



BOARD MEETING MINUTES

Open sessions of this Board Meeting were webcasted. Records of the webcasts are available on the following links:

August 11: <https://www.youtube.com/watch?v=sbK4zmfMTeo>

August 12 (part 1): <https://www.youtube.com/watch?v=T4xnFt54w4w>

August 12 (part 2): <https://www.youtube.com/watch?v=Nc-H-SES0ZE>

DATE August 11, 2022

TIME 9:00 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christopher Jones, Vice Chair, LEP Member
Ross Erlich, Public Member
Justin Huft, LMFT Member
Abigail Ortega, LCSW Member
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Dr. Annette Walker, Public Member
Yvette Casares Willis, Public Member (9:00 a.m. – 12:30 p.m.)

Members Absent: Susan Friedman, Public Member
Wendy Strack, Public Member

Staff Present: Steve Sodergren, Executive Officer
Marlon McManus, Assistant Executive Officer
Gena Beaver, Discipline and Probation Manager
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel
Michael Block, Legal Counsel

Other Attendees: Matthew Block, Administrative Law Judge
Anahita Crawford, Deputy Attorney General
Michael Romero, Legal Counsel
Brittany Ng, Legal Counsel
Public participation via WebEx platform and in-person

OPEN SESSION

I. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 9:01 a.m. Roll was called, and a quorum was established.

II. Public Comment for Items Not on the Agenda

Atiim Boykin spoke about his experience as an associate trying to become licensed and barriers to licensure caused by the pandemic.

III. Suggestions for Future Agenda Items

Ranasinghe: Requested a domestic violence resolution for therapists and clinicians that provide domestic violence services.

Administrative Law Judge Matthew Block presided over the following petition hearings. Deputy Attorney General Anahita Crawford presented the facts of each case on behalf of the People of the State of California.

The petition hearings were taken out of order. Torrez's petition was heard first.

IV. Ruben Gabriel Colon, LCSW 94599, Petition for Early Termination

The hearing was opened at 10:30 a.m. Ruben Colon represented himself. After he was sworn-in, Mr. Colon presented his request for early termination of probation and information to support the request. He was cross-examined by Ms. Crawford and Board members. The record was closed at 12:06 a.m.

V. Marylou Torrez, AMFT 118879, Petition for Early Termination

The hearing was opened at 9:14 a.m. Marylou Torrez represented herself. After she was sworn-in, Ms. Torrez presented her request for early termination of probation and information to support the request. She was cross-examined by Ms. Crawford and Board members. The record was closed at 10:16 p.m.

CLOSED SESSION

The Board entered into closed session at 12:15 p.m.

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

VII. Pursuant to Section 11126(c)(1) of the Government Code, the Board will Meet in Closed Session for a Presentation by the Office of Professional Examination Services regarding the evaluation of the American Association of Marriage and Family Therapist Regulatory Boards Clinical Examination.

This item was tabled.

VIII. Recess Until 9:00 a.m., Friday, August 12, 2022

The Board recessed at 2:24 p.m.

DATE August 12, 2022

TIME 9:00 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christopher Jones, Vice Chair, LEP Member
Ross Erlich, Public Member
Justin Huft, LMFT Member
Abigail Ortega, LCSW Member
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Dr. Annette Walker, Public Member (9:00 a.m. – 12:43 p.m.)
Yvette Casares Willis, Public Member

Members Absent: Susan Friedman, Public Member
Wendy Strack, Public Member

Staff Present: Steve Sodergren, Executive Officer
Marlon McManus, Assistant Executive Officer
Rosanne Helms, Legislative Manager
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel

Other Attendees: Public participation via WebEx platform and in-person
Rose Turner, Department of Consumer Affairs, Division of
Legislative Affairs

OPEN SESSION

IX. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 9:01 a.m. Roll was called, and a quorum was established.

X. Consent Calendar: Possible Approval of the May 5-6, 2022 Board Meeting Minutes

This item was tabled.

XI. Board Chair Report

a. Board Member Attendance

Susan Friedman and John Sovec were reappointed to the Board. Justin Huft and Abigail Ortega were confirmed by the Senate.

Eleanor Uribe has been appointed to the Board as a licensed clinical social worker (LCSW) member.

Board member attendance for the 2021-2022 fiscal year was presented. Some corrections on attendance were noted.

b. Future Board Meetings

Proposed 2023 meeting dates were announced: February 2-3, May 4-5, August 17-18, and November 16-17.

c. Future Agenda Items

A list was provided outlining suggested agenda items from previous meetings.

d. Staff Recognitions

Terri Maloy and Joanna Huynh were recognized for their service to the Board. Ms. Maloy retired in June, and Ms. Huynh will formally retire in December.

XII. Department of Consumer Affairs Update

Rose Turner, Division of Legislative Affairs, provided the update:

- Update on the Open Meeting Act legislation
- Public meeting expectations and recommendations
- The Enlightened Licensing Project

- Announced departures and new hires/appointments in the Department of Consumer Affairs' (DCA) executive branch.
- Travel expense claim reimbursement delay
- Board Member Orientation Training

XIII. Executive Officer Report

a. Budget Report

The Board's budget for fiscal year 2021-2022 is \$13,132,000. Based on the information available to the Board, expenditures to date are \$10,602,380 (81%).

