Board of Behavioral Sciences

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Governor Edmund G. Brown Jr.
State of California
Business, Consumer Services and Housing Agency
Department of Consumer Affairs

POLICY AND ADVOCACY COMMITTEE MEETING MINUTES
April 15, 2016

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

Members Present
Renee Lonner, LCSW Member, Chair
Dr. Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Members Absent
Deborah Brown, Public Member

Staff Present
Kim Madsen, Executive Officer
Rosanne Helms, Legislative Analyst
Christy Berger, Regulatory Analyst
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

Guests
See sign-in sheet

I. Call to Order and Establishment of Quorum

Renee Lonner, Chair of the Policy & Advocacy Committee (Committee), called the meeting to order at 9:14 a.m. Kim Madsen called roll, and a quorum was established.

II. Introductions

The Committee and Board staff introduced themselves. Meeting attendees voluntarily introduced themselves.

III. Approval of the October 30, 2015, Committee Meeting Minutes

Corrections were noted on the following pages:

- Page 1, line 28: add ":"
- Page 1, line 36: omit "unanimous"
- Pages 2, 5, 7, 9, 10: Correct "*Christina* Wietlisbach" to "*Christine* Wietlisbach"

Christina Wong moved to approve the October 20, 2015 Committee meeting minutes as amended. Renee Lonner seconded. The Committee voted to pass the motion.

Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

IV. Discussion and Recommendations for Possible Action Regarding AB 796 (Nazarian) Health Care Coverage: Autism and Pervasive Development Disorders

AB 796 seeks ensure that individuals with pervasive development disorder or autism are able to receive insurance coverage for types of evidence-based behavioral health treatment other than applied behavior analysis.

Existing law: The law requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A).

AB 796:

1) Requires the Board of Psychology to form a committee to create a list of behavioral health evidence-based treatment modalities for PDD/A.
2) Extends the provisions in law requiring health care contracts and insurance policies to provide coverage for PDD/A from January 1, 2017 to January 1, 2022.

Intent: SB 946 required health service plan and insurance policies to provide coverage for evidence-based behavioral health treatment for PDD/A. However, this bill only referenced one type of behavioral health treatment, which was applied behavior analysis (ABA).

According to the author, although SB 946 intended that the type of evidence-based behavioral health treatment prescribed should be selected by the physician who best knows the patient, the reference to ABA in the bill has caused insurance companies to develop networks of ABA practitioners, but not necessarily a network of practitioners of other forms of evidence-based behavioral health treatment.

Due to this, it is difficult for patients with PDD/A, who have been prescribed an evidence-based treatment that is not ADA, to obtain coverage for that treatment. Instead, they are forced to accept a form of behavioral health treatment that has not been prescribed.

The author is seeking to ensure that a PDD/A patient will be able to obtain insurance coverage for treatments other than ABA, if his or her doctor believes that other treatment is more appropriate, by requiring the Board of Psychology to develop a list of other types of appropriate evidence-based treatments for PDD/A.

Previous Legislation: SB 946 requires every health care service plan contract and insurance policy that provides hospital, medical, or surgical coverage shall also provide coverage for behavioral health treatment for PDD/A.

AB 171 would have required health care service plan contracts and health insurance policies to provide coverage for the screening, diagnosis, and treatment of PDD/A other than behavioral health treatment. This bill died in the Senate Health Committee.

SB 126 extended the provisions of SB 946 until January 1, 2017.

Previous Position: AB 796 is a two-year bill. When the Board considered this bill last year, the author was seeking to accomplish the same purpose, but the approach was different. Last year, the bill was proposing to amend the definition of "qualified autism service professional" and "qualified autism service paraprofessional" to allow insurance coverage for types of behavioral health treatment other than applied behavior analysis.

At its May 2015 meeting, the Board considered this bill and took a neutral position. It also directed staff to bring the bill back to the Board for consideration if it moved forward.

Dr. Christine Wietlisbach moved to recommend a neutral position on AB 796. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

V. Discussion and Recommendations for Possible Action Regarding AB 1001 (Maienschein) Child Abuse Reporting

AB 1001 seeks to address a report that social workers who work for foster family agencies are sometimes prohibited by their supervisors from making mandated reports of child abuse. Foster family agencies are licensed by the Department of Social Services (DSS). The amendments in this bill give the DSS more authority to ensure that foster family agencies follow mandated reporting requirements.

Existing Law:

1) Specifies that licensees of the BBS are mandated reporters under the Child Abuse and Neglect Reporting Act, and must submit a report whenever in their professional capacity, they have knowledge of, or observe a child who is known, or reasonably suspected to have been, a victim of child abuse or neglect.
2) Makes mandated reporting duties individual. Supervisors or administrators may not impede reporting duties, and mandated reporters shall not be subject to sanctions for making a report.
3) States that a supervisor or administrator who impedes reporting duties shall be punished by a fine up to $1,000 and/or up to six months in county jail.
4) Defines a "foster family agency" (FFA) as a public agency or private organization engaged in the recruiting, certifying, and training of foster parents, or in finding homes for placement of children for temporary or permanent care.

