

BOARD MEETING MINUTES November 19-20, 2015

The Mission Inn
3649 Mission Inn Avenue
The Galleria Room
Riverside, CA 92501

Thursday, November 19th

Members Present

Christina Wong, Chair, LCSW Member
Deborah Brown, Vice Chair, Public Member
Dr. Scott Bowling, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Betty Connolly, LEP Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Dr. Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

Members Absent

Samara Ashley, Public Member

Guests

See sign-in sheet

FULL BOARD OPEN SESSION

Christina Wong, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was established.

Administrative Law Judge Debra D. Nye-Perkins presided over the hearings.

The petitions were not heard in the order listed on the agenda.

I. Petition for Modification of Probation for Karina Scott, IMF 83413

This item was taken out-of-order was presented as the third petition.

Judge Nye-Perkins opened the hearing at 10:46 a.m. Deputy Attorney General Lauro Paredes presented the facts of the case on behalf of the Board of Behavioral Sciences. Karina Scott was not represented by an attorney.

Mr. Paredes presented the background of Ms. Scott's probation. Ms. Scott was sworn in. Ms. Scott presented her request to modify probation. Mr. Paredes and Board Members posed questions to Ms. Scott; and closing statements were heard.

Judge Nye-Perkins closed the hearing at 12:01 p.m. The Board took a lunch break at 12:01 p.m. and reconvened at 1:19 p.m.

II. Petition for Reinstatement of Registration for Rosalind Bibbens, ASW 16942

This item was taken out-of-order was presented as the first petition.

Judge Nye-Perkins opened the hearing at 8:45 a.m. Deputy Attorney General Lauro Paredes presented the facts of the case on behalf of the Board of Behavioral Sciences. Rosalind Bibbens was not represented by an attorney.

Mr. Paredes presented the background of Ms. Bibbens' revocation. Ms. Bibbens was sworn in. She presented her request for reinstatement of registration and information to support the request. Mr. Paredes and Board Members posed questions to Ms. Bibbens; and closing statements were heard.

Judge Nye-Perkins closed the hearing at 9:43 a.m. The Board took a break at 9:43 a.m. and reconvened at 9:54 a.m.

III. Petition for Reinstatement of License for Eileen Kelly, LMFT 30191

This item was taken out-of-order was presented as the second petition.

Judge Nye-Perkins opened the hearing at 9:54 a.m. Deputy Attorney General Paredes presented the facts of the case on behalf of the Board of Behavioral Sciences. Eileen Kelly was not represented by an attorney.

Mr. Paredes presented the background of Ms. Kelly's revocation. Ms. Kelly was sworn in. She presented her request for reinstatement of license and information to support the request. Mr. Paredes and Board Members posed questions to Ms. Kelly; and closing statements were heard.

Judge Nye-Perkins closed the hearing at 10:35 a.m. The Board took a break at 10:35 a.m. and reconvened at 10:46 a.m.

IV. Public Comment for Items not on the Agenda

There were no public comments.

V. Suggestions for Future Agenda Items

There were no suggestions.

The Board moved into closed session at 1:19 p.m.

FULL BOARD CLOSED SESSION

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

VII. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in Closed Session to Discuss the Method to Evaluate the Performance of the Board's Executive Officer.

FULL BOARD OPEN SESSION

VIII. Adjournment

The Board adjourned at 4:00 p.m.

Friday, November 20th

Members Present

Christina Wong, Chair, LCSW Member
Deborah Brown, Vice Chair, Public Member
Samara Ashley, Public Member
Dr. Scott Bowling, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Betty Connolly, LEP Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Dr. Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Christy Berger, Regulatory Analyst
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

Members Absent

none

Guests

See sign-in sheet

FULL BOARD OPEN SESSION

Christina Wong called the meeting to order at 8:43 a.m. Christina Kitamura called roll. A quorum was established.

IX. Introductions

Board Members, Board staff and attendees introduced themselves.

Ms. Wong announced that item XVII.c. was removed from the agenda and will not be discussed.

X. Approval of the August 27-28, 2015 Board Meeting Minutes

Ms. Kitamura noted spelling errors and made corrections accordingly.

Dr. Peter Chiu moved to accept the August 27-28, 2015 Board Meeting minutes. Dr. Christine Wietlisbach seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye

Christina Wong - aye
Dr. Leah Brew - aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

XI. Chair Report

- Ms. Wong and BBS staff attended the NASW conference in October.
- Ms. Wong and Kim Madsen attended training related to the Supreme Court decision in the case of North Carolina State Board of Dental Examiners vs. the Federal Trade Commission.
- The Executive Officer evaluation has been submitted to the Department of Consumer Affairs (DCA).

XII. Executive Officer's Report

a. Budget Report

2015/2016 Budget:

The Board's budget for 2015/2016 is \$9,039,000. As of August 31, 2015, the Board has spent \$2,285,909, reflecting 25% of the total budget. As of September 2015, the Board had collected over \$2.4 million in total revenue.

