

BOARD MEETING MINUTES June 26, 2014

Department of Consumer Affairs
HQ2 Hearing Room
1747 North Market Blvd.
Sacramento, CA 95834

The Board of Behavioral Sciences met via teleconference at the following locations:

6767 Green Valley Road
Placerville, CA 95667

2400 Moorpark Avenue #300
San Jose, CA 95128

4801 Airport Plaza Drive
8th Floor, IAO-826W Conference Room
Long Beach, CA 90815

68-1400 Mauna Lani Drive
Kohala Coast, HI 96743

5506 Ranchito Avenue
Sherman Oaks, CA 91401

30622 Via Pared
Thousand Palms, CA 92276

Members Present

Christina Wong, Chair, LCSW Member
Samara Ashley, Public Member
Betty Connolly, LEP Member
Sarita Kohli, LMFT Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Dr. Christine Wietlisbach, Public Member

Staff Present

Steve Sodergren, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Laura Freedman, Legal Counsel
Christina Kitamura, Administrative Analyst

Guest List

On file

Members Absent

Eileen Colapinto, Public Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Vice Chair, Public Member
Dr. Peter Chiu, Public Member
Dr. Harry Douglas, Public Member
Patricia Lock-Dawson, Public Member

Christina Wong, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 10:16 a.m. Christina Kitamura called roll, and a quorum was established.

I. Introductions

The Board Members, Board staff, and guests introduced themselves.

II. Discussion and Possible Rulemaking Action Regarding Proposed Revisions to California Code of Regulations, Title 16, Division 18, Article 8 Board of Behavioral Sciences Continuing Education Requirements

In 2012 and 2013, the Board formed a committee to revise its regulations related to continuing education (CE). The resulting proposed regulations remove the Board's authority to directly approve and license CE providers and, instead, recognize "approval agencies" that have already established stringent requirements for CE providers. The Board also proposes recognizing a limited number of entities as CE providers, allowing these named entities to offer CE courses directly to Board licensees without approval from an approval agency.

At its meeting in August 2013, the Board approved the latest version of the CE regulations. The regulations were then noticed with Office of Administrative Law (OAL), and a 45-day public comment period was held.

In its final review, OAL requested several changes to the proposed language. Rosanne Helms presented these proposed changes to the Board for approval:

1. Continuing Education Course Content Language. OAL had concerns that language in Section 1887.4.0(b)(2) stating that course content shall be "supported using established research procedures and scientific scrutiny" was not specific enough and difficult to quantify.

After consultation with Department of Consumer Affairs (DCA) Legal Division and OAL, this subsection was replaced with language that CE courses must "be supported using research practices and procedures which are generally accepted in mental health research and which have been subjected to external peer review."

Due to this change in Section 1887.4.0(b)(2), subsection (d) has been deleted. This subsection had stated that "courses shall not predominately reflect the commercial views of the provider or any other person giving financial assistance to the provider."

OAL was concerned that the term "commercial views" was subjective and unclear. It is believed that the changes to subsection (b)(2) now provide sufficient protection against courses that are not scientifically accepted.

2. Records of Course Completion. Section 1887.11.0 discusses the types of information a CE provider must include on a record of course completion. OAL requested that subsection (d) be amended because the term "provider identification" was unclear, and because requiring the name of a board-recognized provider was redundant with subsection (c).

Subsection (d) was amended to state that the provider must include the board-recognized approval agency name, or a statement that the provider is one of the entities recognized by the Board to provide CE pursuant to Section 1887.4.3.

3. Adjustment of Phase-Out Period and Implementation Dates. A phase-out period is needed for the Board's existing CE approval system.

Due to the delay of the regulation package making the changes requested by OAL, staff decided to change the implementation dates to allow the Board more time to provide outreach and to allow providers more time to seek approval from recognized approval entities. The proposed timelines are:

- January 1, 2015 – The Board will begin accepting documentation from entities pursuing Board recognition as an approval agency. At this time, the Board will also cease accepting applications for new Board-approved CE provider numbers.

