

Licensing and Examination Committee Meeting Minutes March 24, 2011

Department of Consumer Affairs
El Dorado Room
1625 North Market Blvd., Suite N220
Sacramento, CA 95834

Members Present

Elise Froistad, Chair, MFT Member
Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
Rosanne Helms, Legislative Analyst
Christina Kitamura, Administrative Analyst
Paula Gershon, Program Manager
Sandra Wright, Examination Analyst

Members Absent

None

Guest List

On file

I. Introductions

Elise Froistad, Licensing and Examination Committee (Committee) Chair, called the meeting to order at 1:30 p.m. Committee members, staff, and attendees introduced themselves. Christina Kitamura called roll, and a quorum was established.

II. Review and Approval of the September 13, 2010 Meeting Minutes

Christina Wietlisbach moved to approve the September 13, 2010 meeting minutes. Elise Froistad seconded. The Committee voted unanimously (2-0) to pass the motion.

III. Discussion and Possible Rulemaking Action Regarding Implementation of Assembly Bill 2699 (Bass) Chapter 270, Statutes of 2010

Rosanne Helms presented implementation of AB 2699. This legislation, which was passed in 2010, allows health care practitioners licensed or certified in good standing in another state may be temporarily exempted from California licensing requirements if the following conditions are met:

- a) Care is to uninsured or underinsured persons;
- b) Care is on a short-term, voluntary basis not to exceed ten calendar days per event;
- c) Care is in association with a sponsoring entity that registers with the applicable healing arts board and provides specified information to the county health department of the county in which the health care services will be provided; and

- d) It is without charge to the recipient or to a third party on behalf of the recipient.

The law requires the health care practitioner to submit a copy of his or her license, a request for authorization to practice without a license and pay a fee established by the regulating board through regulation. This law sunsets on January 1, 2014.

Ms. Helms explained that before this law can be implemented, regulations must be approved which specify the methods of its implementation. The Department of Consumer Affairs (DCA) has drafted a model regulation package for each of its boards to use as a standardized framework. The regulation package written by DCA does the following:

1. Specifies registration and recordkeeping requirements for the sponsoring entity;
2. Defines the application process for an out-of-state practitioner to participate in a sponsored event;
3. Defines grounds for termination of authorization to participate.

The regulations package drafted by DCA leaves several decisions to each Board's discretion.

1. Processing Fee: The Board will need to set a processing fee to be paid by an applicant. Staff recommends a processing fee of \$25.
2. Educational/Experience Requirements: Additional qualifications may include one or more of the following:
 - a) Requiring a Master's degree from a school, college, or university accredited by a regional accrediting agency recognized by the United States Department of Education or approved by the Bureau for Private Postsecondary and Vocational Education.
 - b) Specifying a certain degree title, similar to those required by current Board licensing law, such as Master of Marital and Family Therapy, Couple and Family Therapy, Masters in Counseling or Master of Social Work.
 - c) Requiring that the practitioner must be licensed in their state for a certain period of time.
 - d) Requiring a certain number of hours of supervised experience.
3. Additional Application Material: Examples of additional information the Board may decide to require include educational records, reference letters, list of work experience, etc.
4. Discretionary Denial Authority: The regulations grant the Board discretionary denial authority in the event that an applicant has participated in a large number of events within the 12-month period immediately preceding the current application. The Board may choose the number of events it feels it can allow while still maintaining both public protection and the integrity of the state's licensing laws, if it feels that a limit is necessary.

Staff will draft proposed regulations based on the DCA model and the recommendations of the Committee. Staff will then confer with counsel and then bring the revised regulation package to the May Board meeting for consideration.

Ms. Helms provided the history behind this bill. There was a one-time health care event in Los Angeles. Many people were turned away because there were not enough practitioners at the event to provide treatment to everybody.

Ms. Froistad asked what type of therapeutic treatment is provided by mental health practitioners at these events. Ms. Helms responded that there weren't any mental health providers at this event. The Board was included in the regulation package because it is a healing arts board.

Ms. Froistad suggested permitting only licensed professionals to participate in these events. She added that if the Board only permits licensed individuals to participate in these events, there would be no need to require hours of supervised experience.

Ms. Rhine pointed out that the entity sponsoring the event could not be a non-profit entity if only licensed individuals were permitted to participate. Current law allows for non-profit and charitable entities as exempt settings. Individuals working in these exempt settings are not required to be licensed.

Ms. Wietlisbach asked if any states issue certifications instead of licenses. Ms. Rhine was not aware if any states offer certifications. However, some states have a tiered license system for social workers.