Board Fund Condition

The Board's Fund Condition report reflects a \$2.4 million loan repayment from the 2002 loan to the General Fund. This will provide the Board with 6.1 months in reserve for 2015/2016. Projections for the 2016/2017 budget indicate a scheduled repayment of \$6.3 million dollars, which will provide 11.7 months in reserve. By law, the Board may only have 24 months in reserve.

General Fund Loans

Since 2002/2003 the Board has made a total of three loans to the General Fund for a total of \$12.4 million dollars. The Board has received loan repayments totaling \$2.4 million.

The Board is scheduled to receive \$2.4 million in 2015/2016, and \$6.3 million in 2016/2017, for a total repayment of \$11.1 million. The remaining \$1.2 million dollars will be determined at a later date.

2014/2015 Budget Update

After meeting with the Department of Consumer Affairs (DCA) budget office and reviewing the final budget figures, the Board reverted about \$538,000. A review of the Board's budget revealed some line items have appropriations that the Board does not expend; for example, Out-of-State Travel, and C&P Services External.

The appropriations in these line items are based on previous budget expenditures. However, the Board has not had an external contract or has been permitted to travel out-of-state for several years. So these appropriations contribute to the Board's reversion figures.

After January 1, 2016, Board staff will meet with the DCA budget office to review a five-year expenditure history to realign the budget appropriations to the Board's expenditures.

b. Operations Report

Licensing Program

There was a considerable increase in Marriage and Family Therapist (MFT) Intern and Licensed Professional Clinical Counselor (LPCC) Intern applications. There was a slight decrease in all other applications except MFT Examinations. The increase in intern registrant volumes is primarily due to graduation.

A total of 917 initial licenses were issued in the first quarter. The total population of licensees and registrants is nearly 104,000.

Examination Program

A total of 3,113 examinations were administered in the first quarter. Twelve (12) examination development workshops were conducted in the first quarter. The first quarter pass rates for fiscal year 15/16 will be posted soon on the Board's website.

Administration Program

The Board received 7,343 applications in the first quarter. DCA central cashiering unit received and processed 9,236 renewal applications. The Board's cashiering unit processed 1,157 renewal applications. Online renewals increased with 3,950 individuals renewing their licenses or registrations online. Nearly 27% of the total renewals were renewed online.

Enforcement Program

The Enforcement staff received 310 consumer complaints and 304 criminal convictions in the first quarter. A total of 497 cases were closed this quarter, and 44 cases were referred to the Attorney General's office for formal discipline. Twenty-five (25) Accusations and 9 Statement of Issues were filed this quarter. The current average for Formal Discipline is 738 days. The performance goal is 540 days.

Outreach Events

Board staff participated at the following events:

- MFT Consortium Meeting, July 15, 2015, Teleconference
- MFT Consortium Meeting, August 15, 2015, Teleconference
- National Association of Social Workers (NASW) Annual Conference, October 9, 2015, South San Francisco Center

- AAMFT Educator Forum, October 9, 2015, Pepperdine University-Irvine
- AAMFT Educator Forum, October 23, 2015, JFK University-Berkeley
- ASWB Annual Meeting of the Delegate Assembly, November 5-7, 2015, Ft. Lauderdale, Florida
- California Association of Marriage and Family Therapists (CAMFT) Fall Symposium, November 14-15, 2015 Orange County

c. Personnel Update

New Hires

Carl Peralta accepted a Management Services Technician (MST) position in Licensing.

The Board made a conditional offer of employment to Kimberly Covington to fill the Seasonal Clerk position.

Departures

Heather Ito (seasonal clerk), Alicia Day (cashier), and Marilyn Schilling (receptionist).

Vacancies

One Office Technician (OT) in Licensing, one MST in Licensing, two OT's in Cashiering, and one OT in Administration,

d. Year End Summary

The Board celebrates its 70th year providing regulatory oversight. The Board has 56 staff members and 12 Board Members.

Licensing and Registrant Statistics

The total number of licensees and registrants at the end of 2014/2015 was 101,455. Application volumes increased by 8% since 2013/2014.

License Program

As a result of the additional staff hired in 2014/2015 for the Licensing Program, an increased number of examination applications were approved. Further, the additional staff has allowed the Board to return to reasonable processing times.

Administration Program

The administration program includes the cashiering unit and office support staff. Over 49,000 renewal applications were received and processed by board staff and DCA's Central Cashiering Unit. Approximately 70% of the renewal applications were processed by DCA's Central Cashiering Unit, and 17% was processed by the Board's cashiering unit. Application volumes increased by 32%.

Examination Program

Two versions of each examination were developed. The Board worked with the Office of Professional Examination Resources (OPES) and approximately 300 subject matter experts. The Board conducted 41 examination development workshops.

