

## Policy and Advocacy Committee Meeting Minutes June 7, 2010

Department of Consumer Affairs  
El Dorado Room  
1625 North Market Blvd.  
2<sup>nd</sup> Floor North, Room 220  
Sacramento, CA 95834

### Members Present

Gordonna DiGiorgio, Chair, Public Member  
Renee Lonner, LCSW Member

### Members Absent

Michael Webb, MFT Member

### Guest List

On file

### Staff Present

Kim Madsen, Executive Officer  
Tracy Rhine, Assistant Executive Officer  
James Maynard, Legal Counsel  
Marsha Gove, Examination Analyst  
Christy Berger, MHSA Manager  
Sean O'Connor, Outreach Coordinator

Gordonna DiGiorgio called the meeting to order at 10:00 a.m. Marsha Gove called roll, and a quorum was established.

### **I. Introductions**

Committee members, staff and audience introduced themselves.

### **II. Review and Approval of the April 9, 2010 Policy and Advocacy Committee Meeting Minutes**

The following correction was noted: On page seven, second sentence, changed to, "The NASW representative estimated a potential pool of 600 people affected."

***Renee Lonner moved to approve the April 9, 2010 Policy and Advocacy Committee Meeting minutes as amended. Gordonna DiGiorgio seconded. The Committee voted unanimously (2-0) to pass the motion.***

### **III. Discussion of Survey Results Related to Professional Clinical Counselor Education Requirements**

Roseanne Helms, Legislative and Regulatory Analyst, reported that the Board had asked 104 MFT and LCSW schools throughout California to complete a survey listing courses offered that would satisfy Licensed Professional Clinical Counselor (LPCC) licensure requirements. The Board received 43 responses.

Ms. Helms provided a summary of the types of degrees offered by responding programs. She noted that responses to the survey will be posted on the BBS website, as will the survey template for use by other schools who want to respond.

Ms. Helms reported on the 43 survey responses received to date. She spoke about courses that are required for LPCC licensure that are not contained in existing MFT and LCSW programs. Ms. Helms noted that to date only MFT and LCSW programs had been surveyed, although Board staff was working on a similar survey of LPCC programs which was targeted for distribution in June 2010.

The issue was opened for discussion.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), commented about the required LPCC courses, and shared concerns on behalf of CAMFT. She encouraged the Board to be particular about the courses that should be considered acceptable.

Sean O'Connor, Associate Governmental Program Analyst with the Board, responded that the survey was intended to obtain pertinent information regarding LPCC licensure. The information would then be posted on the Board's website for use by a prospective LPCC candidate in determining what if any coursework was lacking.

Dean Porter, California Coalition for Counselor Licensure (CCCL), expressed concern that the information posted on the Board's website might be misleading to interested parties. She encouraged Board staff to ensure that applicants have sufficiently covered each core area. Ms. Porter provided examples of her areas of concern.

Discussion followed. Ms. Lonner noted the importance of the input received from meeting participants in addressing the issue of LPCC education requirements.

Douglas Lee, CAMFT, commented about the Board's interpretation of the educational requirements, and expressed an interest in obtaining guidance from the Board in this area.

Ms. Rhine noted that the requested information was intended to assist Board staff in evaluating LPCC applications submitted during the grand-parenting period. She offered her assurances that the matter would be revisited.

Discussion continued and touched on related issues such as obtaining transcript or course information from programs or schools that are no longer in existence. Other points of discussion included the number of individuals who might be using the grand-parenting option to become licensed as an LPCC. Ms. Madsen commented that approximately 5,000 MFT and LCSW licensees could be impacted. Ms. Riemersma and Ms. Porter provided estimates pertaining to MFTs and LPCCs, respectively.

#### **IV. Discussion and Possible Action Regarding Regulatory Package Implementing SB 788 (Wyland) Chapter 619, Statutes of 2009 Establishing Licensed Professional Clinical Counselors**

##### **A. Professional Clinical Counselor Supervisory Plan Requirement**

Mr. O'Connor reported that part of the regulatory packet discussed at the Board's May 2010 meeting included a supervisory plan for LPCCs. He explained that currently only Associate Clinical Social Workers (ASW) are required to submit such documentation; MFT interns do not face the same requirement. Mr. O'Connor emphasized that the requirement pertained to the type of license being sought, not the type of license held by the supervisor. In speaking about the value of a supervisory plan, he referred board members to a list of applicable publications contained in his report. Mr. O'Connor commented further about his review of the publications.