AB 1001: This bill focuses on mandated reporting from FFAs. The bill makes new amendments in an effort to increase the DSS enforcement power over foster family agencies in order to ensure that they are following mandated reporting requirements. The amendments are as follows:

1) If the DSS requires orientation training for board members or administrators of an FFA, it must include training on mandated reporting duties.
2) If the DSS requires an FFA to submit a written plan of operation as a requirement for licensure, that plan must include written policies, procedures, or practices to ensure that the FFA does not violate mandated reporting requirements.
3) Requires the DSS to take reasonable action against a supervisor or administrator who impedes or inhibits mandated reporting duties.
4) Allows FFA social workers to participate in DSS's already-existing process for social workers to voluntarily report violations of mandated reporting requirements.

Intent: The author's office states that social workers who work for FFAs, as well as one teacher, have reported that supervisors at some FFAs are willing to override child abuse mandated reporting requirements. The purpose of this bill is to give the state agency that licenses FFAs more authority to ensure mandated reporting requirements are followed.

Previous Position: AB 1001 is a two-year bill and was considered by the Board at its May 2015 meeting. That version of the bill amended the Penal Code section that addresses mandated reporting in an attempt to clarify that it is illegal for anyone, including a supervisor, to impede or interfere with the making of a mandated report of suspected child abuse or neglect. The Board took a "support" position on the 2015 version of this bill. It has been amended since then, and no longer amends the Penal Code.

Dr. Christine Wietlisbach moved to recommend supporting AB 1001. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

VI. Discussion and Recommendations for Possible Action Regarding AB 1715 (Holden) Behavioral Analysis: Licensing

AB 1715 establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology. In addition, it would require behavior analyst interns and behavior analyst technicians to register with the Board of Psychology.

Existing Law:

1) Requires that every health care service plan or insurance policy that provides hospital, medical or surgical coverage must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A).
2) Requires these health care service plans and health insurers subject to this provision to maintain an adequate network of qualified autism service providers.
3) Defines "behavioral health treatment" as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, and meets specified criteria.

AB 1715:

1) Establishes the Behavior Analyst Act to license behavior analysts and assistant behavior analysts, and to register behavior analyst interns and technicians, under the Board of Psychology beginning January 1, 2018.
2) Defines the "practice of behavior analysis".
3) Specifies the coursework and educations required for licensure as a Behavior Analyst.
4) Exempts the following practitioners from the provisions of this licensing act if the person is acting within the scope of his or her licensed scope of practice and within the scope of his or her training and competence:
    a. Licensed psychologists;
    b. Licensed occupational therapists;
    c. Licensed physical therapists;
    d. Licensed marriage and family therapists;
    e. Licensed educational psychologists;
    f. Licensed clinical social workers;
    g. Licensed professional clinical counselors.

Any of the listed individuals must not represent that they are a licensed behavior analyst or licensed assistant behavior analyst, unless they actually hold that license.

Intent: Applied Behavior Analysis (ABA) is commonly used to treat autism spectrum disorders. During the past decade, there has been increasing evidence that ABA therapy is effective in the treatment of autism, and there has been an increase in the practice of this profession in California. State law now mandates that insurance plans provide coverage for ABA treatment. However, the California Business and Professions Code (BPC) does not apply any standard requirements to the practice of ABA.

Because there is no licensure for ABAs, it is difficult for consumers to make an informed decision when choosing an applied behavior analyst. In some cases, ABA programs may be designed, supervised, and/or implemented by someone who lacks training and experience.

The goal of this bill is to establish licensure for behavior analysts and assistant behavior analysts, so that individuals with autism are protected from unqualified practitioners.

Ability of Board Licensees to Become Dually Licensed. AB 1715 allows BBS licensees to continue to practice behavior analysis as part of their scope of services as long as they are competent to practice them, and as long as they do not hold themselves out to be a licensed behavior analyst or licensed assistant behavior analyst.

However, if a BBS licensee wishes to obtain licensure as a behavior analyst, it may be difficult to do so. The BPC requires an applicant to have a master's degree or higher in behavior analysis, psychology, education, or in a degree program with a behavior analysis course sequence approved by the certifying entity. These degree titles are required for certification as a behavior analyst with the Behavior Analyst Certification Board (BACB). BACB certification is required by law for licensure.

Ability of Board Registrants and Trainees to Gain Supervised Experience Practicing Behavior Analysis. The exemptions from licensure listed in BPC no longer contain an allowance for BBS trainees and registrants to practice behavior analysis even if they are doing so to gain experience hours toward a BBS license.

Ability of Board Licensees to Supervise Assistant Behavior Analysts and Behavior Analyst Technicians. Although this bill allows BBS licensees to continue to practice behavior analysis if it is in the scope of their competence, it does not allow them to supervise licensed assistant behavior analysts, behavior analyst interns, or behavior analysis technicians.

Licensed assistant behavior analysts and behavior analyst interns must be supervised by a licensed behavior analyst or a licensed psychologist. Behavior analyst technicians must be supervised by a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist.