In 2014/2015 the Board, with the assistance of OPES, conducted a Licensed Educational Psychologist (LEP) Occupational Analysis. The Occupational Analysis, which is conducted every five to seven years, surveys California practitioners about their work and work setting. The results of the Occupational Analysis serve as the foundation for the licensure examination.

Examination activity increased in FY 2014/2015 by 43%.

Enforcement Program

The Board's enforcement staff receives and investigates all complaints of alleged licensee or registrant misconduct, criminal arrests and convictions. Investigations that confirm a violation of the Board's statutes and regulations are subject to disciplinary action. Disciplinary action ranges from the issuance of a citation and fine to revocation of the license or registration. All proposed decisions and stipulations require the Board Members' approval before the decision becomes effective.

In 2014/2015 the receipt of Subsequent Arrest Notifications increased by 53% since 2013/20104. Accusation and Statement of Issues filings increased by 37% and 71% respectively.

Probation Monitoring Program

In 2014/2015, 43 new probationers were added to the Board's probation program. Twenty (20) probationers successfully completed their probation. As of the end of June 2015, the Board has a total of 149 probationers.

The Board filed 3 accusations to revoke probation for issues of non-compliance.

Probationers that demonstrate sustained compliance with their probation terms and conditions may petition the Board to modify their current terms or to end their probation early. Sixteen (16) probationers requested modification or termination of their probation. The Board granted ten probationers their request and denied six.

Legislative Activity

The Board sponsored two bills, submitted language for technical amendments for the annual omnibus bill, identified ten bills impacting board licensees, and introduced or implemented three regulation packages.

Outreach Efforts

The Board increased its outreach activity by attending several professional association events and meetings. Board staff either participated in these events via telephone or in person. Board staff attended a total of 12 professional association events and 15 meetings.

2014/2015 Accomplishments

- Resumed publication of the Board newsletter.
- Request for examination staff was approved and included in the Governor's 2015/2016 budget.
- Introduced legislation to eliminate the various categories for supervised work experience and create two categories – clinical and non-clinical experience.
- Developed 3 examination restructure video tutorials to provide information to examination candidates. These tutorials were posted to the Board's website in October 2015.
- Licensees and registrants may renew their license/registration and update their address of record online through BreEZe.
- Collaborated with the DCA BreEZe team to design the changes to BreEZe necessary to fully implement the examination restructure.
- Twenty-six Strategic Plan objectives out of thirty have been completed.
- Conducted training for Enforcement Subject Matter Experts in July 2015.
- All staff attended customer service training.

e. Sunset Report Update

The Board's Sunset Report is complete and is currently with DCA's Print Services for publication. The report will be submitted to the Senate Committee on Business, Professions, and Economic Development and the Assembly Committee on Business and Professions no later than December 1, 2015. The report will be available on the Board's website after December 1, 2015.

XIII. Strategic Plan Update

Steve Sodergren provided an update on the Strategic Plan, stating that 26 out of 30 goals have either been accomplished or currently are in process. There are 4 goals that have not been initiated:

- Licensing
 - 1.5: Investigate the use of technology for record keeping and therapeutic services and its effects on patient safety and confidentiality and establish best practices for licensees.
- Examinations
 - 2.3: Create a process for evaluating the performance of Subject Matter Experts assisting with exam development.
- Legislation and Regulation

- 4.5: Review regulatory parameters for exempt settings and modify, if necessary, to ensure adequate public protection.
- Organizational Effectiveness
 - 5.4: Implement an internal training and education program for all Board staff to enhance skills and abilities for professional development.

XIV. Supervision Committee Update

The Supervision Committee (Committee) held its meeting in October 2015. Ms. Madsen presented ideas discussed at the Committee meetings.

Informal Decisions - Supervisor Qualifications

- Initial Supervisor Training
 - Increase the length to 15 hours for LMFT and LPCC for consistency with current LCSW requirements.
 - Limit the age of the training course
 - CE course – taken within the 2 years prior to commencing supervision. If between 2 and 5 years old, take a 6-hour course.
 - Graduate level course – taken within the 4 years prior to commencing supervision. If older, take a 6-hour course.
- Ongoing Supervisor Training
 - 6 hours every 2 years for LCSW for consistency with current LMFT and LPCC requirements.
 - The 6 hours can be gained through “Continuing Professional Development (CPD)” which will require specific documentation and may include:
 - Completing coursework directly pertaining to supervision
 - Teaching a qualifying supervision course
 - Authoring research pertaining to supervision that has been published professionally (in a peer reviewed journal or in a published textbook)
 - Receiving mentoring of supervision
 - Attending professional supervisor peer groups
- Accept a supervisor certification from a professional association in lieu of certain BBS requirements.
- Involve BBS at the initiation of supervision rather than retrospectively and institute the following:
 - Require supervisors to self-certify to the Board that they meet all qualifications within a specified time frame.
 - Require supervisors to provide supervisees with the following:
 - A signed disclosure that includes information about how to submit a complaint about a supervisor
 - Proof of completion of the supervision training course
 - Require the Board to perform random audits of supervisor qualifications.

