement, the professionals need a lot of advanced warning in order to make corrections on printed advertisements.

Dr. Russ asked about the issue with psychotherapy. Ms. Riemersma replied that psychologists do not want MFTs and LCSWs to use the terms "psychotherapy" or "psychotherapists". There is a section of their law (Section 2903) that states that these terms and others cannot be used by the BBS licensed professions. There is another section (Section 2908) that states that licensed professionals may not use a list of terms, but omitted the terms "psychotherapy" and "psychotherapists" making it clear that BBS licensed professionals can use those terms. Psychotherapists are most often referred to in the Evidence Code under Section 1010. MFTs and LCSWs are one of many different kinds of psychotherapists. Ms. Riemersma explained that CAMFT and the Board came up with the guideline stating that licensees using the term "psychotherapy" or "psychotherapist" must spell out the title of their license, so there is no misunderstanding that the licensee is claiming to be a psychologist. CAMFT initiated this policy because it was a long-standing policy that CAMFT had since the 1970's, and the Board adopted that policy.

Ms. Schieldge added that the use of psychotherapeutic techniques is stated in the statute.

Mr. Riches stated a revision to Section 1811(e) is necessary. There are inconsistencies between Sections 1811(b) and (c) regarding reference to supervisors and supervision, which need parallel each other more closely. This needs to be cleaned up so that there is no confusion.

Ms Schieldge stated that these were lifted directed from the statutes and they are slightly different. Section 1811(c) is reflective of what the statute for LCSW actually states, which states that the associate is "unlicensed and working under supervision of a licensed professional."

Dr. Russ suggested the clarification to include a reference to the name and license type of the supervisor, or if employed by an agency, a reference indicating that the individual is working under the supervision of the agency.

Ms. Riemersma stated that is already clear because the agency's name is on the card. She recommended that it states "working under supervision," and that it is clear the individual is an MFT intern.

Dr. Russ added that if the individual is working in a practice, then it should indicate the name of the supervisor's practice.

Ms. Esposito added on to Dr. Russ' suggestion "working under a licensed supervisor."

Ms. Riemersma stated that much of the problem is the MFT interns. They are putting themselves out as though they have a license. If the intern is working at an agency, the card with the agency's name should state "working under supervision." If the intern is working in a private practice, the card should indicate "employed and supervised by (name, license type)".

Mr. Riches stated that staff will work on a clean draft to present to the next Committee meeting.

## **VII. Legislation Update**

Mr. Riches reported that bills are awaiting signature by the Governor.

Mr. Riches thanked Ms. Riemersma and CAMFT. There were some late changes to the clean up of the educational psychology statutes that staff had intended on putting into the Senate Business and Professions Committee Omnibus Bill. The Senate Republican caucus would not allow any more changes late in the process. CAMFT had a bill late in the process and were very gracious about allowing BBS to amend the provisions into this bill, SB 234. They were very helpful in getting this through this year.

Ms. Riemersma asked if the proposals of the omnibus legislation that did not get accomplished will be part of another bill next year. Mr. Riches expects that the client-centered advocacy piece, the recognition of the regional accrediting bodies, and the MFT education revisions will go together in one package in 2008. As for the continuing education credit for Board meetings, he needs to do some more work on it.

## **VIII. Rulemaking Update**

The rulemaking update was presented for review. Mr. Riches stated that much of the rulemaking is close to taking effect.

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

No suggestions were made.

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

No public comments were made.

The meeting was adjourned at 9:59 a.m.