Although the Health and Safety Code and the Insurance Code currently include BBS licensees in the definition of "qualified autism service providers" and allow them to supervise qualified autism service professionals and paraprofessionals, this bill would eliminate their ability to supervise such individuals.

CAMFT expressed opposition to AB 1715.

An audience member informed the Committee that AB 1715 passed Senate B&P Committee on April 5th.

The Committee directed staff to work with the author's office, express the Committee's concerns, and bring back to the fall Board meeting.

VII. Discussion and Recommendations for Possible Action Regarding AB 1808 (Wood) Minors: Mental Health Services

AB 1808 includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances.

Existing Law:

1) Allows a minor who is 12 years of age or older to consent to mental health services on an outpatient basis or to residential shelter services, under the following circumstances:
    a) In the opinion of the attending professional person, the minor is mature enough to participate intelligently in the services; and
    b) The minor would present a danger of serious physical or mental harm to self or others without treatment, or the minor is allegedly a victim of incest or child abuse.
2) Defines a "professional person" related to mental health treatment or counseling services in the treatment of minors on an outpatient basis, as the following:
    a) A marriage and family therapist;
    b) A marriage and family therapist intern, if under proper supervision as specified by law;
    c) A licensed professional clinical counselor;
    d) A clinical counselor intern, if under proper supervision as specified by law.

AB 1808:

1) Includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment with a consenting minor 12 years of age or older under certain defined circumstances.
2) Requires marriage and family therapist trainees and clinical counselor trainees conducting such treatment to be supervised by a person who meets the Board's requirements as a supervisor.
3) Requires the trainee, when assessing whether the minor is mature enough to participate intelligently in the mental health services, to consult with his or her supervisor as soon as reasonably possible.

Intent: The author's office states that not including trainees on the list of providers to treat consenting minors limits the number of providers available to treat minors, and limits MFT trainees' opportunities to gain experience hours toward licensure.

The author's office states that trainees currently work with a variety of diagnoses and specialties, including PTSD, child abuse, and suicide. In addition, trainees must follow the same supervision requirements as interns, except that they are required to have more weekly supervision than interns.

Trainee Qualifications to Treat Minors: Currently, a minor may consent to mental health treatment or residential shelter services if he or she is age 12 or older, and if the attending professional person determines the minor is mature enough to participate intelligently in the process.

This bill was recently amended to require the trainee to consult with his or her supervisor when making this determination

CAMFT is working with the author to address the issue regarding trainee consultation with the supervisor when determining a minor's maturity.

Ms. Lonner requested to add Licensed Clinical Social Workers and Associate Clinical Social Workers to the definition of "professional person."

Dr. Christine Wietlisbach moved to recommend supporting AB 1808 and to provide technical assistance. Renee Lonner seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

The Committee took a break at 10:17 a.m. and reconvened at 10:32 a.m.

VIII. Discussion and Recommendations for Possible Action Regarding AB 1863 (Wood) Medi-Cal: Federally Qualified Health Centers: Rural Health Centers

AB 1863 would allow Medi-Cal reimbursement for covered mental health services provided by a marriage and family therapist employed by a federally qualified health center or a rural health clinic.

Existing Law:

1) Establishes that federally qualified health center services (FQHCs) and rural health clinic (RHC) services are covered Medi-Cal benefits that are reimbursed on a per-visit basis.
2) Allows an FQHC or RHC to apply for an adjustment to its per-visit rate based on a change in the scope of services that it provides.
3) Defines a FQHC or RHC "visit" as a face-to-face encounter between an FQHC or RHC patient and one of the following:
    - A physician;
    - physician assistant;
    - nurse practitioner;
    - certified nurse-midwife;
    - clinical psychologist;
    - licensed clinical social worker;
    - visiting nurse; or
    - dental hygienist.

AB 1863:

1) Adds a marriage and family therapist to the list of health care professionals included in the definition of a visit to a FQHC or RHC who are eligible for Medi-Cal reimbursement.
2) Adds technical procedures for how an FQHC or RHC that employs marriage and family therapists can apply for a rate adjustment and bill for services.

Intent: The intent of this legislation is to allow FQHCs and RHCs to be able to hire a marriage and family therapist and be reimbursed through Medi-Cal for covered mental health services. Under current law, a clinic may hire a marriage and family therapist. However, only clinical psychologists or licensed clinical social workers may receive Medi-Cal reimbursement for covered services in such settings. According to the author's office, the inability to receive Medi-Cal reimbursement serves as a disincentive for a FQHC or a RHC to consider hiring a marriage and family therapist. Allowing services provided by LMFTs to be reimbursed will maximize the availability of mental health services in rural areas.

Suggested Amendment: Staff suggests an amendment to include "licensed" in front of the term "marriage and family therapist" throughout Welfare and Institutions Code (WIC) §14132.100.

Previous Legislation: This bill was run as AB 1785 in 2012. The Board took a support position on AB 1785; however, the bill died in the Assembly Appropriations Committee (committee).

This bill was run again as AB 690 in 2015. The Board took a support position on the bill; however, it died when it was held in committee. Its provisions were amended into AB 858 in 2015. AB 858 was part of a series of six Medi-Cal related bills that were all vetoed by the Governor. In a combined veto message for all six bills, the Governor stated that the bills would require expansion or development of new benefits and procedures in the Medi-Cal program, and that he could not support any of them until the fiscal outlook for Medi-Cal is stabilized.