- Publish a list of BBS-registered supervisors.
- Time licensed in another state should be able to count towards 2 years of licensure required for all supervisor/license types.
- The requirement that a supervisor practice psychotherapy (or supervise individuals who practice psychotherapy) for 2 out of the past 5 years should not be changed. However, language requiring competency in the areas of clinical practice and techniques being supervised should be added.

Other Informal Decisions

- Allow Triadic supervision in place of Individual supervision.
- Offsite supervision laws should be consistent across license types.
- Offsite supervision laws should encompass offsite supervisors who are employed or contracted by the employer (as opposed to only addressing volunteers).

Remaining Areas to Address

The remaining areas that the committee needs to address are as follows:

- Supervision Requirements including supervision definitions, amount and type of weekly supervisor contact, supervision formats, videoconferencing, etc.
- Supervisor Responsibilities including the Supervisor Responsibility Statement
- Employment/Employers including registrant/trainee employment, supervisor employment, offsite supervision, temp agency employers, etc.
- Other issues, such as the 6-year limit on age of experience hours, 6-year limit on working in a private practice, paying for supervision, death of a supervisor, supervisor unprofessional conduct and supervisors who are on probation.

The next Committee meeting is scheduled on February 5, 2016 in Southern California.

XV. Examination Restructure Update

Mr. Sodergren presented the Examination Restructure update.

Outreach

The Board has posted three instructional videos on its Examination News webpage:

1. A Registrant Guide to the BBS Examination: 1500 views
2. A Non-Registrant Guide to the BBS Examination Restructure: 331 views
3. Passing Score Requirements for Subsequent Registrants: 663 views

Staff continues to develop new instructional materials that will be either mailed to individual applicants or posted to the Board's website.

Forms Creation

Staff is reviewing the current forms and amending them in order to increase clarity in the application process. Staff will be seeking legal review of forms in November and December.

BreEZe System Changes

The changes that are required to the Breeze system will not be implemented until after January 1, 2016. In order to ensure a smooth transition, staff is working on implementing, as well as training on, temporary business processes that will allow the continued entry and processing of examination applications in the Breeze system. Many of the processes that are currently automated will be manual for a short period until the changes to the system are implemented.

Transition Activities

In the month of December there will be a testing blackout period for LMFT and LCSW exam applicants. During this period LMFTs and LCSWs will be unable to schedule or test.

The Board took a break at 10:14 a.m. and reconvened at 10:35 a.m.

XVI. Discussion and Possible Action Regarding Additional Examination Time for English as a Second Language Applicants

The Board does not currently offer any type of special accommodations for exam candidates who speak English as a Second language (ESL). From 2000 until July 2011, the Board granted extra time to candidates who requested an ESL accommodation. However, because ESL is not identified as a disability under the Americans with Disabilities Act (ADA), this accommodation was eliminated.

Board staff proposed regulatory language that does both of the following, per the Board's request:

- Specifies criteria to be used when considering whether to grant additional examination time for ESL applicants; and
- Allows the Board discretion in making a decision.

The language proposes three scenarios under which the Board may consider granting an applicant time-and-a-half on an examination:

1. TOEFL-iBT Score. The applicant must provide a score of 85 or below on the Test of English as a Foreign Language - Internet Based Test (TOEFL-iBT). The score must have been obtained within the two years prior to application.
2. Documentation from the Qualifying Master's Degree Program that it had Granted Additional Examination Time or Other Allowance due to English as a Second Language. If the qualifying Master's degree program had granted the applicant additional examination time or another allowance, then the Board may grant the

additional examination time. Documentation of the allowance from the school must be satisfactory to the Board.

3. Documentation of a Foreign Qualifying Master's Degree that was Presented Primarily in a Language Other than English. If the qualifying Master's degree program was from an educational institution outside the U.S., and if coursework was presented primarily in a language other than English, then the Board may grant the additional examination time. Documentation provided must be satisfactory to the Board.

At its August 2015 meeting, the Board directed staff to make amendments replacing the term "accommodation."

Dr. Peter Chiu expressed that he supports the proposal; however, it is not the best proposal. Dr. Chiu stated that this is equating language deficiencies with slow reading, and there are many native speakers who are slow readers. He expressed that all candidates who request the accommodation, should be granted extra time to take the test whether the candidate is a native speaker or not.

Dr. Leah Brew responded that the candidates seem to have more than adequate amount of time, and the issue is not that the candidates are running out of time.

Ms. Madsen responded that slow reading could possibly be accommodated through the ADA.

Dr. Christine Wietlisbach expressed that the proposal is not ideal, but she agrees with Dr. Chiu's opinion.