Ms. Rhine explained that the sponsoring entity would have to ensure that the practitioner is registered with the Board in order to participate at the event and follow the requirements outlined in the bill, regardless of the setting.

Ms. Froistad requested more information on other states and their licenses/certifications.

Janlee Wong, National Association of Social Work California Division (NASW-CA), suggested adding the Council of Social Work Education under Educational Requirements. He also noted that there are some similar degrees to MSW degrees with different titles. Mr. Wong also pointed out that the requirement for supervised hours is not needed if the statute only allows for licensees.

Herbert Weiner expressed his concerns about one-time therapy sessions.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT), agreed with Mr. Weiner. She expressed concern for the consumer after the one-day fair. She also noted that there should be a process that requires the Board to file complaints with other states when disciplinary action against out-of-state licensees is necessary.

Mr. Wong disagreed with Mr. Weiner. He explained that these short-term fairs target people who do not seek care or do not have insurance. Referrals are provided, and professionals in the community follow-up with the clients. These fairs are community outreach.

Mr. Weiner responded that he does not disagree with information and referrals. He expressed that he is against direct clinical services as a one-session clinical intervention.

Ms. Froistad stated that she is not sure how much authority the Board has over this. There are no specifications mentioned. Ms. Helms agreed; there is no mention about code of conduct.

Dean Porter, California Association for Licensed Professional Clinical Counselors (CALPCC) stated that Licensed Professional Clinical Counselors (LPCC) are not mentioned in this bill. Ms. Rhine responded that qualifying degrees are mentioned in the language.

After brief discussion, the Committee agreed to allow individuals that are licensed to practice at a clinical level.

Ms. Froistad pointed out inconsistencies in the language. On the proposed language, it states that to register not later than 90 calendar days prior to the event. On the registration form, it states to register at least 60 days prior to the event.

The Committee agreed to set the processing fee at \$25. The additional application material can be discussed after the Board decides on the educational/experience requirements.

In regards to discretionary denial authority, Ms. Froistad suggested not limiting the number of health care events that a practitioner may attend.

Elise Froistad moved to direct staff to incorporate this information into the regulation package for inclusion at the May Board meeting. Christine Wietlisbach seconded. The Committee voted unanimously (2-0) to pass the motion.

IV. Discussion and Possible Action Regarding Expiration of Clinical Experience Hours Gained More Than Six years Prior to Licensure Application

Ms. Helms reported that at the Policy and Advocacy Committee meeting in April 2010, Mr. Herbert Weiner, an Associate Clinical Social Worker (ASW), requested the Board to re-examine the requirement that hours of experience an ASW gains toward licensure must be gained within a six-year time frame. He cited his difficult experience in gaining those hours within that time frame, citing his age (71) and cutbacks related to the economic recession as primary reasons for his difficulty.

Specifically, the section of law Mr. Weiner referred to was Business and Professions (B&P) Code Section 4996.23 (a)(4), which states that "A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed." A similar requirement is in place for those seeking MFT, LEP, and LPCC licenses.

This issue was addressed again at the Licensing and Examination Committee meeting in September 2010. At that time, the focus shifted from the six-year timeframe requirement possibly being a roadblock for ASWs trying to gain experience, to the possibility that the problem might be stricter requirements for experience hours on ASWs. Given current economic conditions, the question was raised of whether it is more difficult to gain hours of supervision under a specific type of practitioner. Of the required 3,200 hours of post-master's degree supervised experience providing clinical social work, at least 1,700 of these hours must be gained under the supervision of a licensed clinical social worker (LCSW). This specific requirement of ASWs is not required of marriage and family therapy interns (IMFs). The Committee directed staff to research this issue further, including gathering additional data to identify any trends of ASWs having difficulty obtaining supervision under an LCSW in order to meet the experience requirements necessary to enter the examination cycle.

Ms. Helms explained that prior to 2004, ASWs were required to complete 2,200 of their 3,200 hours of supervised experience under the supervision of an LCSW. SB 1077, passed in 2003, softened this requirement, allowing ASWs to complete 1,700 of their 3,200 hours of supervised experience under the supervision of an LCSW. This requirement is still in place today.

In July 2008, the Board conducted a study of its licensing processes based on data for all 2002, 2003, and 2004 graduates that registered with the Board. The study looked at the time involved from graduation to license and from registration application submission to license for three graduating classes. It shows that for those graduating classes, it typically takes approximately 3 to 4 years for an ASW to obtain a license once they have submitted their registration application. This data, however, did not take into account the possibility of more severe recent effects on time to licensure that may be due to the current economic downturn.