Staff recommended conducting an open discussion among Committee members and stakeholders to discuss the benefits and problems with requiring professional clinical counselor intern (PCCI) supervisors and supervisees to complete a supervisory plan.

Discussion followed and involved topics such as the timing for submission of the supervisory plan. Ms. Riemersma noted her support for the idea of a supervisory plan, but expressed concern over the Board's involvement in this area. She asked about ramifications if the supervisory plan is not completed. Mr. O'Connor provided clarification as needed. Other meeting participants commented on issues such as the value of establishing supervisory goals, and the importance of a collaborative relationship between supervisor and supervisee in meeting those goals. One speaker thanked Mr. O'Connor for his efforts in this area, and directed him to additional research pertaining to counselor supervision.

Ms. Rhine noted that no Committee action was required unless the determination was made not to require a supervisory plan for LPCC applicants.

***Renee Lonner moved to approve submission of a supervisory plan as part of the LPCC licensure requirements. Gordonna DiGiorgio seconded. The Committee voted unanimously (2-0) to pass the motion.***

##### **B. Hours of Experience Applied to Separate Licensing Requirements Simultaneously**

Mr. O'Connor reported that under current law, implementation of the LPCC license creates an opportunity for individuals to pursue two mental health licenses simultaneously, most notably the LPCC and MFT licenses. He explained that existing law does not prohibit an individual from simultaneously completing the requirements for both licenses. Mr. O'Connor indicated that legislation would be required to create such a prohibition.

Mr. O'Connor recommended that an open discussion be conducted among Committee members and stakeholders regarding "double-counting" hours of experience toward both MFT and LPCC requirements. If the determination is made to prohibit use of hours of experience toward requirements for more than one license, direct staff to draft appropriate language for consideration by the full Board.

Ms. Riemersma noted that the precedent for individuals gaining hours of experience toward both MFT and LCSW licensure has been to allow double-counting of the hours earned. She expressed concern that it would be punitive to prohibit the double-counting of hours of experience that met the requirements for both licenses. She suggested that the issue could be reviewed in the future if it were determined that a problem exists.

Ms. Porter voiced no objections on the part of CCCL to allowing the use of hours of experience toward more than one license, as appropriate. She commented briefly about the minor differences in requirements applicable to MFT versus LPCC licensure.

### **C. Definition of Community Mental Health Setting**

Tracy Rhine, Assistant Executive Officer, reported that current law requires an LPCC candidate to gain a portion of his or her supervised clinical mental health experience in a hospital or community mental health setting. However, a definition of “community mental health setting” is not included in statute, and is necessary. She stated the issue had been discussed by the full Board at its May 2010 meeting during the review of the proposed rulemaking package, with staff instructed to return the topic to the Committee for further discussion. Ms. Rhine presented the Committee with the applicable regulatory language as currently drafted. She asked that the language be discussed and staff be directed to make any necessary changes to that language for consideration by the full Board at its July meeting. She also noted that one of the two options that had been suggested for resolution of the problem referred to the definition of a health facility as per the Health and Safety Code. Ms. Rhine expressed the position that use of that definition would be unduly limiting to LPCC applicants. Ms. Lonner suggested a possible amendment to draft regulatory language which could resolve the issue. Ms. Riemersma supported Ms. Lonner’s suggestion. She also proposed additional amendments to draft regulations, and explained her recommendations.

Ms. Riemersma asked if LPCC applicants would be allowed to use video-conferencing as a means of obtaining supervision. Ms. Rhine responded that the subject was being addressed in the Board’s current omnibus legislation. Ms. Riemersma also commented about the issue of health-related organizations that are owned by individuals who are not licensed health care professionals, and the use of such organizations in gaining required hours of experience.

Discussion followed among meeting participants about various related issues. Ms. Rhine clarified that the issue at hand before the Committee was the definition of the term “community mental health setting.”

***Renee Lonner moved to direct staff to amend Title 16, California Code of Regulations, Section 1820(d)(3) as suggested, and to return to the full Board for consideration. Gordonna DiGiorgio seconded. The Committee voted unanimously (2-0) to pass the motion.***

The meeting adjourned for a brief break at 11:15 a.m. The meeting reconvened at 11:25 a.m. Upon reopening the meeting, the decision was made by the Committee to delay discussion of agenda item IV (D) and return to that item following discussion of agenda item V.

