

BOARD MEETING MINUTES

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2
3
4 Open sessions of this Board Meeting were webcasted. Records of the webcasts are
5 available at the following links:

6 November 20 (part 1): <https://youtu.be/pflOukX8TIQ>
7 November 20 (part 2): <https://youtu.be/nkEfz0wkTsQ>
8 November 21 (part 1): <https://youtu.be/5ZOkIteBwSE>
9 November 21 (part 2): <https://youtu.be/nbWi4jyTI8c>
10 November 22 (part 1): <https://youtu.be/HFnvd64PEgM>
11 November 22 (part 2): <https://youtu.be/KB5w9FtrakY>

12
13
14 **DATE** November 20, 2019

15
16 **LOCATION** Department of Consumer Affairs
17 Board of Pharmacy Hearing Room
18 2720 Gateway Oaks Dr., #105
19 Sacramento, CA 95833

20
21 **TIME** 8:30 a.m.

22
23 **ATTENDEES**

24 **Members Present:** Betty Connolly, Chair, LEP Member
25 Max Disposti, Vice Chair, Public Member
26 Crystal Anthony, LCSW Member
27 Dr. Leah Brew, LPCC Member
28 Deborah Brown, Public Member
29 Jonathan Maddox, LMFT Member
30 Christina Wong, LCSW Member

31
32 **Members Absent:** *All members present*

33
34 **Staff Present:** Kim Madsen, Executive Officer
35 Steve Sodergren, Assistant Executive Officer
36 Jonathan Burke, Enforcement Manager
37 Sabina Knight, Legal Counsel
38 Christina Kitamura, Administrative Analyst
39

1 **Other Attendees:** Wim Van Rooyen, Administrative Law Judge
2 Malissa Siemantel, Deputy Attorney General
3 See *voluntary sign-in sheet (available upon request)*
4

6 **OPEN SESSION**

9 **I. Call to Order and Establishment of Quorum**

10 Betty Connolly, Chair of the Board of Behavioral Sciences (Board), called the
11 meeting to order at 9:17 a.m. Roll was called, and a quorum was established.
12

14 **II. Public Comment for Items Not on the Agenda**

15 No comments.
16

18 **III. Suggestions for Future Agenda Items**

19 No suggestions.
20
21
22

23 ***Administrative Law Judge Wim Van Rooyen presided over the following petition***
24 ***hearings. Deputy Attorney General Malissa Siemantel presented the facts of each***
25 ***case on behalf of the People of the State of California.***
26

27 ***Judge Van Rooyen moved agenda item IX, which was heard after item V.***
28

29 **IV. Petition for Modification of Probation for Olga Palmer, LMFT 47624**

30 The hearing was opened at 9:20 a.m. Olga Palmer was present and represented
31 herself. Ms. Siemantel presented the background of Ms. Palmer's probation.
32

33 Ms. Palmer was sworn in. She presented her request for modification of
34 probation and information to support the request and was cross-examined by Ms.
35 Siemantel and Board members. The record was closed at 10:28 a.m.
36
37

38 **V. Petition for Reinstatement of License for Ruben Gabriel Colon, LCSW** 39 **29821**

40 The hearing was opened at 10:36 a.m. Ruben Colon was present and
41 represented himself. Ms. Siemantel presented the background of Mr. Colon's
42 license revocation.
43
44

1 Mr. Colon was sworn in. He presented his request for reinstatement of license
2 and information to support the request and was cross-examined by
3 Ms. Siemantel and Board members. The record was closed at 11:54 a.m.
4

5 **VI. Petition for Early Termination of Probation for Judy Brevaire, LMFT 32458**
6

7 The hearing was opened at 1:38 p.m. Judy Brevaire was present and
8 represented herself. Ms. Siemantel presented the background of Ms. Brevaire's
9 probation.
10

11 Ms. Brevaire was sworn in. She presented her request for early termination of
12 probation and information to support the request and was cross-examined by Ms.
13 Siemantel and Board members. The record was closed at 2:25 p.m.
14

15 **VII. Petition for Early Termination of Probation for Erin Oden, ASW 76594**
16

17 The hearing was opened at 2:31 p.m. Erin Oden was present and represented
18 herself. Ms. Siemantel presented the background of Ms. Oden's probation.
19

20 Ms. Oden was sworn in. She presented her request for early termination of
21 probation and information to support the request and was cross-examined by Ms.
22 Siemantel and Board members. The record was closed at 3:24 p.m.
23

24 **VIII. Petition for Early Termination of Probation for Regina Culver, AMFT 99539**
25

26 The hearing was opened at 3:32 p.m. Regina Culver was present and
27 represented herself. Ms. Siemantel presented the background of Ms. Culver's
28 probation.
29

30 Ms. Culver was sworn in. She presented her request for early termination of
31 probation and information to support the request and was cross-examined by Ms.
32 Siemantel and Board members. The record was closed at 4:17 p.m.
33

34 **IX. Petition for Early Termination of Probation for Edana Eugena Magee, ASW
35 74184**
36

37 The hearing was opened at 12:02 p.m. Edana Magee was present and
38 represented herself. Ms. Siemantel presented the background of Ms. Magee's
39 probation.
40

41 Ms. Magee was sworn in. She presented her request for early termination of
42 probation and information to support the request and was cross-examined by Ms.
43 Siemantel and Board members.
44

1 The following individuals were called as character witnesses: Jennifer Echols,
2 Griselda Sanchez, Tiffany Nielsen. No questions were posed by Ms. Siemantel
3 or Board members.
4

5 The record was closed at 12:54 p.m.
6
7

8 **CLOSED SESSION**

9
10
11 **X. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will**
12 **Meet in Closed Session for Discussion and to Take Action on Disciplinary**
13 **Matters, Including the Above Petitions. The Board Will Also, Pursuant to**
14 **Section 11126(a)(1) of the Government Code, Meet in Closed Session to**
15 **Evaluate the Performance of the Executive Officer.**
16

17 The Board met in closed session at 4:17 p.m.
18
19

20 **OPEN SESSION**

21
22
23 **XI. Recess Until 8:30 a.m. on Thursday, November 21, 2019**
24

25 The Board reconvened in open session and recessed at 5:40 p.m.

1 **DATE** November 21, 2019

2

3 **LOCATION** Department of Consumer Affairs
4 Board of Pharmacy Hearing Room
5 2720 Gateway Oaks Dr., #105
6 Sacramento, CA 95833

7

8 **TIME** 8:30 a.m.

9

10 **ATTENDEES**

11 **Members Present:** Betty Connolly, Chair, LEP Member
12 Max Disposti, Vice Chair, Public Member
13 Crystal Anthony, LCSW Member
14 Dr. Leah Brew, LPCC Member
15 Deborah Brown, Public Member
16 Jonathan Maddox, LMFT Member
17 Christina Wong, LCSW Member

18

19 **Members Absent:** *All members present*

20

21 **Staff Present:** Kim Madsen, Executive Officer
22 Steve Sodergren, Assistant Executive Officer
23 Jonathan Burke, Enforcement Manager
24 Sabina Knight, Legal Counsel
25 Christina Kitamura, Administrative Analyst

26

27 **Other Attendees:** Sean Gavin, Administrative Law Judge
28 Anahita Crawford, Deputy Attorney General
29 *See voluntary sign-in sheet (available upon request)*

30

31

32 **OPEN SESSION**

33

34

35 **XII. Call to Order and Establishment of Quorum**

36

37 The meeting was called to order at 8:33 a.m. Roll was called, and a quorum was
38 established.

39

40 **XIII. Public Comments for Items Not on the Agenda**

41

42 No comments.

43

44 **XIV. Suggestions for Future Agenda Items**

45

46 No suggestions.

1 **Administrative Law Judge Sean Gavin presided over the following petition**
2 **hearings. Deputy Attorney General Anahita Crawford presented the facts of each**
3 **case on behalf of the People of the State of California.**
4

5 **XV. Petition for Modification of Probation for Matthew D. Woodbury, LCSW**
6 **19901**
7

8 The hearing was opened at 8:40 a.m. Matthew Woodbury was present and
9 represented himself. Ms. Crawford presented the background of Mr. Woodbury's
10 probation.
11