- July 1, 2015 – Language implementing the Board’s existing CE approval program will sunset. Board-approved CE providers will no longer be renewed. Language has also been added to ensure that those CE providers expiring after July 1, 2015, cannot be renewed early to avoid this deadline. All Board-approved CE providers with a number that expires after July 1, 2015, may continue providing CE coursework until the provider number expires.
4. Miscellaneous Technical Changes: OAL requested a number of minor, technical, or nonsubstantive changes to the language in the regulatory proposal. These changes are:
- Minor technical, nonsubstantive changes to titles, text, and authority and reference footnotes;
 - Renumbering certain sections to ensure numbering is correct for continuity;
 - Insertion of a proper citation for the Americans with Disabilities Act;
 - Elimination of Section 1887.5 from the regulation proposal. The regulation package makes no changes to this section, and therefore, it does not need to be included. This section will remain a part of the Board’s regulations.

Betty Connolly expressed concern regarding the CE course content language. She explained that in the Licensed Educational Psychologist (LEP) profession, research, practice and procedures do not only come out of the mental health field, but from the educational field as well.

Renee Lonner added to Ms. Connolly’s comment, pointing out that the CE courses must be supported using research practices and procedures which have been subjected to external peer review. She suggested changing the language to omit the external peer review requirement.

Steve Sodergren stated that the language in Section 1887.4.0(b)(2) includes “or” and believes this addresses Ms. Connolly and Ms. Lonner’s concerns.

Ms. Lonner still has concerns with the external peer review.

Ms. Helms suggested replacing the language in subsection (b)(2) with the following: “be supported using practices and procedures which are generally accepted in mental health research.” This will omit the external peer review requirement.

When asked why this requirement was included in the language, Ms. Helms replied that the committee’s intent was to ensure that the courses were based on well-established mental health practices.

Jill Epstein, California Association of Marriage and Family Therapists (CAMFT), stated that subsection (b)(2) uses the term “supported” which is very important and there could be implications if it is removed.

Laura Freedman replied that (b)(2) was written as an “or” to subsections (b)(1) and (b)(3). As written, it is an alternative to (b)(1) and (b)(3).

Ms. Connolly expressed that she does not want to make this so stringent that it would be difficult for the approval agencies to offer coursework.

Ms. Lonner suggested dropping (b)(2). Ms. Connolly supported the suggestion. Ms. Helms and Ms. Freedman indicated that they are comfortable with omitting (b)(2).

Ms. Helms suggested changing the term “beginning” to “effective” in Section 1887.13(b) and (c).

Ms. Epstein expressed a concern regarding the deletion of Section 1887.7(d) and asked what implications would result from this deletion.

Ms. Helms responded that OAL felt that it was difficult to define “commercial,” and the subsection was unclear. Based on the changes proposed for CE course content to be supported using practices and procedures which are generally accepted mental health research, OAL felt that would prevent modalities for commercial reasons. Therefore, OAL suggested removing subsection (d). Ms. Helms felt comfortable with the stringent review process. She also noted that if this becomes a problem in the future, the Board can go back and make an amendment.

Ms. Freedman stated that the language with the revision, and prior to the revision, does not necessarily prohibit a commercial message. The language requires research-based, practice/knowledge-based course content.

Dr. Christine Wietlisbach moved to accept the changes discussed under Sections 1887.4.0(b)(2) and 1887.15(b) and (c); to approve the proposed modified text for a 15-day public comment period; to delegate to the Executive Officer the authority to adopt the regulatory changes as modified if there are no adverse comments regarding the changes made in the 15-day public comment period; and to delegate to the Executive Officer the authority to make any technical or nonsubstantive changes that may be required in completing the rulemaking file. Sarita Kohli seconded. Via roll call, the Board voted unanimously (7-0) to pass the motion.

III. Discussion and Possible Action Regarding Assembly Bill 186 (Maienschein) - Professions and Vocations: Military Spouses: Temporary Licenses

AB 186 would require a board within the DCA to issue a temporary license to a spouse of a military member who is already eligible for an expedited license.

Current law requires a board within DCA to expedite the licensing process for an applicant who is married to, or in a domestic partnership with, an active member of the U.S. military who is assigned to active duty in California. Current law also states that in order for the license to be expedited, the military spouse must hold a current license in another state in the same profession for which he or she is seeking a California license.