#### **D. Practicum Requirement During Grand-parenting Period for Degrees Granted Prior to 1996**

Ms. Rhine reported that currently the licensing law for LPCCs states that a qualifying degree must include no less than six semester units or nine quarter units of supervised practicum or field study experience, or the equivalent. It was brought to the Board's attention by the California Coalition for Counselor Licensure (CCCL) that some of the older degrees may not contain the required number of units within the degree. Ms. Rhine indicated it was CCCL's request that the Board allow equivalencies for individuals who hold such degrees.

Ms. Rhine reported that the manner in which the LPCC grand-parenting provisions are worded make it a mandate for the applicant to have the practicum included in the degree. CCCL pointed out that the statute references a different code section which allows the Board discretion regarding the practicum requirement. She noted that the Board currently has the authority to look at equivalencies when reviewing older degrees and degrees earned out of state. Ms. Rhine deferred to Ms. Porter for additional information about CCCL's request.

Ms. Porter noted that the identified problem impacted a number of experienced counselors who hold older degrees. She stated CCCL's support regarding the current requirement, but reported that many of the older degrees required only three (3) units of practicum. She spoke about the different avenues available to individuals who are lacking in coursework, but pointed out that there are no remedies in current statute for individuals who are lacking in hours of practicum. She asked the Board about the possibility of amending the practicum requirement for LPCC applicants during the grand-parenting period only. She referred board members to her letter of April 30, 2010, in which she provided possible options that could serve as equivalencies to three units of practicum in the qualifying degree, and asked the Board for its assistance in resolving the problem for the few applicants who would be impacted.

Ms. Rhine added that in reviewing the MFT licensing law, it appeared there were provisions made for degrees earned before 1996 with respect to hours or units of required education. However, she was unable to find similar changes to the practicum requirement. Ms. Rhine noted that the practicum requirement appears to have been unchanged for many years. She also reported being uncertain as to the Board's authority to accept the equivalencies listed in Ms. Porter's letter, because they are outside of the degree. Ms. Rhine stated that the statute is very clear as to what is acceptable.

Discussion followed among meeting participants, with input from individuals who have significant experience and education but would be adversely impacted by the supervised practicum requirement. Ms. Rhine provided clarification about qualifying degrees, and the Board's discretion when reviewing an applicant's education and experience during the grand-parenting period. In response to a question by Ms. Riemersma, Ms. Rhine expressed uncertainty that there is sufficient time available to include the necessary legislative changes in the Board's current omnibus bill. Discussion continued about possible resolution to the conflicting code sections.

Ms. Madsen raised the possibility of conducting an open board meeting following a closed session scheduled June 28, 2010. The open meeting would be solely for the purpose of presenting the practicum issue to the full Board for discussion.

***Gordonna DiGiorgio moved to present to the full Board, following the closed session meeting scheduled June 28, 2010, revisions to LPCC statute pertaining to the grand-parenting period which would allow acceptance of qualifying degrees earned prior to 1996 that contain three (3) hours of practicum. Renee Lonner seconded. The Committee voted unanimously (2-0) to pass the motion.***

**V. Discussion and Possible Action on Marriage and Family Therapist Practicum Requirement; Trainees Counseling Clients; Exceptions**

Ms. Rhine reported that passage of SB 33 (Correa) Chapter 26, Statutes of 2009, had resulted in significant changes to the education requirements for MFT licensure. One change requires MFT trainees, after August 1, 2012, to be enrolled in a practicum course while counseling clients. Ms. Rhine noted that a previous point of discussion was the existence of a conflicting law that states a trainee can gain hours of experience outside the required practicum.

A second point of concern pertains to implementation of this provision. Specifically, there are periods such as intersession or summer break during which a student may not be able to enroll in a practicum course.

Ms. Rhine noted that the issue had been discussed by both the Policy and Advocacy Committee and the full Board at the April and May meetings, respectively. At the May Board Meeting, the group reviewed different options for resolving this problem. She reported that one option was to make an exemption for certain periods such as summer and intersession. The group determined that a limit of forty-five (45) days was appropriate for trainees to continue providing counseling services without being concurrently enrolled in a practicum course. The Board directed staff to draft amended statutory language and return the proposal to the Committee for further discussion.