12 Mr. Woodbury was sworn in. He presented his request to modify probation and
13 information to support the request and was cross-examined by Ms. Crawford and
14 Board members. The hearing was closed at 9:10 a.m.
15

16 **XVI. Petition for Early Termination of Probation for Ann Marie Doqui, LCSW**
17 **18354**
18

19 The hearing was opened at 9:15 a.m. Ann Marie Doqui was present and
20 represented herself. Ms. Crawford presented the background of Ms. Doqui's
21 probation.
22

23 Ms. Doqui was sworn in. She presented her request for early termination of
24 probation and information to support the request and was cross-examined by Ms.
25 Crawford and Board members. The record was closed at 10:29 a.m.
26

27 **XVII. Petition for Early Termination of Probation for Stephanie Jean Fell, LMFT**
28 **112362**
29

30 The hearing was opened at 10:47 a.m. Stephanie Fell was present and
31 represented herself. Ms. Crawford presented the background of Ms. Fell's
32 probation.
33

34 Ms. Fell was sworn in. She presented her request for early termination of
35 probation and information to support the request. The Board entered in closed
36 session at the direction of Judge Gavin. Cross-examination by Ms. Crawford and
37 Board members took place during closed session.
38

39 The Board reconvened in open session at 11:50 a.m. Further cross-examination
40 took place during open session.
41

42 The record was closed at 11:54 a.m.
43

1

2 **CLOSED SESSION**

3

4

5 The Board entered in closed session at 11:54 a.m. and reconvened at 1:06 p.m.

6

7

8 **OPEN SESSION**

9

10

11 **XVIII. Petition for Modification of Probation for Cassandra Ruth Pacheco, LCSW**

12 **80478**

13

14 The hearing was opened at 1:08 p.m. Cassandra Pacheco was present and

15 represented herself. Ms. Crawford presented the background of Ms. Pacheco's

16 probation.

17

18 Ms. Pacheco was sworn in. She presented her request for modification of

19 probation and information to support the request and was cross-examined by Ms.

20 Crawford and Board members. The record was closed at 2:01 p.m.

21

22 **XIX. Petition for Early Termination of Probation for Brianne Nichole Smith, LMFT**

23 **105848**

24

25 The hearing was opened at 2:16 p.m. Brianne Smith was present and

26 represented herself. Ms. Crawford presented the background of Ms. Smith's

27 probation.

28

29 Ms. Smith was sworn in. She presented her request for early termination of

30 probation and information to support the request and was cross-examined by

31 Ms. Crawford and Board members. The record was closed at 2:56 p.m.

32

33 **XX. Petition for Early Termination of Probation for Brian Jacob Bass, LCSW**

34 **78872**

35

36 The hearing was opened at 3:00 p.m. Brian Bass was present and represented

37 himself. Ms. Crawford presented the background of Mr. Bass' probation.

38

39 Mr. Bass was sworn in. He presented his request for early termination of

40 probation and information to support the request. The Board entered in closed

41 session at the direction of Judge Gavin. Cross-examination by Ms. Crawford and

42 Board members took place during closed session.

43

44 The Board reconvened in open session at 3:52 p.m. Further cross-examination

45 took place during open session.

1 The record was closed at 4:16 p.m.

2
3
4 **CLOSED SESSION**

5
6
7 **XXI. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will**
8 **Meet in Closed Session for Discussion and to Take Action on Disciplinary**
9 **Matters, Including the Above Petitions**

10
11 The Board met in closed session at 4:25 p.m.

12
13
14 **OPEN SESSION**

15
16
17 **XXII. Recess Until 8:30 a.m. on Friday, November 22, 2019**

18
19 The Board reconvened in open session and recessed at 5:16 p.m.

20

1 **DATE** November 22, 2019

2
3 **LOCATION** Department of Consumer Affairs
4 HQ2 Hearing Room
5 1747 N. Market Blvd., #186
6 Sacramento, CA 95834
7

8 **TIME** 8:30 a.m.
9

10 **ATTENDEES**

11 **Members Present:** Betty Connolly, Chair, LEP Member
12 Max Disposti, Vice Chair, Public Member
13 Crystal Anthony, LCSW Member
14 Dr. Leah Brew, LPCC Member
15 Deborah Brown, Public Member
16 Jonathan Maddox, LMFT Member
17 Christina Wong, LCSW Member
18

19 **Members Absent:** *All members present*
20

21 **Staff Present:** Kim Madsen, Executive Officer
22 Sabina Knight, Legal Counsel
23 Rosanne Helms, Legislative Analyst
24 Christy Berger, Regulatory Analyst
25 Christina Kitamura, Administrative Analyst
26

27 **Other Attendees:** *See voluntary sign-in sheet (available upon request)*
28
29

30 **OPEN SESSION**
31
32

33 **XXIII. Call to Order, Establishment of Quorum, and Introductions**
34

35 Meeting called to order at 8:41 a.m. Roll was called, and a quorum was
36 established. Board staff and meeting attendees introduced themselves.
37

38 **XXIV. Department of Consumer Affairs Update – DCA Director Kimberly**
39 **Kirchmeyer**
40

41 Kimberly Kirchmeyer was recently appointed as Director to the Department of
42 Consumer Affairs (DCA). Ms. Kirchmeyer presented her background and
43 experience at DCA. She also outlined the goals that will be focused on during
44 her first year as Director:

45 1. Client services and satisfaction

2. Working smarter together: more creativity and collaboration between boards and bureaus
3. Data transparency in action: using data and technology to better inform decision-making so action plans are developed to reduce licensing and enforcement timelines and provide measurable achievements.

With these goals in mind, the main focus areas during the first year will be:

1. Time frame for processing regulations
2. Obtaining Fi\$Cal reports
3. Decreasing time frame to perform investigations
4. ADA compliance issues
5. Ensuring all legislation is implemented by boards and bureaus

Changes to DCA’s Executive Office:

- Chris Schultz’s last day was November 1st.
- Karen Nelson’s last day was November 1st.
- Patrick Le went to the Assembly Business and Professions Committee.
- Dennis Cuevas-Romero’s last day was November 15th.
- Christopher Castrillo’s last day is today.

Legislative Unit is now fully staffed to work on the new regulatory processes.

DCA Strategic Plan 2017-2020 is coming to an end, and DCA executive staff will begin the process of drafting a new strategic plan.

XXV. Consent Calendar

- a. Approval of the February 28 – March 1, 2019 Board Meeting Minutes
- b. Approval of the May 9-10, 2019 Board Meeting Minutes

May 2019 meeting minutes were tabled.

MOTION: Approve the February 29 – March 1, 2019 Board meeting minutes.

Disposti moved; Wong seconded. Motion carried; 7 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

1 **XXVI. Board Chair Report**

2 **a. Board Member Activities**

3
4 The Association of Social Work Boards (ASWB) Annual Delegate Meeting
5 was held in November and attended by Kim Madsen and Christina Wong.
6 Ms. Madsen was elected to the ASWB board of directors.

7
8 Ms. Madsen and Ms. Connolly attended the California Association of School
9 Psychologists (CASP) convention. Ms. Madsen gave a presentation
10 regarding continuing education and suicide prevention training.

11
12 Ms. Madsen and Ms. Connolly attended the Board of Psychology board
13 meeting in August to address questions regarding LEP scope of practice.

14
15 Dr. Leah Brew and Ms. Madsen attended the National Board of Certified
16 Counselors (NBCC) and American Association of State Counseling Boards
17 (AASCB) meeting in August. Ms. Madsen received the Distinguished
18 Service Award presented by AASCB.

19
20 **b. Introduction to New Board Member**

21
22 Ms. Connolly introduced new Board member, Crystal Anthony. Ms. Anthony
23 is an LCSW member from Oceanside and works in Orange County.

24
25 Ms. Anthony presented her experience and background working on a sex
26 trafficking task force and working in a juvenile detention facility. She also
27 works with victims of torture and works in the criminal justice system. Ms.
28 Anthony is a yoga teacher and practices Reiki.