Dr. Leah Brew moved to direct staff to make any discussed changes, and any non-substantive changes, and to pursue as a regulatory proposal. Dr. Peter Chiu seconded.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew - aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

XVII. Policy and Advocacy Committee Report

a. Discussion and Possible Action Regarding Defining Out-of-State Education for LMFT and LPCC Applicants

For LMFT and LPCC applicants, the Business and Professions Code (BPC) states that the Board shall accept education gained while residing outside of California if it is substantially equivalent. This means that out-of-state education requirements are triggered based on the residence of the applicant while obtaining his or her degree.

Problem: In-State Applicants Cannot Remediate Coursework

There is an increase in the number of applicants who reside in California, completing online degree programs from schools that are not based in California. If an applicant who resides in California attends an out-of-state school which has not designed its program to lead to California licensure, he or she is treated as an in-state applicant and is not allowed to remediate missing coursework, because the education was gained while residing in California.

This issue affects the LMFT and LPCC license types.

At its August 2015 meeting, the Policy and Advocacy Committee (Committee) directed staff to amend the language pertaining to education gained while residing outside of California to education gained from an out-of-state school.

At its October 2015 meeting, the Committee recommended that the board sponsor legislation to make the proposed change.

Dr. Leah Brew moved to direct staff to make any discussed changes, and any non-substantive changes, and submit to the Legislature as a bill proposal. Renee Lonner seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew – aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

b. Discussion and Possible Action Regarding Licensed Professional Clinical Counselor Degree Content

To qualify for an LPCC license, the BPC requires the applicant's degree program must meet the following criteria:

- Be counseling or psychotherapy in content;
- Contain supervised practicum; and
- Contain coursework in the core content areas.

The Board is receiving LPCC applications from applicants who have degrees that may not be intended to lead to licensure as a clinical counselor. Typically, these degrees are from out-of-state.

The law only requires the degree to be "counseling or psychotherapy in content." It is possible for a degree to have some counseling or psychotherapy content but not be intended to prepare the student for licensure as a professional clinical counselor.

At its August 2015 meeting, the Committee directed staff to look into tightening the practicum requirement to ensure it requires clinical experience. The Committee also asked staff to draft language defining degree titles that are and are not acceptable, using the Texas Administrative Code section as a model.

However, at its October 2015 meeting, the Committee concluded that a degree should be evaluated based on its content, not its title. It also concluded that degree requirements need updating to ensure that degrees have a foundation centered on the practice of clinical counseling.

The Committee recommended that two core content areas be designated as not eligible for remediation, for both in-state and out-of-state degrees: assessment and diagnostic process. Any other core content areas remain eligible for remediation as allowed by current law.

The Committee proposes the following amendments:

- Prohibits remediation of two core content areas. These are the core content areas that cover the topics of assessment and diagnosis. Remediation of these areas is prohibited for both in-state and out-of-state applicants.
- Tightens in-state practicum requirements to ensure clinical experience. Amended to specify that direct client contact is required, and to no longer allow any equivalencies to in-state supervised practicum/field study experience.
- Amends practicum requirements for out-of-state applicants. Amended to specify that the 280 hours of face-to-face experience must now be "supervised clinical experience counseling individuals, families, or groups" instead of just experience doing "face-to-face counseling."

Samara Ashley moved to direct staff to make any discussed changes, as well as any non-substantive changes to the proposed language, and submit to the Legislature for consideration as a bill proposal. Karen Pines seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew – aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

c. Discussion and Possible Action Regarding Possession of a Controlled Substance as a Basis for Discipline

This item was removed.

d. Discussion and Possible Action to Change Marriage and Family Therapist Intern Title to Associate Marriage and Family Therapist

At the August 2015 Board meeting, Dr. Ben Caldwell of the American Association for Marriage and Family Therapy – California Division (AAMFT-CA) presented a proposal to change the “Marriage and Family Therapist Intern” title to “Associate Marriage and Family Therapist.”

Dr. Caldwell presented the following arguments as reasons the title “associate” may be more appropriate than “intern” for registrants:

- The intern title is more socially understood as referring to someone who is still in school.
- Because of the socially accepted connotations, some employers are more likely to exploit MFT interns by offering them little or no pay for their work.
- Consumers often discount the credibility of MFT interns based on their title.
- Some other states and professions are moving away from the use of the intern title for post-graduates.

The Board directed staff to bring this issue to the Policy and Advocacy Committee for further discussion.

Titles in Other States - LMFT Applicants

Staff researched and presented the findings as follows:

- Few states still use the “intern” title; many more use the “associate” title.
- Some states do not register post-degree graduates who are gaining experience hours toward licensure.
- Other titles utilized for post-degree applicants include:
 - Tennessee: Certified Marriage and Family Therapist
 - Virginia: Resident in Marriage and Family Therapy
 - Washington DC: Unlicensed Marriage and Family Therapist
 - West Virginia: Provisionally Licensed Marriage and Family Therapist
 - Wisconsin: Training Licensed Marriage and Family Therapist
 - Wyoming: Provisional Marriage and Family Therapist

Staff looked at the statutes for a sample of high-population states to determine the title given to those gaining experience hours, if any:

- Texas: Uses the term “Licensed Marriage and Family Therapist Associate.”
- Colorado: Registers “Marriage and Family Therapist Candidates.”
- Massachusetts: Does not register those still gaining experience.
- New York: New York issues a limited permit.