In order to determine whether the current economic downturn is causing ASW registrants to have difficulty obtaining their 1,700 hours of experience under the supervision of an LCSW, and to determine if ASW registrants are having difficulty obtaining their 3,200 hours of supervised experience within a six year timeframe, Board staff randomly surveyed files of 100 ASW applicants who obtained examination eligibility in either 2009 or 2010. A registrant who obtained examination eligibility within these years would have successfully obtained all of their 3,200 hours of experience within the past six years, despite the recent poor state of the economy. Specifically, the following two factors were examined:

1. How many years is it taking ASWs to gain all of their 3,200 experience hours?

Data provided shows that of the 100 ASWs sampled, 81% were able to obtain the required experience to earn examination eligibility in a timeframe of greater than two years but less than four years.

For the 100 ASWs sampled, it was taking an average of 3.1 years for them to gain all of their 3,200 experience hours. If the median is examined, which gives a better picture of middle values and less weight to extreme cases, it is taking approximately 2.8 years.

This data suggests that the economy is not significantly preventing ASWs from obtaining the experience needed to gain licensure. On average, they are able to complete the experience within three years, even though the law allows them a six year timeframe.

2. At the time they are approved for examination eligibility, how many hours have they accrued under the supervision of an LCSW, and how many, if any, hours do they have above and beyond the 1,700 minimum hours requirement?

The data did not address the relative difficulty of an ASW in gaining the 1,700 hours of experience needed under an LCSW. If they were having great difficulty, one would expect to see a majority of registrants obtaining only the minimum 1,700 hours required.

Staff examined the sample of 100 ASWs to see how many of the 3,200 required hours were obtained under the supervision of an LCSW. Additionally, the percentage of these hours above and beyond 1,700 was calculated for each registrant.

If the ASW population were having great difficulty obtaining supervised experience under an LCSW, it would be expected that for the majority, hours accrued under an LCSW would be very close to 1,700, and the percentage of hours accrued under an LCSW above and beyond 1,700 would be close to zero. Instead, staff found a different situation. Of the 100 files surveyed, the average number of hours obtained under LCSW supervision was 3,438, approximately double the 1,700 minimum. The median was 3,425 hours. It was also found that on average, an ASW will exceed the 1,700 minimum LCSW supervised hours requirement by 102%.

Data provided showed that only 6% of ASW registrants were able to obtain only between the minimum 1,700 hours and 10 percent over the minimum requirement. A much greater percentage (42%) was able to exceed the 1,700 hour requirement by 10% to 100%.

These findings lead to a conclusion that ASWs are, on average, able to obtain their 3,200 hours of supervised experience well within a six-year time frame. They are also, on average, able to greatly exceed the requirement of 1,700 hours of supervised experience under an LCSW, also within the six-year timeframe.

Mr. Weiner stated that the study did not provide the ages of those who received their hours within that time frame nor did it indicate whether they just graduated from school. Mr. Weiner expressed that his case is exceptional and feels that uniform standards should not be used in exceptional cases.

Ms. Wietlisbach asked Mr. Weiner why age is a barrier. Mr. Weiner responded that employers want people immediately after graduate school and have potential for longevity. He also claimed that there is favoritism for younger people.

Ms. Wietlisbach asked Mr. Weiner if a person is hired for an internship, is the employer hiring him/her beyond the internship? Mr. Weiner did not directly answer this question. He instead stated that the person who hired him eventually retired, and nobody at the agency would supervise him. He also stated that agencies will take him if he would be willing to pay for the hours of internship; however, he is uncomfortable paying for his supervision. He listed several reasons why clinicians are needed.

Ms. Atkins requested that staff look into disabilities in its research it will be conducting on MFTs. Ms. Rhine stated that the Board does not have the demographic information regarding health issues.

Mr. Wong stated that the problem of age discrimination appears to be on the potential employers/agencies, not the Board.

Mr. Weiner expressed that he has fallen through the cracks; that the six-year time frame is not equitable in all cases, and asked how the Board addresses those who have fallen through the cracks. Ms. Froistad responded that the Board does not have authority over the workplace in regards to Mr. Weiner's applications for internship. Six years has always been a reasonable standard to accrue hours, and standards must be in place.

Mr. Weiner asked if it is a reasonable standard if he is experiencing a hardship. Ms. Madsen replied that the law does not allow for exceptions based on hardship; the law provides for benchmarks and thresholds to be met in order to be eligible to sit for the exams and become licensed.