29
30 **c. Recognition of Board Staff for Years of Service**

31
32 Board staff was recognized for 5 years of service to BBS:

33 Andrea Bertram-Mueller
34 Lisa Cigelske
35 Valarie Enloe
36 Portia Hillman
37 Julie Ruprecht
38 Craig Zimmerman

39
40 **d. 2020 Board and Committee Meeting Dates**

41
42 Meeting dates were provided in the meeting materials for review. The
43 October meeting dates will be rescheduled.

44

1 **XXVII. Executive Officer Report**

2 **a. Budget Report**

3
4 The Board's budget for fiscal year (FY) 2019/2020 is \$11,873,000. The
5 expenditure log reflects the information currently available to the Board.
6 These figures are based upon invoices received directly by the Board.

7
8 Effective September 1st, the Attorney General (AG) increased the hourly
9 rates from \$170 to \$220 for attorney services; \$120 to \$205 for paralegal
10 services; and from \$99 to \$195 for auditor and research analyst services.
11 The impact to the Board's budget is approximately \$500,000. Board staff
12 and the DCA Budget office are working to ensure the Board has sufficient
13 funding to absorb this increase.

14
15 General Fund Loans

16 All prior loans to the General Fund have been repaid to the Board.

17
18 Fi\$Cal Update

19 The DCA Budget Office reports its efforts to closeout FY 2018/2019 on
20 Fi\$Cal is still ongoing. The Board has not received any updates regarding
21 final figures for FY 2018/2019 or any reports for FY 2019/2020.

22
23 DCA ProRata/Distributed Costs Report

24 On July 1, 2019, DCA submitted its annual Distributed Cost Report as
25 required by Business and Professions Code Section 201 to the legislature.
26 This report provides an overview of the methodology used calculating the
27 distribute costs as well as a summary of the costs for each board and
28 bureau. On general, the costs are calculated based on the number of
29 approved staff positions for each board and bureau. The costs support
30 DCA services such as the Office of Human Resources, Budget Office, Legal
31 Services, and Information Services.

32
33 For FY 2019/2020, the Board's share of costs is \$2,667,000 or 22% of the
34 Board's total budget. In FY 2018/2019, the Board's share of costs was
35 \$2,960,00 or 26% of the Board's total budget. The reduction in costs is
36 attributed the reduced BreEZe costs.

37
38 **b. Operations Report**

39
40 Quarterly performance statistics for the 1st quarter of FY 2019/2020 were
41 provided.

42
43 Licensing Program

- 44
45
- Largest increases in the associate registration applications due to graduation season

- Increased volume of applications due to recent staff vacancies
- 1,439 initial licenses were issued
- 119,272 licensees and registrants as of November 1st (4% increase)

Examination Program

- Over 5,118 examinations were administered.
- 11 examination development workshops were conducted.

OPES continues work on the LMFT Occupational Analysis. The last day to participate in the survey was September 27th. OPES is currently reviewing the responses.

Administration Program

The Board received 9,658 applications, a 1% increase from last quarter.

Enforcement Program

- 508 consumer complaints received
- 390 criminal conviction notifications received
- 847 cases closed
- 44 cases referred to the AG's office for formal discipline
- 351 cases pending as of September 30, 2019
- 23 Accusations and 7 Statement of Issues filed.
- 86 final citations issued
- 16 decisions adopted
- 393 average number of days to complete Formal Discipline. Performance measure is 540 days.
- 551 average number of days a case is with the AG's Office
- 74 average number of days to complete all Board investigations

Continuing Education Audits

- 463 audits were conducted.
- 73% of the licensees passed the audit.

Outreach Activity

Board staff has been engaged with the MFT consortium meetings and the annual conferences for CALPCC, CASP, CAMFT and NASW.

Staff also attended the annual conferences for NBCC and Association of Marital and Family Therapy Regulatory Boards (AMFTRB).

Ms. Madsen and staff attended annual conferences for the National Association of Social Workers (NASW) and CASP. Ms. Madsen presented the Board's license portability framework at both conferences.

1 ASWB asked Ms. Madsen to serve on a committee to review the method by
2 which states contract to use the national exam. Ms. Madsen agreed to
3 serve on the committee.
4

5 New Exam Vendor

6 Beginning January 2, 2020, Pearson Vue will administer the California Law
7 & Ethics Exam, Licensed Marriage and Family Therapist (LMFT) Clinical
8 Exam, and the Licensed Educational Psychologist (LEP) Standard Written
9 Exam.
10

11 **c. Personnel Report**

12 New Employees/Promotions

13 There were 8 promotions/hires at the Board and 2 departures. There are 15
14 vacancies. Recruitment efforts are currently underway.
15
16

17 **d. Strategic Plan Update**

18 The Strategic Plan was provided in the meeting materials for review.
19
20

21 **XXVIII. Update on Exam Vendor Contract**

22 The Board initiated a contract with Pearson VUE to administer the Board's
23 examinations. This contract will replace the department-wide contract with PSI.
24 This is a three-year contract.
25
26

27 Since February 2019, Pearson VUE and DCA's Office of Information Services
28 (OIS) and Office of Professional Examination Services (OPES) have been
29 working closely with Board staff in developing the new exam delivery system.
30 The Board intends for a smooth transition with minimal disruption to exam
31 candidates. It is projected that candidates will be able to schedule exams
32 beginning December 20th and the administration of exams will begin on January
33 4th.
34

35 During the next two months, the Board will be working to ensure that exam
36 candidates are informed via email, website updates, and social media postings.
37 Staff is also working to identify the candidate populations that would be most
38 affected and plans to communicate more directly with those candidates.
39

40 Pearson VUE has 27 sites within California and more than 200 sites nationally.
41 Pearson VUE also allows testing at select test centers on military installations.
42 They have high security systems and protocols in place to minimize
43 opportunities to cheat. Pearson VUE will be responsible for approving and
44 providing special accommodations for qualified exam candidates.
45

1 There will be no delays in the scores for candidates during or after the
2 transition.

3
4 **XXIX. Presentation Regarding the Licensed Mental Health Services Provider**
5 **Education Program – Office of Statewide Health Planning and**
6 **Development**

7
8 This item was removed from the agenda.

9
10 **XXX. Update on 2019-2020 Sunset Review Report**

11
12 A draft of the Board’s 2019 Sunset Review Report was provided. This report
13 will be submitted to the legislature on December 1st. New issues that will be
14 addressed in the report: Board quorum and fee increase proposal.

15
16 The legislature will schedule public hearings to discuss the Board’s report. It is
17 anticipated that the hearings will occur late February 2020 or early March 2020.

18
19 **MOTION:** Approve the draft version of the 2019-2020 Sunset Review Report.

20
21 Wong moved; Brew seconded. Motion carried; 7 yea, 0 nay.

22
23 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

24
25
26 **XXXI. Discussion and Possible Action Regarding the Policy and Advocacy**
27 **Committee Recommendations**

28 **a. Recommendation #1: Proposed Technical Amendments to Business**
29 **and Professions Code Sections 4980.01, 4980.43.2, 4980.43.3, 4983,**
30 **4987.5, 4989.66, 4990.30, 4996.12, 4996.14, 4996.22, 4996.23.1, 4998,**
31 **4999.22, 4999.46.1, 4999.46.2, 4999.86, 4999.123**

32
33 **1. Amend BPC Sections 4987.5, 4998, and 4999.123 – Professional**
34 **Corporations**

35
36 These sections specify that LMFT, licensed clinical social worker
37 (LCSW), and licensed professional clinical counselor (LPCC)
38 corporations are authorized to render professional services as long as

1 the corporation and its shareholders, officers, directors, and employees
2 rendering professional services, who are certain specified license
3 holders, are in compliance with the Moscone-Knox Professional
4 Corporation act and other relevant statutes and regulations.

5
6 The sections go on to list which license types may be officers, directors,
7 or employees rendering professional services. This list is included in
8 Corporations Code §13401.5. Occasionally, the legislature changes the
9 list in the Corporations Code.

10
11 Recommendation: Staff recommends striking the list of professions in
12 §§4987.5, 4998, and 4999.123 of the Business and Professions Code
13 (BPC), as they are already listed in the Corporations Code.

14
15 **2. Amend BPC Section 4980.43.3 - Renumbering**

16
17 BPC §4980.43.3 contains a numbering error in subdivision (c). The two
18 criteria listed as (1) and (2) should be labeled as subdivisions (A) and
19 (B).