This bill:

1. Requires a board within DCA to, after appropriate investigation, issue a temporary license to an applicant who meets certain conditions:
 - The applicant can provide evidence that he or she is married/in a domestic partnership/legal union with an active duty member of the armed forces of the United States who is assigned to active duty in California.
 - The applicant holds a current license in another state for the same profession or vocation.
 - The applicant submits a signed affidavit to the board that he or she meets all requirements for the temporary license.
 - The applicant submits written verification from his or her licensing jurisdiction that the license is in good standing.

- The applicant has not committed any act in his or her current licensing jurisdiction that would be grounds for denial, suspension, or revocation of the license.
 - The applicant has not been disciplined by a licensing entity in another jurisdiction and is not the subject of an unresolved complaint or disciplinary proceeding.
 - The applicant submits fingerprints to the board.
2. States that the temporary license expires 12 months after issuance, or upon issuance of an expedited license, or upon denial of the application for an expedited license, whichever occurs first.
 3. Allows the board to investigate the applicant for the purpose of denying or revoking a temporary license, including conducting a criminal background check.
 4. Allows a temporary license to be terminated immediately upon a finding that the temporary licensee failed to meet any of the requirements for a temporary license or provided inaccurate information.
 5. Requires an applicant seeking a temporary license as an engineer, land surveyor, geologist or geophysicist to successfully pass the appropriate California-specific examinations required for licensure.
 6. Allows a board to require an applicant to successfully pass a California law and ethics exam prior to issuing a temporary license, if passing such an exam is a requirement for licensure.
 7. Exempts the California Architects Board and the State Board of Chiropractic Examiners from these provisions.

To obtain a temporary license, this bill requires that the military spouse must hold a current license in the same profession in another state. It does not require:

- That the licensing requirements in the other state in which the person holds a license be substantially equivalent to the requirements in California; or
- That the applicant passes all required Board administered examinations. (The bill has been amended so that the Board may require passage of the California Law and Ethics Examination.)

Staff has concerns regarding continuity of care. This bill creates a temporary license that is valid for a 12-month period, or until the expedited license is issued or denied, whichever occurs first. If the Board finds that the temporary licensee does not qualify for licensure, then the provisional license expires. In addition, if the applicant has not passed the required Board licensing exam(s) during the 12-month period, then the temporary license would expire. If this happened, the applicant would no longer be able to see his or her patients. A consumer who seeks mental health services often seeks treatment for an extended period of time and having a practitioner whose temporary license suddenly expires could disrupt the continuity of care.

In addition, staff has concerns regarding staffing and the BreEZe database. The Board does not currently have a provisional license status. It is unclear how quickly the department could create one, as boards under DCA are transitioning to the new BreEZe database system. In addition, the reprogramming costs would represent a significant fiscal impact to the Board.

At its May 2013 meeting, the Board took a “support if amended” position on this bill, requesting the following amendments:

- An amendment requiring that the temporary license applicant to provide a transcript to the Board;
- An amendment requiring the applicant to pass the California Law and Ethics Examination prior to issuance of a temporary license; and
- An amendment allowing delayed implementation to accommodate DCA's transition to the BreEZe database system.

Ms. Helms noted that an amendment has been made to require the applicant to pass the California Law and Ethics Examination prior to issuance of a temporary license. However, amendments have not been made to require the applicant to provide a transcript or to allow delayed implementation.

Ms. Epstein expressed that it is problematic to allow the applicants to bypass requirements; they are already receiving an expedited application process. Existing applicants have been waiting for long periods of time, due to backlogs, to get their applications processed.

Samara Ashley suggested that BBS be removed from this bill. Ms. Wong agreed.

Ms. Freedman stated that if it is the Board's desire to be removed from the bill, an "oppose unless amended" position is warranted. Logically, a "support unless amended" position leaves the Board open to address other concerns within the bill even if the Board is removed from the bill.

Renee Lonner moved to oppose AB 186 unless amended to remove the Board of Behavioral Sciences from the bill. Sarita Kohli seconded. Via roll call, the Board voted unanimously (7-0) to pass the motion.

IV. Suggestions for Future Agenda Items

Ms. Epstein suggested a future discussion regarding fees that interns must pay to maintain their registration number while waiting for their applications to be evaluated.

V. Public Comment for Items Not on the Agenda

No public comments.

VI. Adjournment

The Board adjourned at 11:25 a.m.