Ms. Rhine referred Committee members to the draft language prepared in response to the Board's directive. She also made note of correspondence received from CAMFT regarding this topic. Ms. Rhine reported that CAMFT is contending that the language in the licensing law as amended by SB 33 does not include trainees per se, but refers to students, who are not defined. It is CAMFT's position that the Board is misinterpreting the statute and that current law does not require a trainee to be enrolled in practicum to counsel clients.

Ms. Rhine commented that as a result of CAMFT's concerns, the issues before the Committee had changed since preparation of her report. She deferred to CAMFT representatives for additional information.

Ms. Riemersma stated that the change to statute regarding the presumption that trainees must be involved in practicum was inadvertent and not intended by the discussions that occurred during the various meetings about SB 33. She noted that the issue before the Board at that time was whether or not the hours or units of practicum should be increased. Ms. Riemersma stated the discussions resulted in a negotiated agreement that hours for practicum would be increased, but a portion of the hours could be for client-centered advocacy. She commented that had there been intent to change the requirement so that trainees could gain experience only while enrolled in practicum, there would have been

significantly more attention paid to the issue at that time. She questioned the need to correct a problem unless it has been demonstrated that a problem exists.

Mr. Lee reported being asked to compare the conflicting statutes, and spoke about his findings. He commented on the need for consistency when interpreting provisions of law. He also noted the difference between a student and a trainee. Mr. Lee offered suggested language to solve the problem.

James Maynard, Legal Counsel to the Board, commented that he had reviewed CAMFT's correspondence only briefly due to it having been only recently submitted. He spoke about the various principles of statutory construction cited in the letter, and whether or not they were applicable to the current issue. He noted that additional research on his part would be required before determining if he was in agreement with CAMFT's interpretation of cases cited in the letter.

Ms. Lonner asked the research was essential for the issue in general. Mr. Maynard responded that per discussion with Ms. Madsen and Ms. Rhine, the Board has two options. One resolution would be to include clarifying language in the Board's omnibus bill to reconcile the two provisions of law. A second option would be to ask the Board at its July meeting to seek a legal opinion, which would result in Mr. Maynard drafting a legal opinion for presentation to the Board at a future meeting.

Ms. Rhine clarified that the Board's intent, per discussion at the May meeting, was to require practicum. She noted that if the end result is to require trainees to be enrolled in practicum, the Board needs to draft legislation which would clearly state that trainees must be enrolled in practicum. She outlined action that must be taken in order to put the change in place. She also spoke about directing Mr. Maynard to prepare a legal opinion on the issue for discussion at the next Board meeting.

Ms. Lonner requested clarification regarding what is required for an individual to move from being a student to being a trainee. Ms. Riemersma clarified that an individual must be enrolled in a program and have completed a certain number of hours to be considered a trainee. She noted that statute does not contain a definition of "student," but does define "trainee." Ms. Madsen and Mr. Maynard noted that the statutory correction to the problem would be to change the statute to reflect "trainee" instead of "student." Mr. Maynard clarified that the legal opinion would help the Board in addressing the problem while the legislative remedy is being pursued.

Ms. DiGiorgio raised the issue of changing the applicable statute to change the word "student" to "trainee." Ms. Riemersma indicated that CAMFT would oppose such a change. Mr. Maynard stated his understanding of CAMFT's position, which is that after completion of the twelve semester units of coursework required to practice as a trainee, an individual has sufficient foundation that enrollment in practicum is not necessary to have the academic theory in conjunction with the practice.

Mr. Maynard suggested that the matter be referred to the full Board for discussion of the statutory language, to confirm it is the intent of the Board that trainees be enrolled in practicum and to discuss possible statutory remedies might help meet those goals. Secondly, Mr. Maynard suggested that the Board direct legal counsel to draft a legal opinion regarding use of the title "student" versus "trainee."

***Gordonna DiGiorgio moved to 1) refer to the full Board at its next meeting for discussion and clarification of the Board's intent in requiring "trainees" to be enrolled in practicum while treating clients; and 2) direct legal counsel to draft a legal opinion regarding use of the title "student" versus "trainee." The Committee voted unanimously (2-0) to pass the motion.***

A brief discussion followed, during which Mr. Maynard touched on statutory construction issues and the process available to individuals who wish to appeal a provision of law. Ms. Rhine reminded meeting participants that the requirement to be enrolled in practicum while providing therapy services is applicable to individuals who begin a program after 2012. She acknowledged that a problem could be faced by programs that are adopting the new requirements before that time, and indicated the action before the committee was an attempt to correct the problem at the present time. Ms. Rhine was doubtful that the matter could be addressed legislatively during the current year. She commented that it would be better to wait until January 2011 to introduce the proposed legislative changes.