20
21 Recommendation: Make correction to numbering in subdivision (c).

22
23 **3. Amend BPC Sections 4980.43.2, 4996.23.1, 4999.46.2 – Definition of**
24 **“One Hour of Direct Supervisor Contact”**

25
26 These sections define “one hour of direct supervisor contact” as a
27 specified amount of face-to-face contact between one supervisor and
28 their supervisees.

29
30 The intent of the term “face-to-face” contact is to require that the
31 supervisor and supervisee(s) meet in person for the supervision session.
32 This is implied by reviewing subdivisions 4980.43.2(d), 4996.23.1(f), and
33 4999.46.2(d), which state that notwithstanding the definitions of “one
34 hour of direct supervisor contact”, an associate working in an exempt
35 setting may obtain their required weekly direct supervisor contact via
36 videoconferencing. Staff believes it would be helpful to clarify that “face-
37 to-face” contact means that the contact must be in-person.

38
39 Recommendation: Amend the definition of “one hour of direct supervisor
40 contact” in §§4980.43.2, 4996.23.1, and 4999.46.2 to specify that it is
41 required to be in-person face-to-face contact.

1 **4. Amend BPC Sections 4980.01, 4996.14, 4999.22 – Notice to Clients**
2 **About Filing a Complaint**

3
4 Last year, the Board amended the law to require that unlicensed or
5 unregistered therapists in exempt settings provide their clients with
6 information about where to file a complaint about the therapist (AB 630).

7
8 In its review of the bill, the Senate Committee on Business, Professions,
9 and Economic Development suggested that additional language also be
10 included in the notice provided to clients of unlicensed or unregistered
11 therapists:

12
13 *The Board of Behavioral Sciences receives and responds to*
14 *complaints regarding services provided by licensed or registered*
15 *counselors. If you have a complaint and are unsure if your counselor*
16 *is licensed or registered, please contact the Board of Behavioral*
17 *Sciences at 916-574-7830 for assistance or utilize the Board’s online*
18 *license verification feature by visiting www.bbs.ca.gov.*

19
20 Adding this language would provide a consumer who is unsure about
21 their therapist’s license status with an additional resource so that they
22 could check if their therapist is licensed or registered.

23
24 Recommendation: Amend the above statement into the notice required
25 by §§4980.01, 4996.14, and 4999.22.

26
27 At its October 2019 meeting, the Policy and Advocacy Committee
28 (Committee) recommended to amend references to “therapist” and
29 “psychotherapist” in these sections to “counselor” for consistency with
30 other references in the section.

31 Discussion

32
33 Ben Caldwell: Expressed concerns regarding term “counselor” to apply
34 to all BBS license and registration types. Suggests using the term
35 “psychotherapists”. The term “counselor” will confuse consumers.

36
37 Rosanne Helms: The language in the notice to clients makes a
38 reference of “anybody practicing psychotherapy by an unlicensed or an
39 unregistered counselor.” This is why the term “counselor” is used in the
40 amended language; this refers to a population that is unlicensed and
41 unregistered.

42
43 Connolly: The Committee had an extensive discussion regarding the
44 use of the term “psychotherapist.” However, she understands Dr.
45 Caldwell’s concerns. Counselors is an appropriate term for unlicensed

1 individuals; the Board responds to complaints regarding licensed
2 individuals (therapists).

3
4 Helms: Suggested the following language:

5
6 *The Board of Behavioral Sciences receives and responds to*
7 *complaints regarding services provided by individuals licensed and*
8 *registered by the Board. If you have a complaint and are unsure if*
9 *your practitioner is licensed or registered, please contact the Board of*
10 *Behavioral Sciences at 916-574-7830 for assistance or utilize the*
11 *Board's online license verification feature by visiting www.bbs.ca.gov.*

12
13 Further discussion took place regarding when to provide this notice
14 under specific circumstances, such as crisis management or other
15 impractical settings/situations. Ms. Connolly referred this matter back to
16 the Committee for further discussion.

17
18 **5. Amend BPC Section 4990.30 - Petitions for Reinstatement or**
19 **Modification of Penalty**

20
21 The Board's legal counsel has recommended clarifying certain
22 provisions regarding the procedure for petitioning to terminate probation
23 early or modify a penalty, in order to clear up some ambiguities in BPC
24 §4990.30:

- 25
26
- 27 • Subdivision (b) currently specifies timeframes after which a petition
28 can be filed with the Board. Until recently, the Board has operated
29 under the assumption that time during which a probation is tolled also
30 counts toward the specified timeframes. However, in a recent case,
31 an administrative law judge stated that this is incorrect. Staff wishes
32 to clarify that the timeframes exclude any periods of probation tolling.
 - 33 • Subdivision (c) states that that a petition may be heard either by the
34 Board, or that the Board can assign the petition to an administrative
35 law judge. However, subdivision (d) implies that the petitioner has
36 some say in who hears the case, stating "The petitioner may request
37 that the board schedule the hearing on the petition for a board
38 meeting at a specific city where the board regularly meets." While
39 the intent of this is likely to provide that the petitioner may request
40 their case to be heard, it inadvertently implies that a petitioner can
41 request the Board to hear a case instead of an administrative law
42 judge.

43
44 Recommendation: Amend subdivision (b) to exclude periods of
45 probation tolling from the required timeframes before a petition can

1 be filed. Amend subdivision (d) to clarify that a petitioner can only
2 request a hearing location if the Board is hearing the case.
3

4 **6. Amend BPC Section 4996.22 – Acceptable LCSW Continuing**
5 **Education Providers**
6

7 Currently, social workers can only obtain continuing education (CE) from
8 an accredited school if the school is accredited by the Commission on
9 Accreditation of the Council of Social Work Education. It does not permit
10 social workers to gain CE from a school accredited by the US
11 Department of Education (USDE) or approved by the Bureau for Private
12 Postsecondary Education (BPPE). Staff believes this is unintentional.
13

14 Recommendation: Amend BPC §4996.22 to permit clinical social
15 workers to obtain CE from a school accredited by the USDE or approved
16 by the BPPE.
17

18 **7. Amend BPC Section 4999.46.1 – Delete Duplicative Definition of**
19 **Supervision**
20

21 Currently, BPC §4999.12 and §4999.46.1 of LPCC statute define
22 “supervision.” BPC §4999.12 defines terms used throughout the LPCC
23 licensing statute, and therefore, the definition is most appropriate there.
24

25 Recommendation: Delete the duplicative definition of supervision in
26 BPC §4999.46.1.
27

28 **8. Amend BPC Sections 4983, 4989.66, 4996.12, and 4999.86 – Fines**
29 **for Licensing Act Violations**
30

31 LMFT and LPCC laws have provisions establishing a misdemeanor
32 charge and a fine of \$2,500 and/or six months in county jail for violating
33 the respective licensing acts. LCSW law has this clause, however, the
34 fine amount is \$1,000. LEP law states a violation of its chapter is a
35 misdemeanor but does not specify a punishment of jail time or a fine.
36

37 Staff believes the stated punishment for a violation of the Board’s
38 licensing acts should be consistent but has been unable to determine the
39 reason for the inconsistency. Legislative history that may explain the
40 reason for the differing fines is not available.
41

42 BPC §125.9 grants boards the authority to establish a system for
43 issuance of citations and administrative fines via regulations. The Board
44 has done this in regulation §1886.40, which establishes fines of up to
45 \$2,500 for citable offenses, or up to \$5,000 if the offense meets certain
46 specified circumstances.