Titles in Other States - LPCC Applicants

Staff researched and presented the findings as follows:

- States use a wider variety of terms for pre-licensed LPCCs than they do for pre-licensed LMFTs. They include the following:
 - Colorado: Licensed Professional Clinical Counselor Candidate
 - Florida: Provisional Mental Health Counselor
 - Maine: Conditional Licensed Clinical Professional Counselor
 - Ohio: Professional Counselor/Clinical Resident
 - Michigan: Limited Licensed Professional Counselor
 - Counselor-in-Training (Missouri)
 - Licensed Graduate Professional Counselor (Maryland)
- 12 states use “Associate” in their pre-licensed title, while 7 states use “Intern.”

Staff looked at the statute of the same sample of larger states to determine the title given to those gaining experience hours, if any:

- Texas: Uses the term “LPC Intern.”
- Colorado: Uses the title “Licensed Professional Counselor Candidate.”
- Massachusetts: Does not register those still gaining experience.
- New York: New York issues a limited permit.

If the Board were to move forward with the title change, the proposed language would state that in any statute or regulation, the “intern” and “associate” titles are equivalent.

At its October 2015 meeting, the Committee recommended that the Board sponsor legislation to make the proposed amendments.

Ms. Lock-Dawson expressed preference for the term “provisional.” Dr. Bowling agreed with the preference.

Ms. Lonner responded that “provisional” is more confusing; her preference is “associate.” Ms. Kohli agreed with Ms. Lonner’s opinion regarding the confusion with the term “provisional.”

Dr. Brew expressed a preference for “associate”; the Board already uses the term for Associate Clinical Social Workers.

Angele Kahn, AAMFT-CA, explained that the law already is in place that requires the interns to state that they are practicing under supervision, and the supervisor’s name and license number.

Ms. Kahn also explained that term “provisional” is problematic in the profession because it is a term used in diagnosing.

Mary Read, CSU Fullerton, stated that the term “associate” is already established in California. The term “intern” is interpreted as “not yet graduated.”

Dr. Peter Chiu moved to direct staff to make any discussed changes, as well as any non-substantive changes to the proposed language, and submit to the Legislature as a bill proposal. Dr. Leah Brew seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew – aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

The Board took a break at 11:57 a.m. and reconvened at 1:18 p.m. Dr. Bowling did not return to the meeting. A quorum remained.

XVIII. Discussion and Possible Action for Proposed Omnibus Bill

Board staff has determined that several sections of the BPC pertaining to the Board of Behavioral Sciences require amendments. These amendments are as follows:

1. Delete several sections of the BPC - Expired Examination Restructure Provisions and Out-of-State Applicant Provisions. The BPC sections are no longer operative.
2. Amend several sections of the BPC - Experience Gained as an Independent Contractor. Recommendation: Amend the law to clarify that interns, trainees, and associates may not be employed as independent contractors, and that they may not gain any experience hours for work performed as an independent contractor, reported on an IRS Form 1099, or both.
3. Amend a section in the BPC - Associate Clinical Social Worker Reference. Recommendation: Replace the term "associate social worker" with the term "associate clinical social worker."
4. Amend a section in the BPC - LCSW Applicants: School Accreditation and Exam Eligibility. Recommendation: Amend the BPC section to prohibit registrants from taking the clinical exam until the school has achieved accreditation.
5. Amend several sections of the BPC - Program Certification Requirement for LPCC Applicants. Recommendation: Add a subsection in BPC §4999.40 requiring LPCC applicants to provide a program certification to the Board, and change references to §4999.40 in other BPC sections.
6. Delete BPC §4999.54, Amend BPC §4999.52, §4999.120 - Expired LPCC Grandparenting Provision. Recommendation: Delete BPC §4999.54, as it is no longer necessary. Amend BPC §§4999.52 and 4999.120 to remove references to BPC §4999.54.

At its October 2015 meeting, the Committee recommended minor changes to the amendments proposed in Item 2. It requested further research of the specific names of the 1099 form referenced in Item 2. Staff was then directed to submit this language to the Board for consideration.

Dr. Leah Brew moved to direct staff to make any discussed changes, and any non-substantive changes, and submit to the Board for consideration as a bill proposal. Patricia Lock-Dawson seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye

Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew – aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

XIX. Discussion and Possible Action Regarding Acceptable School, College, or University Accreditation Entities

Current LMFT licensing law requires the qualifying degree be obtained from a school, college or university that is approved by the state Bureau for Private Postsecondary Education, or accredited by either the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or by a regional accrediting agency that is recognized by the United States Department of Education (USDE).

