

BOARD MEETING MINUTES January 13, 2011

Alliant International University
2855 Michelle Drive, Room 319
Irvine, CA 92606

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Samara Ashley, Public Member
Jan Cone, LCSW Member
Mona Foster, Public Member
Judy Johnson, LEP Member
Patricia Lock-Dawson, Public Member
Michael Webb, MFT Member

Members Absent

Donna DiGiorgio, Public Member
Harry Douglas, Public Member
Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Christina Kitamura, Administrative Analyst
Michael Santiago, Legal Counsel
Gary Duke, Legal Counsel

Guest List

On file

FULL BOARD OPEN SESSION

Renee Lonner Board of Behavioral Sciences (Board) Chair called the meeting to order at approximately 1:38 p.m. Christina Kitamura called roll, and a quorum was established. Staff, Board members and attendees introduced themselves.

I. Review and Approval of September 9, 2010 Board Meeting Minutes

Ms. Lonner noted a correction on the last paragraph of page 15; "has addressing" should be "has been addressing."

Judy Johnson moved to approve the September 9, 2010 Board meeting minutes as amended. Samara Ashley seconded. The Board voted (6 in favor, 1 abstention) to pass the motion passed.

II. Discussion and Possible Action on Marriage and Family Therapist Practicum Requirement; Trainees Counseling Clients; Exception

Tracy Rhine presented that Senate Bill (SB) 33 went into effect January 1, 2010. SB 33 made a number of changes to the education requirements for marriage and family therapist

(MFT) licensure. One change in the new law pertained to practicum. Two issues had been brought to staff's attention surrounding this change in law. First, with the passage of SB 33, there appeared to be a conflict between the following sections of the Business and Professions Code:

BPC Section 4980.36(d)(1)(B)(iii) states *A student must be enrolled in a practicum course while counseling clients.*

BPC Section 4980.42(a) states *Trainees may gain hours of experience outside the required practicum.*

Ms. Rhine explained that there seemed to be a conflict between the two sections when initially interpreted. The California Association for Marriage and Family Therapists (CAMFT) contended that no inconsistency actually existed due to fact that Section 4980.36(d)(1)(B)(iii) referenced and applied only to *students*, not *trainees*. In the response to this assertion, and others contained in letters submitted by CAMFT regarding the Board's interpretation of this section of law, Board Counsel rendered a legal opinion.

Ms. Rhine pointed out the second issue of requiring a trainee to be enrolled in practicum while counseling clients. If a student is required to be enrolled in a practicum course while counseling clients, what happens to the student during those periods of time when they cannot be enrolled in a practicum course? The Board directed staff to draft statutory language that would allow students to counsel clients outside of practicum if that period outside of practicum is less than 45 days.

Gary Duke, Board Counsel, presented his statutory analysis. He stated that upon the initial reading of the statute, it may appear that BPC Section 4980.36(d)(1)(B)(iii) is inconsistent with existing law, BPC Section 4980.42(a). Since BPC Section 4980.42 authorizes trainees to gain experience outside the required practicum, the newly enacted statute requires students to be enrolled in a practicum course while counseling clients. Mr. Duke stated that BPC Section 4980.42 is a permissive statute, stating that trainees *may* gain hours of experience outside the required practicum. He explained that this *authorizes* students; it does not *require* them to gain such hours.

Mr. Duke explained the principles used when interpreting a statute. The objective is to "ascertain and effectuate the underlying legislative intent." In determining legislative intent, the "plain meaning" in the language of the statute is considered. Some statutes have statutory definitions. Statutory definitions provided specifically within the law are applied. Mr. Duke added that various sections of all codes must "be read together and harmonize if possible." He stated that codes are to be "regarded as blending into each other and constituting a single statute"; and that the "codes must be construed to give effect to all provisions, if reasonably possible." Mr. Duke stated that it must be presumed that the Legislature's intent is to "maintain a consistent body of rules." The court's role is to harmonize the law when inconsistent statutes exist.

Mr. Duke stated that based on these principles, there is no conflict between BPC Sections 4980.36(d)(1)(B)(iii) and 4980.42 since both provisions can be harmonized in such a manner as to have legal effect to both provisions.

BPC Section 4980.36(d)(1)(B)(iii) – "A student must be enrolled in a practicum course while counseling clients." Mr. Duke stated the following:

'Student' is defined by the American Heritage Dictionary as: 'One who is enrolled or attends classes at a school, college, or university.' The statute requires students qualifying for hours for the required experience to be enrolled in a practicum course while counseling clients. All trainees under the Marriage and Family Therapist Act (Act) are students by definition. Under the Act's definitional provisions, a trainee is defined to mean 'an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Sections 4980.36 and 4980.37, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.' Since the term 'student' is understood to mean one who is enrolled or attends classes at a school, college, or university, a 'trainee' is also by statutory definition a 'student' since a trainee is defined as one who is 'currently enrolled in a master's or doctor's degree program.' Consequently, all trainees are students. Because all trainees are also students, the requirement under section 4980.36(d)(1)(B)(iii) applies equally to trainees. The practicum requirement is not inconsistent with section 4980.42.