1 Recommendation: Amend LMFT, LEP, LCSW and LPCC law to specify
2 the misdemeanor punishment for a licensing act violation is a fine as
3 determined by the court and/or six months in jail.
4

5 At its October 2019 meeting, the Committee recommended amending
6 the sections to state that the fine referenced is to be determined by the
7 court instead of specifying a fine amount.
8

9 **9. Amend BPC 4996.17.2 – Correct Numbering Reference**

10 After the October Committee meeting, staff discovered an additional
11 technical correction that is necessary.
12

13 BPC §4996.17.2(c) discusses education requirements for out-of-state
14 applicants who do not qualify for the pathway to licensure provided by
15 SB 679, which states that out-of-state applicants must either have a
16 master’s degree from an accredited school of social work, or they must
17 comply with subdivision (g) of §4996.18.
18

19 The reference to §4996.18(g) is incorrect. That section was recently
20 renumbered. The correct reference is to §4996.18(e), which states that
21 an out-of-country degree must be deemed equivalent to a Counsel on
22 Social Work accredited degree.
23

24 Recommendation: Amend §4996.17.2(c) to correctly reference
25 §4996.18(e).
26

27
28 **MOTION:** Remove item #4 from the proposal, direct staff to make any
29 discussed changes and any non-substantive changes and direct the Executive
30 Officer to pursue as legislative changes.
31

32 Brew moved; Wong seconded. The motion carried; 7 yea, 0 nay.
33

34 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

35

1 **b. Recommendation #2: Support. Proposed Legislative Amendments**
2 **Needed Due to the Passage of AB 2138: Business and Professions**
3 **Code Sections 4980.40, 4982, 4989.20, 4989.24, 4989.54, 4992.3, 4996.2,**
4 **4996.18, 4999.42, 4999.51, 4999.80, 4999.90**
5

6 AB 2138 becomes effective on July 1, 2020. This bill makes amendments
7 to DCA boards' enforcement processes, including placing new limits on
8 when a board can deny a license based on a conviction or prior formal
9 disciplinary action.

10
11 AB 2396 prohibited boards under DCA from denying a license solely based
12 on the applicant having certain types of convictions that have been
13 expunged.

14
15 The passage of both bills require clean-up amendments in the Board's four
16 practice acts so that related language is consistent throughout the statutes.
17 These amendments fall into four categories.

18
19 **1. Amend BPC Sections 4980.40, 4989.20, 4996.2, 4999.42, and**
20 **4999.51 – Qualifications for Licensure or Registration.**

21
22 Background: These sections list criteria needed to qualify for a license
23 or registration. One criterion is that the person must not have committed
24 any acts or crimes constituting grounds for denial of licensure under
25 BPC §480.

26
27 BPC §480 used to allow denial of licensure based on convictions or
28 certain acts involving fraud, dishonesty, or deceit. However, that
29 language has been changed, and denial is permitted based on certain
30 types of convictions or based on formal discipline due to professional
31 misconduct that occurred within a specific time frame and that is
32 substantially related to the profession.

33
34 Recommendation: Given the recent changes to BPC §480, staff
35 recommends striking the old language that the applicant must not have
36 committed acts or crimes constituting grounds for denial under §480.
37 Instead, staff recommends an amendment stating that the person must
38 not be subject to denial of licensure pursuant to §480.

39
40 **2. Amend BPC Sections 4980.40, 4989.24, 4996.2, 4999.42, and**
41 **4999.51 – Reference to Penal Code Section 290**

42
43 Background: Penal Code (PC) §290 specifies various types of crimes
44 for which registration as a sex offender is required.
45

1 PC §290 is being reorganized effective January 1, 2021. Under the new
2 version of that law, the types of sex offenses have been organized into
3 three tiers, depending on the severity of the crime. The higher the tier,
4 the longer the required registration as a sex offender.
5

6 AB 2138 amended BPC §480 to specify that only the two higher-tier sex
7 offenses in the new PC §290 are subject to license denial regardless of
8 the seven-year age limitation. However, there are several sections in
9 the Board’s practice acts that specify denial for any required registration
10 under PC §290. These have been overridden by changes made in
11 AB 2138.
12

13 Recommendation: Amend the listed BPC sections to specify that any
14 denials due to PC §290 registration must also be in accordance with the
15 conditions for denial specified in BPC §480.
16

17 **3. Amend BPC Sections 4982, 4989.54, 4992.3, and 4999.90–**
18 **Unprofessional Conduct Provisions.**
19

20 Background: These sections define “conviction.” However, AB 2138
21 amended the definition of a conviction in BPC §7.5 for the purposes of
22 denying a license pursuant to BPC §480.
23

24 These sections also contain language permitting suspension, revocation,
25 or denial of a license regardless of whether a conviction has been
26 dismissed pursuant to PC §1203.4. However, due to amendments made
27 in AB 2396 and AB 2138, denial of licensure is not permitted on the
28 basis of this type of dismissed conviction. Staff recommends an
29 amendment stating actions to suspend, revoke, or deny a license must
30 be in compliance with Division 1.5 of the BPC.
31

32 Recommendation: Amend the listed unprofessional conduct sections to
33 reference the definition of a conviction referenced in BPC §7.5. Also
34 amend the sections to state that suspensions, revocations, or denials of
35 a license or registration must be in accordance with Division 1.5 of the
36 Business and Professions Code.
37

38 **4. Amend BPC Section 4999.80 – References to Statutes Governing**
39 **License Denials, Suspensions, or Revocations.**
40

41 Background: This section references laws governing license denials,
42 suspensions, or revocations. BPC §490 governs license suspensions
43 and revocations and is not included in the list of referenced sections.
44

1 Recommendation: Amend BPC §4999.80 to include BPC §490 in the list
2 of referenced sections that pertain to license denials, suspensions, or
3 revocations.
4

5 **MOTION:** Direct staff to make any discussed changes and any non-
6 substantive changes and direct the Executive Officer to pursue the changes
7 in the legislative proposal or omnibus bill.
8

9 Wong moved; Maddox seconded. Motion carried; 7 yea, 0 nay.

10 Roll call vote:
11

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

12
13
14 **c. Recommendation #3: Support: Examination Waiting Periods,**
15 **Professional Corporations, Accrediting Agencies and Equivalent**
16 **Degrees: Title 16, California Code of Regulations: Amend Sections**
17 **1805.05, 1850.6, 1850.7 and 1854; Repeal Section 1832**
18

19 Proposed regulatory changes pertaining to examination waiting periods,
20 professional corporations and educational institutions were presented. This
21 proposal would do all of the following:
22

23 Examination Waiting Periods

- 24 • Specify a 180-day waiting period for a retake of the LEP written
25 examination.
26 • Reduce the waiting period for a board-developed clinical examination to
27 120 days for consistency with current practice.
28 • The language as brought to the Committee originally proposed that
29 examination waiting periods be a “minimum” in order to allow for
30 flexibility. However, stakeholders expressed concern about the change,
31 and the Committee asked staff to reconsider. Upon further discussion,
32 staff believes the change is not crucial. The language has been
33 removed.
34

1 Professional Corporations

- 2 • Add LPCC to the sections pertaining to ownership and transfer of
3 shares, as well as the section on naming a professional corporation, for
4 consistency with the LMFT and LCSW professions.
5

6 Accrediting Agencies and Equivalent Degrees

- 7 • Delete the section pertaining to equivalent accrediting agencies for MFT
8 applicants. This section is no longer necessary as it is covered in
9 statute.
10 • Specify the accrediting agencies that are acceptable for licensed
11 educational psychologist applicant degree programs for consistency with
12 the LMFT, LCSW and LPCC professions, and update the name of the
13 foreign credentials' evaluation service.
14

15 **MOTION:** Approve the proposed text for a 45-day public comment period
16 and delegate to the Executive Officer the authority to adopt the proposed
17 regulatory changes if there are no adverse comments received during the
18 public comment period, to follow established procedures and processes in
19 doing so, and also delegate to the Executive Officer the authority to make
20 any technical and non-substantive changes that may be required in
21 completing the rulemaking file.
22

23 Disposti moved; Wong seconded. Motion carried; 7 yea, 0 nay.

24 Roll call vote:
25

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

- 26
27
28 **d. Recommendation #4: Support: Proposal to Increase Board Fees.**
29 **Amend Business and Professions Code Sections 4980.54, 4984.7,**
30 **4989.34, 4989.36, 4989.40, 4989.68, 4996.3, 4996.22, 4999.76, 4999.104,**
31 **4999.120, 4999.122. Proposed Amendments to Title 16, California Code**
32 **of Regulations Sections 1816, 1816.1, 1816.2, 1816.3, 1816.4, 1816.5,**
33 **1816.6, 1816.7**
34

35 The Board has not raised its licensing fees in at least 20 years. A recent
36 audit of the Board's licensing fees found that they are no longer sufficient to