LPCC licensing law also requires the qualifying degree be obtained from an accredited or approved school. It defines “accredited” as a school, college, or university that is accredited by the Western Association of Schools and Colleges, or its equivalent regional accrediting association.

Currently, the statute references a regional accrediting agency recognized by the USDE as acceptable. However, the USDE does not recognize a specific category of regional-only accrediting agencies. Instead, the USDE recognizes two categories of accreditation: Regional and National Institutional Accrediting Agencies and Specialized Accrediting Agencies.

Staff recommends that the Board consider accepting a degree from a program accredited by a “regional or national institutional accrediting agency” that is recognized by the USDE, rather than simply referring to a USDE-recognized regional accrediting entity. This amendment would make Board’s statute consistent with the categories that USDE recognizes.

The amendment would need to be made in several sections of the BPC. Board staff also recommends deleting BPC section 4980.40.5. This section was put in place in 2009 when the Bureau for Private Postsecondary Education (BPPE) had been sunsetted. The BPPE is no longer sunsetted.

At its October 2015 meeting, the Committee recommended that the Board sponsor legislation to make the proposed changes.

Renee Lonner moved to direct staff to make any discussed changes, as well as any non-substantive changes to the proposed language, and submit to the Legislature as a bill proposal. Sarita Kohli seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew – aye
Samara Ashley - aye
Sarita Kohli - aye
Dr. Peter Chiu - aye
Dr. Scott Bowling – aye
Karen Pines - aye

XX. Status of Board-Sponsored Legislation and Other Legislation Affecting the Board

Board-Sponsored Legislation

- SB 531 Board of Behavioral Sciences: Enforcement Process – This bill was signed by the Governor and takes effect on January 1, 2016.
- SB 620 Board of Behavioral Sciences: Licensure Requirements - This bill was signed by the Governor and takes effect on January 1, 2016.
- SB 800 Omnibus Bill - This bill was signed by the Governor and takes effect on January 1, 2016.

Board-Supported Legislation

- AB 250: Telehealth: Marriage and Family Therapist Interns and Trainees - This bill was signed by the Governor and becomes effective January 1, 2016.
- AB 1140: California Victim Compensation and Government Claims Board - The Board's requested language was amended into the bill. This bill was signed by the Governor and takes effect on January 1, 2016.

Legislation that the Board is Monitoring

- AB 85: Open Meetings. The Governor vetoed this bill.
- AB1279: Music Therapy. The Governor vetoed this bill.

XXI. Status of Board Rulemaking Proposals

Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse

These regulations were approved by the Secretary of State and took effect October 1, 2015.

Implementation of SB 704 (Examination Restructure)

This proposal is under review by the Office of Administrative Law and the Department of Finance, and is expected to take effect January 1, 2016.

Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families

This proposal is now under review by the Office of Administrative Law and the Department of Finance, and is expected to take effect January 1, 2016.

Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families

This proposal is under review by DCA.

XXII. Discussion and Possible Action Regarding the Request from the American Association of State Counseling Boards and the American Counseling Association to Adopt the Consensus Licensure Title and Scope of Practice for Professional Counseling

First Request: Letter From the American Association of State Counseling Boards and the American Counseling Association

In June 2015, the Board received a letter from the American Association of State Counseling Boards (AASCB) and the American Counseling Association (ACA), requesting that the Board consider adoption of the consensus licensure title and scope of practice for professional counseling.

The licensure title and scope of practice was developed through the Building Blocks to Portability Project of *20/20: A Vision for the Future of Counseling (20/20)*. 20/20 was created to develop a strategic plan for the growth and sustainability of the counseling profession. This group is comprised of 31 counseling organizations and is co-sponsored by the AASCB and the ACA.

The Building Blocks to Portability project identified three issues for discussion in order to promote licensure portability and advancement of a uniform and consistent identity for the counseling professions.

- Development of a consensus licensure title to recommend to all state licensing boards.
- Development of a consensus scope of practice to recommend to all state licensing boards.

- Development of consensus of education requirements to recommend to all state licensing boards.

Twenty-nine of the thirty-one organizations participating in 20/20 voted. One organization abstained and one organization did not vote. Twenty-eight organizations voted to endorse the licensure title *Licensed Professional Counselor*. The American Mental Health Counselors Association voted not to endorse this licensure title.

Twenty-seven of the twenty-nine organizations voted to endorse the *Scope of Practice*. The American Rehabilitation Counseling Association and the National Rehabilitation Counseling Association both voted not to endorse the suggested *Scope of Practice*.

Second Request From the American Association of State Counseling Boards

In August 2015, the Board received a letter from AASCB suggesting a proposal that defines criteria for out-of-state licensees that will be accepted for licensure. The AASCB explained that licensure portability is a “huge dilemma” for state licensing boards and licensed counselors in the United States.