Renee Lonner moved to recommend supporting AB 1863. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

IX. Discussion and Recommendations for Possible Action Regarding AB 2083 (Chu) Interagency Child Death Review

AB 2083 would, at the discretion of the provider, allow medical and mental health information to be disclosed to an interagency child death review team.

Existing Law:

1) Allows counties to establish interagency child death review teams in order to review suspicious child deaths and to help identify incidents of child abuse or neglect.
2) Requires that records that are exempt from disclosure to third parties by law remain exempt from disclosure when they are in possession of a child death review team.
3) Establishes interagency elder and dependent adult death review teams and domestic violence death review teams, and permits certain confidential information, including medical and mental health information, to be disclosed to the teams at the discretion of the person who has the information.

AB 2083:

1) Permits certain confidential information to be disclosed to a child death review team, including medical information and mental health information.
2) States that if such confidential information is requested by a child death review team, the person who has the information is not required to disclose it.

Intent: The author's office notes that allowing child death review teams to obtain this information could help with investigation and detection of child abuse and neglect.

Christina Wong moved to recommend supporting AB 2083. Renee Lonner seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

X. Discussion and Recommendations for Possible Action Regarding AB 2191 (Assembly) Sunset Bill to Extend the Board to 2021

AB 2191 would extend the Board's sunset date until January 1, 2021.

March 2016 Sunset Review Hearing: The Board submitted its Sunset Review Report to the Senate Committee on Business, Professions, and Economic Development and the Assembly Committee on Business and Professions (committee) on December 1, 2015.

The Board's sunset hearing was held on March 14, 2016. Based on the findings of the committee, it was recommended that the Board's sunset date be extended for four years, to January 1, 2021.

Dr. Christine Wietlisbach moved to recommend supporting AB 2191. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XI. Discussion and Recommendations for Possible Action Regarding AB 2199 (Campos) Sexual Offenses Against Minors: Persons in a Position of Authority

AB 2199 would subject persons who engage in specified acts of a sexual nature with a minor to be subject to additional jail terms if they held a position of authority over the minor. Persons in a position of authority include the minor's counselor or therapist.

Existing Law:

1) Specifies that a person age 21 or older who engages in unlawful sexual intercourse with a minor under age 16 is guilty of either a misdemeanor or a felony that is punishable by imprisonment for a term ranging from one to four years.
2) States that a person over age 21 who participates in an act of sodomy with a minor under age 16 is guilty of a felony.

3) Specifies that a person who commits a lewd or lascivious act upon a child of age 14 or 15, that is at least 10 years older than the child, is guilty of public offense punishable by imprisonment for a term ranging from one to three years.
4) States that a person over age 21 who participates in an act of oral copulation with a minor under age 16 is guilty of a felony.
5) States that a person who participates in an act of sexual penetration with a person under age 18 is subject to imprisonment for a term of up to one year.

AB 2199:

This bill requires a person who commits any of the crimes listed above to be punished by an additional two years of imprisonment if they held a position of authority over the minor.

It is anticipated that AB 2199 will have more amendments.

Renee Lonner moved to recommend supporting AB 2199. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XII. Discussion and Recommendations for Possible Action Regarding AB 2507 (Gordon) Telehealth: Access

AB 2507 requires that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person. It also specifies various communication platforms that are acceptable for telehealth.

Existing Law:

1) States that a health care service plan or health insurer shall not require in-person contact between a health care provider and a patient before payment is made for covered services that are appropriately provided through telehealth.
2) States that a health care service plan or health insurer shall not limit the type of setting where services are provided before payment is made for covered services that are appropriately provided through telehealth.

These provisions are subject to the terms and conditions of the contract with the health care service plan.

AB 2507:

1) Specifies that telehealth includes communication via video, telephone, email, text, or chat conferencing.

2) Allows that patient consent for telehealth can be oral, written, or digital.
3) States that the law does not authorize a health care provider to require services to be performed via telehealth when the patient prefers to be treated in-person.
4) States that a health care service plan or health insurer must cover patient services provided via telehealth to the same extent as services provided in-person.
5) Prohibits a health care service plan or health insurer from interfering with the physician-patient relationship based on the modality used for appropriately provided services through telehealth.

Intent: The author notes that while a health insurer cannot limit the types of settings where services are provided, the law does not require health plans to include coverage and reimbursement for services provided via telehealth. Currently, these must be negotiated separately into each plan contract. They note that many other states require health plans to provide coverage for telehealth services to the same extent as in-person services. This is not currently the case in California.

Under this bill, providers will be able to offer telehealth services with a guarantee that they will receive health plan reimbursement.

Mode of Delivery: This bill clarifies that the definition of telehealth includes communication via video, telephone, email, text or chat.

There is debate regarding whether email, text, and chat are appropriate platforms for psychotherapeutic services. There are safeguards built into the law to ensure that health plans cannot require the use of telehealth when the health care provider has determined it is not appropriate.