1 recover operating costs. Therefore, staff is proposing increases to the
 2 following fees:
 3

Marriage and Family Therapists		
Fee Type	Current	Proposed
Associate Registration	\$75	\$150
Associate Renewal	\$75	\$150
Application for Licensure	\$100	\$250
Law & Ethics Exam	\$100	\$150
Clinical Exam	\$100	\$250
Initial License Issuance	\$130	\$200
License Renewal	\$130	\$200

Licensed Educational Psychologists		
Fee Type	Current	Proposed
Application for Licensure	\$100	\$250
Written Exam	\$100	\$250
Initial License Issuance	\$80	\$200
License Renewal	\$80	\$200

Clinical Social Workers		
Fee Type	Current	Proposed
Associate Registration	\$75	\$150
Associate Renewal	\$75	\$150
Application for Licensure	\$100	\$250
Law & Ethics Exam	\$100	\$150
Clinical Exam	n/a	n/a
Initial License Issuance	\$100	\$200
License Renewal	\$100	\$200

Professional Clinical Counselors		
Fee Type	Current	Proposed
Associate Registration	\$100	\$150
Associate Renewal	\$100	\$150
Application for Licensure	\$180	\$250
Law & Ethics Exam	\$100	\$150
Clinical Exam	n/a	n/a
Initial License Issuance	\$200	\$200
License Renewal	\$175	\$200

1 Background

2 In August 2018, the Board contracted with CPS HR Consulting (CPS) to
3 provide performance auditing and consulting services to review the Board’s
4 fee structure and staff workload. In April 2019, CPS submitted the final
5 report.
6

7 CPS reviewed 25 main fees that represent approximately 90 percent of the
8 Board’s fee revenue: applications for registrations, licenses, examination
9 and renewals. During the last four years, while revenues for the 25 fees
10 have increased by almost 39 percent, the Board’s expenditures have
11 increased by approximately 42 percent. This was due to a steady increase
12 application volume and registrant/licensee population.
13

14 To determine appropriate fees, CPS used three years of average
15 expenditures and staff hours. Dividing the average expenditures by staff
16 hours for the three years resulted in a \$120 per hour rate. The resulting
17 proposed fee increases were used to make projections for the Board’s fund
18 condition for the next five years. Ultimately, the fees proposed would
19 increase the Board’s revenue by \$6,016,000 per full fiscal year and would
20 result in a five-month reserve by Fiscal Year 2023-24.
21

22 In developing the proposed fees, the staff took into consideration the impact
23 a fee increase may have on the registrants and licensees. A higher number
24 of staff hours are typically spent on registrants; however, registrants earn
25 less money than licensees. Therefore, proposed fees were adjusted from
26 fees based solely on workload in an attempt to achieve a more equitable
27 result.
28

29 Next Steps

30 A fee increase will need to be implemented in two steps:

- 31 • Step 1: Run legislation to increase the fees in statute, setting a baseline
32 amount and a maximum amount so that fees may be increased in the
33 future via regulations, if necessary.
- 34 • Step 2: Amend the Board’s regulations relating to licensing fees.
35 Initially, the regulations would reflect the baseline fees established in
36 statute. If the Board wished to seek additional fee increases in the
37 future, it could do so by solely running regulations, as long as the fee
38 amounts did not exceed the maximum amounts specified in statute.
39

40 Recommendation: The Committee recommended that the Board consider
41 the language provided in Attachment A (provided under Step 1) and
42 Attachment B (provided under Step 2) as legislative and regulatory
43 proposals.
44

45 Helms outlined additional amendments:

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- Delete delinquent fees and inactive fees (these fees are in statute)
- Delete replacement and certification fees (these fees are in statute)
- Delete obsolete authority for CE provider fees
- Delete certain references to inactive license fees (law already specifies that the inactive fee is half of the renewal fee)
- Delete language in LEP and LPCC laws requiring payment of accrued renewal fees to renew an expired license
- Specify in statute that the delinquency fee is half of the renewal fee
- Technical amendments to LPCC law for consistency and delete language related to LPCC start-up funds

Caldwell: Fee increases are necessary. Concerned for associates who cannot afford the increases. Recommended that some of the fee increase be shifted from the associates to the licensees; perhaps reduce the initial license fee and increase the license renewal fee.

Helms: Staff would have to run the scenario through the system to determine what revenue would be generated and take a look at the whole picture. This can be done, but staff is running into an urgent timing issue and must run this bill in January.

Madsen: Future strategy may be to increase licensee fees incrementally while leaving associate fees stagnant.

MOTION: Direct staff to make any discussed changes and any non-substantive changes and direct the Executive Officer to pursue as a legislative proposal.

Wong moved; Brown seconded. Motion carried; 7 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

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MOTION: Approve the proposed text for a 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the Executive Officer the authority to make

1 any technical and non-substantive changes that may be required in
2 completing the rulemaking file.

3
4 Maddox moved; Anthony seconded. Motion carried; 7 yea, 0 nay.

5
6 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

7
8
9 **e. Recommendation #5: Support: Continuing Education Requirements:**
10 **Proposed Amendments to Title 16, California Code of Regulations:**
11 **Add Section 1810.5; Amend Sections 1807, 1807.2, 1810, 1887, 1887.1,**
12 **1887.2, 1887.3, 1887.4.0, 1887.4.1 and 1887.4.3; Repeal Sections**
13 **1810.1, 1810.2, 1887.4, 1887.7, 1887.8, 1887.9, 1887.10, 1887.11 and**
14 **1887.15**

15
16 Proposed regulation changes pertaining to both CE and additional training
17 requirements were presented. This proposal would do all of the following:

- 18
- 19 • Delete the regulations that were necessary for the CE program’s 2015 transition away from Board approval of individual CE providers
 - 20 • Clarify, update and make minor changes to provisions of the current regulations
 - 21 • Amend the requirements to qualify for a CE waiver
 - 22 • Update, clarify and streamline the regulations pertaining to “additional training” requirements.
- 23
24
25

26 **Proposed Changes**

27 The proposed regulatory language would do all of the following:

28
29 **Training Required Prior to Licensure**

- 30 1. Update the list of acceptable providers for the following courses and
31 streamline the lists of acceptable providers into one section:
- 32 • Human Sexuality
 - 33 • Child Abuse Assessment and Reporting
 - 34 • Alcoholism and Other Chemical Substance Dependency
 - 35 • California Law and Ethics

- Crisis or Trauma Counseling

2. Update the content required for the Human Sexuality course for consistency with statute, the DSM-V and to ensure currency.
3. Update the content required for the Alcoholism and Other Chemical Substance Dependency class to clarify that it should also include substance abuse.

Continuing Education for Licensees

4. Clarify that dual licensees only need to complete a total of 36 hours per renewal period.
5. Clarify that an individual who holds a retired license is exempt from CE requirements.
6. Delete the requirement that LMFTs and LCSWs who began graduate study prior to January 1, 1986 take a CE course in Alcoholism and Other Chemical Substance Dependency. All applicants for LMFT and LCSW licensure must now meet this requirement prior to license issuance.
7. Update the list of CE approval agencies and acceptable providers.
8. Delete outdated sections that pertained to the Board's former CE regulatory program and delineated the transition to the new program.
9. Allow a licensee who completes a board occupational analysis survey to be awarded with six hours of CE.
10. Clarify that a CE course taught by a licensee may only count toward his or her CE if it is a course taught for a board-accepted provider.
11. Specify that teaching a CE course may only count for 18 of the 36 hours of CE required to be taken every two-year renewal period. Current law specifies that the licensee may count the same number of hours as a licensee who took the course and may only claim a course once per renewal cycle. However, licensees may count the same class(es) taught each renewal period.

Discussion

Discussion regarding 6 hours of CE for licensees who complete a board occupational analysis survey and whether the 6 hours should be reduced. After the discussion, the Board agreed to change the term "awarded" to

1 “credited with” and change the corresponding language pertaining to other
2 opportunities where “awarded” is referenced.

3
4 Continuing Education Waivers for Licensees

5 CE waivers (CE “exceptions”) allow a licensee to renew in an active status
6 without completing the required 36 hours of CE during the two years prior to
7 renewal.