Section 4980.42(a) – “Trainees performing services in any work setting specified in subdivision (e) of section 4980.43 may perform those activities and services as a trainee, provided that the activities and services constitute part of the trainee’s supervised course of study and that the person is designated by the title trainee. Trainees may gain experience outside the required practicum. Those hours shall be subject to the requirements of subdivision (b) and to the other requirements of this chapter.” Mr. Duke stated the following:

Section 4980.42 is a permissive statute; it authorizes and provides that trainees may gain hours of experience outside the required practicum. This statute is not inconsistent with section 4980.36(d)(1)(B)(iii) which requires student, including trainees, to be enrolled in a practicum course while counseling clients. Section 4980.42 allows trainees to gain experience outside the required practicum. Experience that involves counseling, however, requires a trainee to be enrolled in a qualifying practicum course. This requirement does not conflict with section 4980.42 since it simply authorizes trainees to gain hours of experience outside the required practicum. The required practicum requirements still apply. Section 4980.42 also provides that hours of experience gained outside the required practicum shall be subject to the requirements of subdivision (b) and to other requirements of this chapter. Therefore, section 4980.36(d)(1)(B)(iii) requires all students, including trainees, to be enrolled in a practicum course while counseling clients.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), stated that CAMFT’s letters were “lame” with regard to separating the student and trainee issue. She added that the law clearly defines both terms. Ms. Riemersma stated that in taking a look at both sections, 4980.36 is directed at education and section 4980.42 is directed at experience. She believes that this is a public protection issue, and urged the Board to instead consider the entirety of the summer as opposed to the 45 day limit to allow students to counsel clients outside of practicum. The agencies employing the trainees and clients are placed in a difficult situation if the employees cannot work the entire summer, furthermore, it is punitive to the trainees if they work the entire summer but only receive credit for up to 45 days.

Kathleen Wenger, Pepperdine University, stated that there are 175 of their students that are currently enrolled in practicum. In addition to the summer session issue, there is also spring break and winter break. Technically, the students must be enrolled in or attending a class to counsel clients. This also creates a hardship on the public to not receive those services

from students if they have to stop seeing clients in the middle of their treatment. Ms. Wenger urged the Board for flexibility.

Ms. Lonner asked how students are employed over the summer if they are not enrolled in a practicum course. Ms. Riemersma responded that they are employed in exempt settings. Another meeting guest responded that the student may not necessarily be employed; the student may be volunteering.

Olivia Loewy, American Association for Marriage and Family Therapy California Division (AAMFT-CA), agreed with the concern regarding continuity of care. She indicated that some educators have expressed their concerns with lack of oversight over an extended amount of time. She suggested that schools create policies that address this issue.

Ms. Riemersma responded that most schools currently allow for that by creating a course and written agreement but it is not part of a practicum; it allows for hours of experience gained outside of practicum. Current law provides for that.

Janlee Wong, National Association of Social Worker (NASW), stressed the importance of practicum that requires faculty instruction for field work.

Carolyn Langone, stakeholder, asked how the Board came to the decision of the 45 day limit. Ms. Madsen responded that the discussion took place at the May 2010 Board meeting. The first issue addressed was whether or not the trainees should be enrolled in a practicum course. Also taken into account were the breaks and what those breaks look like: winter, spring, summer, quarter breaks, and semester breaks. Forty-five (45) days seemed to be a reasonable number and did not seem to adversely impact a great number of people.

Ms. Langone explained that the decision should not be made based on the length of the summer break; it should be made based on the duration that is determined to be safe to counsel clients outside of practicum.

Ms. Lonner recalled that in determining 45 days at the committee level and at board level, the Board did not intend to cover the entire summer. The 45-day limit was enough to cover an extensive winter break, gaps between semesters, and other breaks. Ms. Lonner added that non-client counseling Client Centered Advocacy hours can still be counted.

Ms. Riemersma asked if this was going to be pursued through a committee bill. Ms. Rhine responded that if the Board decides to pursue, it will be Board-sponsored legislation. She added that opposition is expected.

Elise Froistad joined the meeting at 2:15 p.m. Staff provided a brief overview of the discussion that took place.

Ms. Lonner presented the options before the Board: 1) leave the current law as is; 2) adopt proposed amendment; 3) direct staff to draft new language and bring back to the Board.

Patricia Lock-Dawson moved to adopt staff's recommendation of the amended language. Renee Lonner seconded. The Board voted unanimously (8-0) to pass the motion.

III. Public Comment for Items Not on the Agenda

No public comments were made for items not on the agenda.

IV. Suggestions for Future Agenda Items

Ms. Wenger proposed discussion regarding MFT clinical supervision hours. Currently LCSWs must have all of their hours supervised by an LCSW. She proposed a requirement that a portion of the MFT hours be supervised by an MFT.

The open session was closed at approximately 2:45 p.m., and the Board moved to closed session.

FULL BOARD CLOSED SESSION

V. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

The Board met in closed session to discuss and take possible action on disciplinary matters.

Closed session ended at 3:28 p.m.

FULL BOARD OPEN SESSION

The Board moved to open session to adjourn the Board meeting at approximately 3:34 p.m.