In addition, the Board is in the process of proposing regulations that would specify standards of practice for telehealth. If approved, they would require Board licensees and registrants to do the following each time services are provided via telehealth:

- Assess whether the client is appropriate for telehealth given his or her psychosocial situation; and
- Utilize industry best practices for telehealth to ensure both client confidentiality and the security of the communication medium.

Therefore, the statute and regulations make it clear that it is the practitioner's ethical obligation to ensure the mode of service delivery is appropriate to each client, and that it is acceptable according to the industry standards.

Physician-Patient Relationship: This bill proposes adding a sentence to the Health and Safety Code and the Insurance Code prohibiting a health care service plan or health insurer from interfering with the physician-patient relationship based on the modality used for appropriately provided services through telehealth.

Given that the law regarding telehealth includes all healing arts practitioners, it may be appropriate to replace the term “physician-patient relationship” with the term “provider-patient relationship” or “practitioner-patient relationship.”

Renee Lonner moved to recommend supporting AB 2507 and to provide technical assistance. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XIII. Discussion and Recommendations for Possible Action Regarding AB 2606 (Grove) Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities

AB 2606 would require a law enforcement agency to inform a state licensing agency if it receives or makes a report that one of its licensees has allegedly committed the following specified crimes:

a. Sexual exploitation by a physician or a psychotherapist;
b. Rape;
c. Elder or dependent adult abuse;
d. Failure to report elder or dependent adult abuse, or impeding or interfering with such a report;
e. A hate crime;
f. Sexual abuse;
g. Child abuse; and
h. Failure to report child abuse, or interfering with such a report.

Intent: The author’s office is seeking to strengthen enforcement of laws that prohibit impeding or retaliating against mandated reporters of elder and dependent adult abuse and child abuse.

There is currently no requirement for law enforcement to cross-report to licensing agencies, and because of this, licensing agencies do not learn of many of these cases and therefore cannot pursue them.

Effects of this Bill on Board Enforcement Process: Under this bill, law enforcement would report to the Board if it receives or makes a report of one of the specified crimes.

If there were no other evidence to the claim, other than that a complaint was received, the Board would need to contact the client to obtain a release of records in order to investigate the case. The ability of the investigation to proceed would depend on the patient’s willingness to consent to releasing the records to the Board. In a case of child abuse, a parent or guardian would need to provide consent. In a case of elder or

dependent adult abuse, the patient may have a conservator who would need to provide consent.

The Board would likely rely on the Division of Investigation (DOI) in order to locate clients and their guardians for consent, and to conduct an investigation.

Fiscal Impact to the Board: The Board does not have a high volume of child or elder abuse cases or cases where the licensee failed to make a mandated report. Typically, these cases number only a few per year.

It is likely that this bill would lead to an increase in mandated reporting violation cases. Such an increase could have a fiscal impact due to the Board's need to utilize the DOI for additional investigations. However, the potential quantity of these cases and investigative resources that would be required are unknown.

Inclusion of Registrants: BPC §23.7 defines a "license" as a license, certificate, registration, or other means to engage in a business or profession. However, this definition does not apply to the section of the Penal Code where the reporting requirement would be located.

To avoid confusion about whether or not the reporting requirement includes registrants, it would be helpful to amend the bill to either reference the definition in BPC §23.7 or to specifically include registrants.

Dr. Christine Wietlisbach moved to recommend a neutral position on AB 2606. Renee Lonner seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XIV. Discussion and Recommendations for Possible Action Regarding SB 614 (Leno) Medi-Cal: Mental Health Services: Peer and Family Support Specialist Certification

SB 614:

1) Establishes the Peer, Parent, Transition-Age, and Family Support Specialist Certification Program Act.
2) Defines "peer support specialist services."
3) By July 1, 2017, requires the DHCS to establish a certification body and to provide statewide certification.
4) Requires DHCS to establish the range of responsibilities and practice guidelines, curriculum and core competencies, training requirements, continuing education requirements, and supervision requirements.

5) Allows DHCS to implement this law via plan letters, bulletins, or similar instructions, without regulations, until regulations are adopted. Regulations must be adopted by July 1, 2019.

Intent: The goal is to require DHCS to establish a peer support specialist certification program, and authorize DHCS to add peer support providers as a provider type within the Medi-Cal program.

Peer Certification in Other States: In 2013, the Department of Veteran's Affairs and 31 states certified and employed peer specialists. The services peer specialists provide in these states are Medicaid billable.

Previous Position: SB 614 is a two-year bill. At its May 2015 meeting, the Board took a position to oppose unless amended on a previous version of this bill, and requested the following amendments:

1) Include in statute a clear definition of a peer and family support specialist and a clearly defined scope of practice.

   Status: The bill now defines "peer support specialist services." Although it is not labeled as a scope of practice, it might be construed as one. In addition, the current version of this bill specifies four types of peer support specialists, and provides a definition of each.

2) Specify the required hours of supervision for a peer and family support specialist, and identify who may provide this supervision.

   Status: The bill is silent on the amount of required supervision required for peer support specialists; it leaves the task to DHCS to establish via regulations.