Mr. Weiner stated that the Board has the power to reverse the time frames; there is an injustice, and the Board must examine that. Ms. Madsen stated that the Board is attempting to address this matter and has done so in holding this discussion a few months ago and as well as at this current meeting, and has researched possible barriers. Ms. Madsen explained that to address this matter, there must be some demonstration that impacts the population.

Mr. Weiner asked that if this time frame is equitable, then why has he not accrued his hours. Ms. Madsen responded that every person's case is different, and the Board cannot determine why Mr. Weiner has not been able to accrue his hours.

Mr. Weiner again stated that these regulations need to address exceptional situations.

Ms. Froistad stated that she will not make a recommendation to the Board to make changes to the required hours of experience.

No action was taken.

V. Discussion Regarding the Holistic Review of the Board's Examination Program

Ms. Rhine reported that in September 2008 the Board contracted with Applied Measurement Services, LLC (AMS) to conduct a holistic review of the Board's licensing examination programs, focusing on the assessment of how Mental Health Service Act transformation principals and associated mental health practice competencies are represented in the examinations.

Dr. Tracy Montez, AMS, presented her finding and concluded this phase of the Board's study of the licensing examination process. Her findings were provided in a summary report that was provided.

Dr. Montez presented the completed final report. Dr. Montez looked at all three examination programs to determine if they were working as intended. Her assessment showed that they were very stable. Dr. Montez worked with the Board's Examination Program Review Committee (EPRC) to do assessments of the examination programs, to look at the assessment of the mental health services competencies, and to educate public and stakeholders about exam development.

Public meetings were held to provide information regarding the entire process of examination development. Workshops were held with practitioners to evaluate mental health competencies and how to integrate that into the examination plan, and to solicit feedback about the Board's examination programs. The primary recommendation that came out of this project is to restructure the process of the examination programs and find ways to get people through the licensure process that does not compromise measure of competency. There are additional recommendations outlined in the report as well.

Dr. Montez expressed that the Board is doing a great job; there is a lot of progress in educating people about exam development.

Ms. Madsen thanked Dr. Montez for her work and analysis, and her guidance. Ms. Froistad thanked Dr. Montez for her work and for explaining the process of exam development.

VI. Discussion and Possible Action Regarding the National Counselor Examination and the National Clinical Mental Health Counselor Examination

During the July 28, 2010 Board meeting, the Board directed staff to continue working with the National Board for Certified Counselors (NBCC) to address Board concerns with the national exam in an effort to continue moving forward toward California acceptance of the national exam for LPCC licensure.

At the November 4, 2010 Board meeting, Dr. Montez, AMS, provided an update regarding the efforts to address the concerns with NBCC. Dr. Montez emphasized that NBCC is very willing to work with the Board. Further, AMS had received permission from NBCC to present information from their discussions in a public format. Dr. Montez specified the concerns and provided the response from NBCC at the November Board meeting.

Dr. Montez recommended the Board continue these discussions with NBCC to move forward, to continue the relationship with the Office of Professional Examination Services (OPES) that has been established, and to move forward in determining which of the NBCC exams would be suitable given that they show good faith on these issues.

Board staff met with OPES and AMS to request a recommendation regarding the use of the national exam for LPCC licensure. OPES and AMS were provided with all available and relevant material for their assessment. OPES and AMS recommend the use of the National Clinical Mental Health Counselor Examination (NCMHCE) for LPCC licensure along with a California specific examination.

Dr. Montez explained that she looked at the NCMHCE and the National Counselor Examination (NCE). The NCE is used by other states as a first tier license exam. Because of this, Dr. Montez felt that NCE was not appropriate for California. Dr. Montez stated that the NCMHCE was similar to the Board's vignette exam; and it is a clinically based exam. Dr. Montez recommended the NCMHCE.

Dr. Montez's recommendation is based on four conditions:

1. That the eight concerns listed in the report be addressed by NBCC and the Board;
2. That an occupational analysis on the California licensed LPCCs be performed in two to three years;
3. That a California supplemental examination that tests for knowledge of California-specific laws and ethics rules and any other critical competencies not tested in the NCMHCE be included.
4. That the Board implement regulations authorizing the use of any national examination(s) and state examination(s) for LPCC licensure deemed appropriate by the Board.

Bob Holgren representing OPES concurred with Dr. Montez's findings.

Christine Wietlisbach moved to recommend to the Board the approval of the NCMHCE for licensure of LPCCs. Elise Froistad seconded. The Committee voted unanimously (2-0) to pass the motion.

VII. Suggestions for Future Agenda Items

No suggestions for future agenda items were made.

VIII. Public Comment for Items Not on the Agenda

No public comments were made.

The Committee adjourned at 3:18 p.m.