AASCB identified the following criteria for licensure that are required by all state licensing boards:

- A Master’s degree in counseling and in some cases, a related degree.
- The Master’s degree must be from an accredited university, and/or in some cases, an accredited program.
- The majority of the states require a 60-hour graduate degree.
- An examination that tests knowledge, such as the National Counselor Examination for Licensure and Certification (NCE) or the National Clinical Mental Health Counselor Examination (NCMHCE).
- Average number of experience hours required is around 3000.

For those in graduate programs or new graduates, AASCB acknowledges it is the graduate’s responsibility to ensure state licensure requirements are met. However, AASCB expressed concern for the professional counselor who is already licensed in one or several jurisdictions; has successfully worked in a practice setting for a number of years; and who may or may not have fulfilled all of the current state requirements. This concern resulted in the following proposal for the Board’s consideration:

“A fully-licensed counselor, who is licensed at the highest level of licensure available in his or her state, and who is in good standing with his or her licensure board, with no disciplinary record, and who has been in active practice for a minimum of five years post-receipt of licensure, and who has taken and passed the NCE or the NCMHCE, shall be eligible for licensure in a state to which he or she is establishing residence. The state to which the licensed counselor is moving may require a jurisprudence examination based on the rules and statutes of said state. An applicant who meets these criteria

will be accepted for licensure without further review of education, supervision, and experiential hours.”

AASCB noted recent proposals from other entities established a two-year requirement. AASCB strongly supports the five-year proposal.

Board Efforts to Improve Licensure Portability

In 2013 the Board established the Out-of-State Education Review Committee to develop recommendations to improve license portability without compromising consumer protection.

As a result of the Committee’s work, the Board sponsored AB 2213, which makes changes to the practicum requirements for out-of-state applicants and allows them to remediate certain coursework through continuing education, instead of requiring all coursework to be from a graduate program. The bill also allows certain coursework to be remediated while registered as an intern.

Beginning January 1, 2016, the Board will be using two licensure examinations for licensure in California. Specifically, LPCCs are required to take and pass the NCMHCE and LCSWs are required to take and pass the ASWB Clinical examination.

Prior to the determination to use these examinations in California, the Board reviewed the NCE and the NCMHCE, and the process to develop both examinations. Another component of the review was to determine if the examinations tested for clinical competency. The review of these examinations determined that the NCMHCE had a higher clinical content than the NCE; and it was determined, therefore, that the NCMHCE was appropriate to use as a licensure examination.

Dr. Peter Chiu and Sarita Kohli left the meeting. A quorum remained.

Ms. Kahn, AAMFT-CA, stated that the language proposed is encompassing all of the disciplines; AAMFT-CA does not support this proposal.

Dr. Leah Brew moved to not adopt the recommended changes and to direct staff to draft a letter to ACA and AASCB. Dr. Christina Wietlisbach seconded. The Board voted unanimously to pass the motion.

Board vote:

Betty Connolly - aye
Patricia Lock-Dawson - aye
Dr. Christine Wietlisbach - aye
Renee Lonner - aye
Deborah Brown - aye
Christina Wong - aye
Dr. Leah Brew – aye
Samara Ashley - aye

Dr. Scott Bowling – aye
Karen Pines - aye

XXIII. Presentation Regarding North Carolina State Board of Dental Examiners v. Federal Trade Commission Supreme Court Decision

This item was taken out of order, and heard immediately following agenda item XVIII.

Dianne Dobbs presented information regarding the North Carolina State Board of Dental Examiners v. Federal Trade Commission (FTC) Supreme Court Decision, which addressed whether a state professional licensing board with licensing members can be held liable for antitrust law.

In September 2015, the California Attorney General issued an opinion, which addressed impacts of the case. In October, the FTC staff recommended guidance on this topic, as well.

Ms. Dobbs provided Board members information about the antitrust law, provided an overview of the case, reviewed the California Attorney General's opinion, and discussed the standards that apply to the Board as a result of this case.

Ms. Dobbs urged the Board to always ensure that the decisions it makes are for the primary interest of consumer protection, articulate the public policy reasons for those decisions, and conduct an analysis of the pro-competitive and anti-competitive aspects of the decisions, and articulate those in its records.

XXIV. 2016 Meeting Dates

The Association of Social Work Boards (ASWB) will be holding their annual delegate meeting in San Diego on November 17-19, 2016. This meeting occurs at the same time as the November Board meeting.

Ms. Madsen suggested alternative meeting dates for the Board meeting scheduled in November: November 3-4 or December 1-2. The Board agreed to reschedule the Board meeting to November 3-4, 2016.

XXV. Public Comment for Items not on the Agenda

There were no public comments.

XXVI. Suggestions for Future Agenda Items

There were no suggestions.

XXVII. Adjournment

The meeting adjourned at 3:12 p.m.