   The bill now states who may supervise a peer support specialist. Supervisors can be a mental health rehabilitation specialist, a substance use disorder professional, or a licensed mental health professional as defined in Title 9, §782.26 of the California Code of Regulations (CCR). However, LPCCs are not included in the list.

3) Specify training requirements for a peer and family support specialist.

   Status: The bill delegates the task of establishing specific education and training requirements to regulation. However, it does now list several minimum core competencies that must be included in the required curriculum to become a certified peer support specialist.

   The Board may want to discuss whether some of the curriculum areas, such as psychiatric rehabilitation skills and trauma-informed care, overlap with the scope of practice of the Board's licensees.

WIC §14045.19 of the bill has been added to state that it is not the intent of the law to imply that a peer support specialist provide clinical services. However, clarifying language would be helpful.

4) Add a fingerprinting requirement for peer and family support specialists.

   Status: The bill does not contain a fingerprinting requirement.

Requirements Not Established in Legislation: SB 614 requires DHCS to establish many of the requirements of certified peer support specialists, including responsibilities and practice guidelines, curriculum, required training, continuing education, supervision, and renewal, via regulation. Assuming this bill were to pass, it would become effective January 1, 2017, and the certification program must be established by July 1, 2017. Regulations must be adopted by July 1, 2019. However, the bill leaves discretion to DHCS to implement the program via various instructions, until regulations are adopted.

The Committee requested the following amendments:

1) Specify the required hours of supervision, and include LPCCs as a licensed mental health professional who may supervise a peer support specialist.
2) Add suggested language (provided by Rosanne Helms) to clarify that peer support specialists will not provide clinical services.
3) Add a fingerprinting requirement for peer and family support specialists.

Christina Wong moved to recommend opposing SB 614 unless amended. Renee Lonner seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

The Committee took a lunch break and reconvened at 1:04 p.m.

XV. Discussion and Recommendations for Possible Action Regarding SB 1034 (Mitchell) Health Care Coverage: Autism.

SB 1034:

1) Removes the January 1, 2017 sunset date on all of the above provisions, so that health service plans and insurance policies will be required to provide coverage for behavioral health treatment for PDD/A indefinitely.
2) Makes a change to the definition of “behavioral health treatment” to clarify that it includes not only behavior analysis, but also other evidence-based behavior intervention programs. It also specifies that behavioral health treatment involves maintaining functioning of an individual with PDD/A.

Intent: The author's office states that when SB 946 was signed in 2011 to require health plans and insurance policies to cover treatment for PDD/A, the bill included a sunset date because there was uncertainty regarding upcoming changes to mandated health benefits, the Affordable Care Act, and the State's fiscal responsibility for benefits. At the time, the Legislature was awaiting federal guidance on how to implement essential health benefits under the Affordable Care Act. This guidance has now been provided, and several uncertainties regarding health care coverage and the state's role have been clarified.

The author's office believes that it is now appropriate to remove the sunset date completely, ensuring that children with autism will continue receiving insurance coverage for medically necessary behavioral health treatment.

Christina Wong moved to recommend supporting SB 1034. Dr. Christine Wietlisbach seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XVI. Discussion and Recommendations for Possible Action Regarding SB 1101 (Wieckowski) Alcohol and Drug Counselors: Regulation

SB 1101 creates the Alcohol and Drug Counseling Professional Bureau under the Department of Consumer Affairs (DCA) for the purpose of licensing alcohol and drug counselors.

Existing Law:

1) Requires the Department of Health Care Services (DHCS) to review and certify alcohol and other drug programs as meeting state standards.
2) Identifies 10 organizations as approved by DHCS to register and certify alcohol and drug counselors.
3) Requires all alcohol and drug (AOD) counselors providing counseling services in an AOD program to register to obtain certification as an AOD counselor with one of the approved certifying organizations within 6 months of their hire date.
4) Prior to certifying a registrant as an AOD counselor, the certifying organization must contact all other DHCS-approved certifying organizations to determine if the registrant's certification was ever revoked.

SB 1101:

1) Outlines the minimum qualifications for obtaining an alcohol and drug counselor license, as follows:

a. Has a master's or doctoral degree from an accredited or approved school in a specified profession, including addiction counseling, psychology, social work, counseling, marriage and family therapy, or counseling psychology;
b. Has passed an exam deemed acceptable by a DHCS-approved certifying organization;
c. Is currently credentialed as an advanced alcohol and drug counselor in good standing with one of the certification organizations recognized by DHCS, with no history of revocation;
d. Submits to a state and federal criminal background check.

2) Allows for a one-year grandparenting period.

Intent: The author notes that most states, except California, have a licensing program for such counselors. In addition, California does not require a background check for alcohol and drug counselors. This bill will help ensure public protection by specifying minimum education qualifications for a license, requiring passage of an examination, and requiring a criminal background check.

Scope of Practice: SB 1101 does not define the scope of practice for an alcohol and drug counselor. A defined scope of practice would help clarify that an alcohol and drug counselor is not permitted to practice within the scopes of practice of the Board's licensees.