8
9 The proposed amendments are as follows:

- 10
- 11 • Strike the provision that allows a licensee in their initial renewal period to
complete 18 hours of CE rather than 36 hours.
 - 12 • Update the CE waiver request forms and instructions, which are
13 incorporated by reference into the Board’s regulations.
 - 14 • Clarify that a CE waiver is temporary and applies only to the current
15 renewal.
 - 16 • Delete the reference to “reasonable accommodation.” An
17 accommodation was previously granted to individuals who needed to
18 complete all CE hours via “self-study.” The limitation on the number of
19 hours of self-study was removed effective July 1, 2015.
 - 20 • Delete the waiver for active duty military members. This provision is no
21 longer necessary, as BPC §114.3 now requires the Board to waive all
22 renewal requirements for active duty military members.
 - 23 • Delete the waiver for licensees who resided in another country for at least
24 one year. This waiver was created during a time when CE was not
25 commonly offered online.
 - 26 • For licensees who were primary caregivers of an immediate family
27 member for at least one year during the renewal period, the proposal
28 would provide a definition of a “total physical or mental disability” meaning
29 the family member is both unable to work and unable to perform activities
30 of daily living without substantial assistance.
 - 31 • For licensees who have a physical or mental disability of their own for at
32 least one year during the renewal period, staff had originally proposed to
33 require the evaluating professional to certify that the condition
34 substantially limited the licensee’s ability to practice and complete the
35 required CE. However, there were concerns expressed that this
36 language was too vague. The current proposal would do the following:
 - 37 ○ No longer require “total disability.” Instead, require that the licensee
38 had a condition that substantially limited one or more life activities,
39 consistent with the wording of the Americans with Disabilities Act and
40 California law; and,

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- Require the licensee to demonstrate that their condition caused earned income to drop below the “substantial gainful activity” (SGA) amount for non-blind individuals as set by the Social Security Administration.
- Eligibility would be demonstrated through a combination of a physician or psychologist verification of disability, along with proof of income during the period of disability.
- Require licensees who are granted a CE waiver to take the 6-hour law and ethics course despite the waiver.

Christy Berger: Summarized the discussed changes to §1887.3 subsections (g), (h), (i), and (j): change “awarded” to “credited with.”

MOTION: Direct staff to make discussed changes to §1887.3 subsections (g), (h), (i), and (j); and approve the proposed text for a 45-day public comment period, and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Brew moved; Wong seconded. Motion carried; 7 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

27

1 **f. Recommendation #6: Support: Practice Setting Definitions: Proposed**
2 **Amendments to Business and Professions Code Sections**
3 **4980.01, 4980.43, 4980.43.2, 4980.43.3, 4980.43.4, 4980.46, 4992.10,**
4 **4996.13, 4996.14, 4996.15, 4996.23, 4996.23.1, 4996.23.2, 4996.23.3,**
5 **4999.22, 4999.46, 4996.46.2, 4996.46.3, 4996.46.4, 4999.72: Add**
6 **Business and Professions Code Sections 4980.05, 4980.06, and**
7 **4996.14.1, 4996.14.2, 4999.25, and 4999.26: Renumber and Amend**
8 **Business and Professions Code Section 4999.24 (Renumber to**
9 **4999.27).**

10
11 The Exempt Setting Committee met in June 2019 to clarify practice setting
12 definitions.

13
14 Clarifying Practice Setting Definitions

15 The proposal provides specific definitions of the various types of practice
16 settings that licensees and applicants for licensure may be working in.

- 17 • It classifies all settings into two main types: exempt settings and non-
18 exempt settings. The definition of exempt settings remains the same.
19 Non-exempt settings are all settings that do not qualify as exempt
20 settings.
- 21 • It carves out definitions of two specific types of non-exempt settings:
22 private practices and professional corporations.
- 23 • It reiterates that an individual working in an exempt setting who holds a
24 Board-issued license or registration is under the jurisdiction of the Board.
- 25 • It reiterates that an active license or registration number is required to
26 provide psychotherapeutic services in any non-exempt setting, with two
27 exceptions:
 - 28 ○ A trainee may provide services in a non-exempt setting as long as it
29 is not a private practice or a professional corporation.
 - 30 ○ Specifies that an applicant for associate registration following the 90-
31 day rule may provide services in a non-exempt setting as long as it is
32 not a private practice or a professional corporation.
- 33 • It specifies that an entity that is licensed or certified by a government
34 regulatory agency to provide health care services is not considered a
35 private practice setting.
- 36 • It limits supervisors in any non-exempt setting to six individual or triadic
37 supervisees at a time.
- 38 • It permits contracted supervisors in a private practice or professional
39 corporation. The supervisor must provide psychotherapeutic services to
40 clients at the same site as the associate.

41
42 The following amendment is specific to LPCC statute:

- LPCC §4999.24 (proposed to be renumbered to 4999.27): This section discusses that trainees may work in various settings if they are pursuing a degree toward LPCC licensure, or if they are working in a “recognized training program.”

The Board does not recognize training programs for graduate students. The Board proposed and successfully deleted similar language from clinical social work statute this year via AB 630, because it implied that a trainee could work in a private practice if they are in a “recognized” program. Staff recommends the language be deleted in LPCC law as well. An amendment was also added to re-iterate that trainees cannot provide services in a private practice or professional corporation.

MOTION: Direct staff to make any discussed changes and any non-substantive changes, direct to the Executive Officer to pursue as a legislative proposal.

Brew moved; Wong seconded. Motion carried; 7 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

XXXII. Discussion and Possible Action Regarding Rulemaking Proposal to Amend Title 16, California Code of Regulations Sections 1806 and 1816.1: Add Section 1805.08: and Repeal Section 1816.3 - Examination Rescoring, Application Abandonment and APCC Application Fee

Minor changes to proposed regulatory language that had already been approved by the Board at its meeting in November 2017 were presented. This language has already been noticed to the public and has been through the DCA review process, but the language changes require Board approval. The topics relate to the following:

Examination Rescoring: There is a fee for “examination rescoring” listed in statute and regulation, but “examination rescoring” is not defined. The Board currently offers the \$20 examination rescoring to candidates who took a Board-developed exam via paper and pencil. Exams are only provided via paper and

1 pencil to those candidates who have been granted such as a disability
2 accommodation. The proposed language would codify this process.

3
4 Proposed Modified Language: Per the direction of Business, Consumer
5 Services and Housing Agency (Agency), the language is proposed to be
6 modified to replace the language that would have required a brief explanation
7 of why the candidate is requesting a rescoring with language simply stating that
8 the request must be made in writing.

9
10 Application Abandonment Criteria: Current regulations specify the
11 circumstances under which a registration or licensure application is considered
12 abandoned by the applicant and describes the repercussions of abandonment.
13 The proposed language would streamline the abandonment criteria and make
14 other technical changes.

15
16 Proposed Modified Language: Agency requested non-substantive
17 modifications for clarity.

18
19 Associate Professional Clinical Counselor Application Fee: The proposed
20 regulatory change would clarify that the fee is for an initial or subsequent
21 associate registration application. This language has not been proposed to be
22 modified but is part of the same regulation package.

23
24 **MOTION:** Approve the proposed text, and delegate to the Executive Officer the
25 authority to adopt the proposed regulatory changes, to follow established
26 procedures and processes in doing so, and delegate to the Executive Officer
27 the authority to make any technical or non-substantive changes that may be
28 required in completing the rulemaking file.

29
30 Maddox moved; Anthony seconded. Motion carried; 7 yea, 0 nay.