Ms. Riemersma asked the Board to expand on what is perceived as the problem that would be corrected by the proposed requirement regarding hours or experience. She again expressed the belief that the change as noted in SB 33 was inadvertent and unintentional. She reported being unaware of any problem or client harm that has been experienced as a result of the law that has been in existence previously. She repeated her concern about the need to correct a problem that does not exist. Mr. Maynard commented there are varying philosophies among schools about the subject of trainees treating clients. He expressed the opinion that this would seem to indicate there is controversy over whether a second-year student is qualified to provide therapy without being enrolled in an academic theory component of the program. He commented about the potential for harm to the consumer, and touched on the Board's mandate of consumer protection. He added that taking steps to avoid potential harm is part of protecting the public.

Discussion continued briefly among meeting participants.

## **VI. Overview and Discussion Related to Applied Behavioral Analysis and Senate Bill 1282 (Steinberg)**

Ms. Helms reported about discussion held at the previous Board meeting regarding regulation of Behavior Analysis. She noted that Senate Bill (SB) 1282 provides for certification of individuals as a Certified Behavioral Analyst. Ms. Helms provided a history of the discussion, reporting that at the Board meeting members of the public had spoken about personal experiences as parents of autistic children who have been treated by or received care from minimally educated or trained individuals claiming to be expert in behavioral analysis.

Ms. Helms reported having further researched the subject of Behavioral Analysis since the last meeting. She referred Committee members to a report of her findings, included in their meeting materials. Ms. Helms reviewed her findings as well as possible courses of action the Board may want pursue to resolve the problem. She noted that at its previous meeting, the Board voted to take an "oppose" position on SB 1282. She further noted that since the May meeting, the bill's author has been taking steps to keep the legislation moving forward to the Senate. Extensive amendments are planned once the bill reaches the Senate. Committee members discussed the possibility of putting information on the

Board's website about individuals who are qualified to practice applied behavioral analysis. Geri Esposito, California Society of Clinical Social Workers, encouraged the Board to ensure that any notice that might be put on the website be worded so as not to prohibit a qualified individual from practicing applied behavioral analysis because he or she is not certified as an Applied Behavioral Analyst. Ms. Riemersma added that such notification, if made, should include an exemption for any licensed or registered mental health professional.

Ms. Helms noted that a letter had been received from the parent of an autistic child, providing her comments about SB 1282, as currently amended. She noted that the parent had previously provided input at the May Board Meeting. Ms. Rhine assured the Committee members that the letter would be included as part of the official meeting record.

***Gordonna DiGiorgio moved that the Committee take no action on SB 1282. Renee Lonner seconded. The Committee voted unanimously (2-0) to pass the motion.***

## **VII. Budget Update**

Ms. Madsen provided an overview of the Board's budget, noting areas of highlight. She also spoke about the ongoing budget issues in California, and the steps the Board is taking to work with those issues. Ms. Madsen made note of the significant change in projected year-end balance from the last update in April 2010 until present. She attributed the increased expenditures directly to enforcement costs, noting a major increase in the number of cases forwarded to the Attorney General's Office for initiation of disciplinary actions.

Ms. Madsen also spoke briefly about the status of the Budget Change Proposal (BCP) submitted for staffing and funding of the new LPCC program. She noted that the BCP had been discussed at both the Assembly and Senate Budget Committee hearings. The Assembly approved the BCP as submitted; however, the Senate Committee recommended reducing the staffing request from twelve to five. Ms. Madsen expressed concern with the Board's ability to efficiently operate the LPCC program should all of the requested staffing not be approved. Ms. Lonner asked about the Board's options should the necessary staffing not be received to allow for timely implementation of the program. Ms. Rhine responded that an option available to the Board would be to seek an extension of the implementation dates.

## **VIII. Legislative Update**

Ms. Helms presented for the Committee's review a list of updates to pending legislative proposals. She noted that the proposed legislation had been discussed by the full Board at its May 2010 meeting.

## **IX. Rulemaking Update**

Ms. Rhine provided an update of pending regulatory proposals, for the committee's review.

**X. Suggestions for Future Agenda Items**

No agenda items were proposed.

**XI. Public Comment for Items Not on the Agenda**

No public comment was offered.

The Committee adjourned at approximately 12:50 p.m.