Title Act versus Practice Act: SB 1101 is currently written as a title act, not a practice act. At this time, the Board's licensees may continue to practice alcohol and drug counseling that is within the scope of their practice, education, and experience, as long as they do not use the title "licensed alcohol and drug counselor."

Single Modality License: SB1101 would create a license to treat only one type of diagnosis. An alcohol and drug counselor would, therefore, have to be able to differentiate between issues that are solely attributed to alcohol and drug abuse from issues that may be attributed to a diagnosis outside his or her scope of practice.

Renee Lonner moved to recommend supporting SB 1101 if amended and to provide technical assistance. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – no
Christina Wong – yes

XVII. Discussion and Recommendations for Possible Action Regarding SB 1155 (Morrell) Licenses: Military Service

SB 1155:

1) Requires DCA licensing boards to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged military members.
2) Prohibits fee waivers for license renewals.
3) Only allows one fee waiver per person.

Intent: The author seeks to assist honorably discharged military veterans with entrance into the workforce. The author notes that initial application and occupational license fees can act as barriers into the workforce for veterans.

Fiscal Impact: The initial license fees that would qualify for a military service waiver under this bill are as follows:

- LMFTs: $130
- LEPs: $80
- LCSWs: $100
- LPCCs: $200

The Board recently began tracking data about the number of licensees in military service when the BreEZe database system came online in late 2014; therefore, data regarding this population is limited.

Since October 2014, the Board has received applications from 259 individuals who successfully qualified for an expedited license due to their honorable discharge from the military. However, this number represents initial licensees and registrants, and candidates in the exam cycle.

At this time, staff cannot accurately estimate how many individuals per year would qualify for the fee waiver.

Proration of Initial License Fees: The Board prorates the initial license fee for all applicants based on their birth month and the month it receives the initial license application. Because the initial license fee is prorated, allowing a fee waiver may cause some inequity. Some applicants will get more of a savings from the waived fee than others.

Fees Intended for Waiver Unclear: The Board's initial license fee is the only fee that appears to meet the requirements for waiver under this bill. It is not known if the intent of the bill was for other fees in the process to qualify for the waiver as well.

Tracking Previous Fee Waivers: SB 1155 states that applicants can only be granted one fee waiver. It may be difficult for the Board to ascertain whether an applicant has already been granted a fee waiver, especially if he or she is dually licensed.

Although the Committee shares the concerns expressed by Board staff, it supports the concept and spirit of SB 1155.
Renee Lonner moved to recommend that the Board take a neutral position on SB 1155. Dr. Christine Wietlisbach seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XVIII. Discussion and Recommendations for Possible Action Regarding SB 1204 (Hernandez) Health Professions Development: Loan Repayment

As of April 15th, the author is not proceeding with SB 1204.

XIX. Discussion and Recommendations for Possible Action Regarding SB 1217 (Stone) Health Arts: Reporting Requirements: Professional Liability Resulting in Death or Personal Injury

Currently, a healing arts licensee must report all judgments or settlements for negligence claims in excess of a certain dollar amount to his or her licensing board. For many DCA boards, including this Board's LEP licensees, the reporting threshold is $3,000. For all other licensees of this Board, the reporting threshold is $10,000.

SB 1217:

1) Raises the reporting requirement of any judgment or settlement against a licensee from $3,000 to $10,000 for the Pharmacy Board.
2) Corrects an erroneous reference to LCSW law. Currently, LCSW law is referenced as "Chapter 14 (commencing with §4990)." LCSW law actually commences with BPC §4991. The Board's general provisions commence with BPC §4990.

Intent: The author notes that all healing arts licensing boards under DCA are required to maintain a central file containing certain information on each licensee, including any reported judgments or settlements on the licensee. For some boards, judgments in excess of $10,000 must be reported, while for others, judgments in excess of $3,000 must be reported. The author believes the difference in the reporting amounts among boards is arbitrary.

Error in Current Law: The Board's reporting threshold is $10,000 for all licensees except LEPs. However, there is an error in the law referencing which of the Board's licensees are subject to the reporting requirement. BPC §§ 801(b), 801.1(b), and

802(b) state that the $10,000 reporting requirement applies to licensees subject to Chapter 13 (commencing with §4980, which references LMFTs), Chapter 14 (commencing with §4990), and Chapter 16 (commencing with §4999.10, which references LPCCs).

The reference to "Chapter 14 (commencing with §4990)" is incorrect. While Chapter 14 references LCSW statute, §4990 is a reference to the beginning of the Board's general provisions. Therefore, it is unclear whether this portion of the law intends to reference LCSW statute or general provisions that apply to all of the Board's license types.

SB 1217 would correct this error and correctly reference LCSW statute. However, this raises the question as to why the LEP reporting requirement is set at $3,000.

The Committee directed staff to provide technical assistance to the author's office.

XX. Discussion and Recommendations for Possible Action Regarding SB 1334 (Stone) Crime Reporting: Health Practitioners: Human Trafficking

Existing Law:

1) Requires any health practitioner who is employed in a health facility, clinic, physician's office, or local or state public health department to make a report when he or she provides medical services for a physical condition to a patient as follows:
    a. The patient is suffering from a wound or physical injury inflicted by his or her own act or inflicted by another, by means of a firearm; or
    b. The patient is suffering from a wound or physical injury inflicted as a result of assaultive or abusive conduct.
2) Defines "assaultive or abusive conduct."
3) Defines a "health practitioner" to include the Board's license types.