31 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

32

1 **XXXIII. Discussion and Possible Action Regarding Proposed Revisions to Board**
2 **Supervision Rulemaking Proposal to Amend Title 16, California Code of**
3 **Regulations Sections 1820, 1820.5, 1821, 1833, 1833.1, 1833.2, and 1870:**
4 **Add Sections 1815.8, 1820.3, 1821.1, 1821.2, 1821.3, 1833.05, 1833.1.5,**
5 **1834, 1869, 1869.3, 1870.3, 1870.5, and 1871: and Repeal Sections 1822**
6 **and 1870.1**
7

8 The Supervision Committee drafted regulations that were approved by the full
9 Board at its meeting in November 2016. These regulations were placed on
10 hold and now require some updates:

- 11 • Specifying the documentation required when a supervisor dies or becomes
12 incapacitated before they have signed for completed experience hours.
- 13 • Creating consistency in supervision-related requirements among the license
14 types.
- 15 • Requiring supervisors to notify the Board that they are supervising and meet
16 the qualifications to supervise.
- 17 • Requiring supervisors and supervisees to complete and sign a supervision
18 agreement.
- 19 • Codifying how completed experience hours must be verified to the Board.
- 20 • Specifying requirements pertaining to temporary substitute supervisors.
- 21 • Providing for flexibility in ongoing training requirements for supervisors by
22 allowing several specific types of continuing professional development
23 activities to count.
- 24 • Clarifying requirements pertaining to supervision of experience gained
25 outside of California.
- 26 • Clarifying who can supervise the experience required with couples, families
27 or children that is necessary for an LPCC.

28
29 Proposed amendments to the previously proposed language as recommended
30 by DCA Legal Affairs Division, as well as changes identified by staff, would
31 make the following minor changes:

- 32 • Technical, non-substantive and clarifying changes
- 33 • Striking language that is duplicated in statute
- 34 • Language that specifies that the experience gained by applicants for
35 associate registration under the 90-day rule must comply with all
36 supervision-related requirements
- 37 • Updating implementation dates for certain phased-in requirements.

38
39 **MOTION:** Approve the proposed text for a 45-day public comment period, and
40 delegate to the Executive Officer the authority to adopt the proposed regulatory

1 changes if there are no adverse comments received during the public comment
2 period, to follow established procedures and processes in doing so, and also
3 delegate to the Executive Officer the authority to make any technical or non-
4 substantive changes that may be required in completing the rulemaking file.
5

6 Brew moved; Wong seconded. Motion carried; 7 yea, 0 nay.
7

8 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

9
10
11 **XXXIV. Discussion and Possible Action Regarding Comments Received**
12 **Regarding Proposed Rulemaking to Implement AB 2138**
13

14 At its March 2019 meeting, the Board approved regulatory language to
15 implement AB 2138. Key provisions of that bill are as follows:

- 16 • Only permits a board to deny a license on grounds that an applicant has
17 been convicted of a crime or has been subject to formal discipline if either of
18 these are met
 - 19 ○ The conviction was within 7 years of the date of the application and is
20 substantially related to the qualifications, functions, or duties of the
21 profession. The 7-year limit does not apply to convictions for a serious
22 felony or for those who must register as a sex offender.
 - 23 ○ The applicant has been subject to formal discipline by a licensing board
24 within the past 7 years for professional misconduct that would have been
25 cause for disciplinary action by the board and is substantially related to
26 the profession.
- 27 • Requires each board to develop criteria to determine whether a crime is
28 substantially related to the qualifications, functions, or duties of the
29 profession.
- 30 • Requires each board to develop criteria to evaluate rehabilitation when
31 considering denying, suspending, or revoking a license. A showing of
32 rehabilitation shall be considered if the applicant or licensee has completed
33 their criminal sentence without a violation of parole or probation, or if the
34 board finds its criteria for rehabilitation has been met.
35

1 Status of the Regulation Proposal

2 The 45-day public comment period ended on September 30, 2019. The public
3 hearing was conducted on September 30, 2019. The Board received one
4 written letter commenting on the regulatory proposal.
5

6 Summary of Comments Received and Proposed Responses

7 The comments and Board responses were provided in the meeting materials
8 for reference.
9

10 Discussion/Comments

11 Brew: The responses were appropriate.
12

13 No further discussion regarding comments and responses.
14

15 **MOTION:** Direct staff to make any discussed changes and any non-
16 substantive changes and complete the regulatory process.
17

18 Brew moved; Anthony seconded. Motion carried; 7 yea, 0 nay.
19

20 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Dr. Leah Brew	x				
Deborah Brown	x				
Betty Connolly	x				
Max Disposti	x				
Jonathan Maddox	x				
Christina Wong	x				

21
22
23 **XXXV. Update on Board-Sponsored and Board-Monitored Legislation**
24

25 **Board-Sponsored Legislation**

26
27 All Board-sponsored legislative proposals were signed by the Governor,
28 including SB 679, the license portability bill, which becomes effective on
29 January 1st.
30

31 **Board-Supported Legislation**

32
33 *AB 1651 Licensed Educational Psychologists: Supervision of Associates and*
34 *Trainees*

35 AB 1651 would allow applications for licensure as an LMFT, LPCC, LCSW to
36 gain some supervised experience hours under an LEP. This bill was signed by
37 the Governor.

1 SB 163 Health Care Coverage: Pervasive Developmental Disorder or Autism

2 This bill sought to close some of the loopholes that insurance companies use
3 to deny treatment for behavioral health treatment for pervasive developmental
4 disorder or autism. It also revised the definitions of a “qualified autism service
5 professional” and a “qualified autism service paraprofessional.”
6

7 SB 163 was vetoed by the Governor. He stated that a formal licensing
8 scheme to license providers of behavioral health treatment is a more
9 appropriate venue to address qualification standards for practitioners, ensure
10 quality of care, and provide effective consumer protection, and he
11 encouraged the legislature to pursue this.
12

13 **Board-Monitored Legislation**

14
15 SB 10 Mental Health Services: Peer, Parent, Transition-Age, and Family
16 Support Specialist Certification

17 This bill was vetoed by the Governor. In his veto message, he stated that as
18 his administration works to transform the state’s behavioral health care
19 delivery system, there is an opportunity to more comprehensively include
20 peer support services in these transformation plans. He specifies that this
21 should be considered via the budget process and future legislation.
22

23 SB 425 Health Care Practitioners: Licensee’s File: Probationary Physician’s
24 and Surgeon’s Certificate: Unprofessional Conduct

25 At the time the Board considered this bill, it proposed requiring health
26 facilities, clinics, or other entities that make arrangements for a healing arts
27 licensee to practice or provide care for patients to report allegations of sexual
28 abuse or sexual misconduct by a licensee to the applicable state licensing
29 board within 15 days. The reporting requirements would also extend to
30 employees of such entities.
31

32 This bill was signed by the Governor.
33

34 **XXXVI. Status of Board Rulemaking Proposals**

35 Enforcement Process

36
37 The proposal was approved by the Board in February 2017 and began the
38 DCA initial review process in July 2017. This regulation package is currently
39 on hold due to the passage of AB 2138.
40

41 **XXXVII. Public Comment for Items Not on the Agenda**

42
43 Mike Griffin, California Association of Marriage and Family Therapists
44 (CAMFT): Concerns raised regarding “coaches” and unregulated people who
45 offer services and charging money.

1 Caldwell: Requested to post updates on status of application processing.

2
3 Caldwell: Requested data set for clinical examinees (pass rates). This
4 information was requested in 2018.

5
6 Dr. Brew: Suggested allowing trainees and associates to upload their hours
7 and documents online and update their files as they go

8
9 Kenneth Edwards, California Association for Licensed Professional Clinical
10 Counselors (CALPCC): Requested to break down exam pass rates by
11 gender, race, etc.

12
13 **XXXVIII. Suggestions for Future Agenda Items**

14
15 Dr. Caldwell, Jerry Shapiro, Dr. Brew engaged in discussion regarding
16 incorporating the law and ethics exam in a graduate program; allowing
17 students to take the exam before they graduate and before they receive their
18 registration. This was suggested as a future agenda item.

19
20 Brew: To accept degrees for individuals who are licensed less than 2 years in
21 another state and who are accredited by CACREP, CSWE, or COAMFTE,
22 and applying to become an associate in California.

23
24 Caldwell: Discuss what an individual is labeled as during the period between
25 graduation and obtaining a registration number and discuss the supervision
26 requirements during that period of time.

27
28 Caldwell: Discussion and data on disciplinary actions after the uniform
29 standards came into effect.

30
31 Caldwell: Discuss the struggles of associates on the way to licensure. It
32 would be helpful to have better data on associate workforce: where they're
33 working, how much they are making.

34
35 **XXXIX. Adjournment**

36
37 The Board adjourned at 3:25 p.m.