SB 1334:

1) Requires a health practitioner employed in a health facility, clinic, physician's office, or local or state public health department to make a report when he or she provides medical services to a patient who discloses that he or she is seeking treatment due to being the victim of assaultive or abusive conduct.
2) Adds human trafficking to the list of offenses that are considered assaultive or abusive conduct.

Intent: The author states that there is a gap in the mandated reporting law that impacts reporting of sexual assault. Currently such a mandated report is only triggered if there is a wound or injury. However, the author notes that there is not always a wound or physical injury resulting from a sexual assault.

Definition of "Medical Services": SB 1334 requires a health care practitioner, which by definition includes Board licensees, to make a specific mandated report based on observations made while providing medical services to the patient. It is unclear if medical services include mental health services.
Effect on Psychotherapist-Patient Privilege: The Committee may want to discuss effects on the psychotherapist-patient privilege if a Board licensee is required to make a mandated report upon learning that a patient is seeking treatment due to being a victim of assaultive or abusive conduct.

Renee Lonner moved to recommend opposing SB 1334 unless amended to exclude BBS licensees. Christina Wong seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

XXI. Discussion and Recommendations for Possible Action Regarding Board Sponsored Legislation and Other Legislation Affecting the Board

The Board is sponsoring the following legislative proposals:

1) AB 1917: Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants

   Status: This bill has passed the Assembly Business and Professions Committee, and the Assembly Appropriations Committee.

2) SB 1478 Healing Arts: Omnibus Bill

   Status: This bill is scheduled for hearing with the Senate Business, Professions and Economic Development Committee on April 18, 2016.

Board staff is watching the following legislative proposals:

1) AB 1084: Social Workers: Examination

   This is a spot bill which contains a provision that is already included in the omnibus bill. Staff expects that AB 1084 will be amended to address a different topic.
2) AB 2649: Marriage and Family Therapist Intern and Professional Clinical Counselor Intern: Renaming

   This Board is seeking these amendments in the omnibus bill. Staff expects that AB 2649 will be amended to address a different topic.

The Committee took a break at 2:18 p.m. and reconvened at 2:25 p.m.

XXII. Status of Board Rulemaking Proposals

Current Regulatory Proposals:

1) Standards of Practice for Telehealth

   Status: These regulations are currently under review by the Department of Finance.

2) English as a Second Language: Additional Examination Time

   Status: These regulations are currently under review by DCA.

3) Discussion and Recommendations for Possible Action Regarding Publication of Citation and Fines Less Than $1500 on the Board's Website and in the Board Newsletter

BPC §27(a) specifies the type of information that the Board is required to publish on its website. In addition to displaying the specified information, other information including suspensions, revocations and other related enforcement action taken by the Board is published on the Board's website.

BPC §4990.09 defines the parameters regarding the reporting of citations. Specifically, the Board shall not publish on the Internet the final determination of a citation and fine of $1500 or less for more than five years from the date of issuance.

In 2015, the Board resumed publishing its newsletter. The Board's disciplinary actions, including citations and fines, are published in the newsletter. Recently, concerns emerged related to publishing citations and fines of less than $1,500 on the Board's website and in the newsletter. A citation and fine of $1,500 or less may be issued for minor violations.
This raises the question of whether these names should appear on the Board's website. Although the Board defines a citation and fine as an administrative action, listing formal disciplinary action (revocations, suspensions) under the title "Administrative Actions" in the Board newsletter may be confusing. There are a few options to consider that may resolve the confusion.

One option is to modify the titles in the newsletter. "Enforcement Citations" could be revised to "Administrative Actions", which would be consistent with the definition for a citation and fine provided in the newsletter. "Administrative Actions" could be revised to "Formal Disciplinary Actions" with a definition that indicates a higher level of discipline. Revising the titles may provide clarification to the public and affected licensees/registrants.

Another option is to consider recommending that the Board establish a policy to specify the removal of newsletters from the Board's website that complies with the five-year requirement specified in BPC §4990.09. Adoption of a policy would formally establish a process to remove Board newsletters from its website.

Alternatively, the Committee may wish to consider an option for removing Board newsletters from its website.

Dr. Christine Wietlisbach moved to recommend that the Board approve and direct staff to:

- ***Redefine the titles in the newsletters;***
- ***Add the violation for the cite and fine listed;***
- ***Remove newsletters that are older than 5 years; and***
- ***Add a statement on the website stating that archived copies of the newsletters are available upon request.***

Renee Lonner seconded. The Committee voted to pass the motion.

Vote:
Renee Lonner – yes
Dr. Christine Wietlisbach – yes
Christina Wong – yes

4) Suggestions for Future Agenda Items

There were no suggestions.

5) Public Comment for Items Not on the Agenda

There were no public comments.

6) Adjournment

The meeting was adjourned at 2:48 p.m.