The Board's Fund Condition for fiscal year (FY) 2021-22 currently reflects a reserve of 8.0 months.

b. Personnel

The Board's staffing activity is as follows:

- 1 retirement
- 11 vacancies

c. Licensing Report

4th quarter statistics were provided.

Licensing Program Processing Times

- Processing times increased due to increased volumes of registration applications received.
- Previous backlog in LCSW applications for licensure due to staff vacancies; staff is getting caught up on these applications.

d. Exam Report

4th quarter statistics were provided.

National Board of Clinical Counselors (NBCC)

NBCC administers the National Clinical Mental Health Counseling Exam (NCMHCE) and is transitioning to a new format in the Fall. Board staff asked the OPES to complete a review of the changes.

With the introduction of the new format, NBCC will provide OnVue testing. OnVue testing will allow candidates to take the exam in their homes.

Association of Social Work Boards (ASWB) Clinical Exam Review

The Board requested OPES to complete a review of the clinical examination developed by ASWB. OPES performed this review to evaluate the suitability of using the clinical examination for licensure of clinical social workers in California. The report was completed in May 2022.

OPES found that the procedures used to establish and support the validity and defensibility of the components listed above meet professional guidelines and technical standards outlined in the *Standards for Educational and Psychological Testing (2014) (Standards)* and in California Business and Professions Code (BPC) §139.

Association of Marriage and Family Therapy Regulatory Boards (AMFTRB)
Clinical Exam Review

The Board requested OPES to review AMFTRB's Marital and Family Therapy National Examination. OPES performed this review to evaluate the suitability of the Marriage and Family Therapist National Examination for use in California licensure.

Findings will be discussed at the November 2022 Board Meeting.

LPCC Law and Ethics Exam

A new version of the licensed professional clinical counselor (LPCC) law and ethics exam was uploaded to the exam vendor, Pearson Vue, in May 2022. The OPES performed a statistical analysis of the exam.

The result determined a rescore of the exam was necessary for 157 candidates who attempted the exam between May 1, 2022 and June 3, 2022. All candidates reflected a failed attempt for the exam.

Upon completion of the OPES review, 126 scores were adjusted from fail to pass and were notified. A corrected version of the exam was uploaded to Pearson Vue.

COVID-19 Exam Waivers

As of June 30, 2022, all waiver extensions have ended.

e. Enforcement Report

4th quarter statistics were provided.

f. Education and Outreach Report

4th quarter statistics were provided

Pathway to Licensure Videos

Board staff have completed the draft scripts for the following videos:

- Seven Steps to Licensure: This video describes the basic steps that all applicants will have to complete to become licensed as a licensed marriage and family therapist (LMFT), LCSW or LPCC.
- LMFT Degree Requirements: This video describes in more detail the LMFT education requirements.

- LCSW Degree Requirement: This video describes in more detail the LCSW education requirements.

DCA's Office of Public Affairs is currently working on designing and voicing these videos. Currently, there are twelve proposed videos to be developed.

g. Organizational Development Report

Listening Sessions

In June, Board staff distributed a telehealth listening session online survey. The intent of this survey was to collect information on stakeholders' thoughts related to telehealth and to identify areas of concern. This survey also allowed stakeholders to express interest in presenting during the telehealth listening session planned for September 2022.

After an initial review of the survey responses, staff noted that there was a broad range of interest concerning telehealth. However, the majority of the offers to present did not address specific concerns or problems, but rather offered to share telehealth benefits generally, as well as offer suggestions for best practices.

Staff believes some of these presenters may be able to assist and provide their expertise in two specific topic areas that the Committee will be focusing on: 1) the development of a best practice document, and 2) an examination of existing and emerging types of telehealth platforms.

Process Improvement Project

Staff has worked with DCA's Organizational Improvement Office (OIO) to complete the "As-Is" mapping of forty of the board's workflow processes. OIO and Board staff will begin working on completing the "Could-Be" maps, which will determine where process improvements can be made.

Digitizing Records

The DCA's Records Imaging Service Unit is currently performing a test run to ensure the scanning and indexing process will work for the Board. Once the process has been approved, Board staff will begin to submit files to the Records Imaging Service Unit.

Public comment

Ben Caldwell: Requested data on the number of individuals who are completing the probationary process and compare it to the number of individuals in each quarter who have chosen to surrender their license/registration rather than complete the process.

XIV. Discussion of the National Board of Clinical Counselor's Use of OnVue Online Proctoring

The NBCC, in affiliation with the Center for Credentialing & Education (CCE), develops the NCMHCE. A passing score for the NCMHCE is a requirement for licensure as an LPCC in California. Pearson VUE administers the NCMHCE for NBCC. Beginning in November 2022 the NCMHCE exam candidates will have the ability to take the examination online through Person VUE's OnVue platform.

In response to NBCC's adoption of OnVue for the NCHMCE, OPES submitted a letter to NBCC expressing concerns that an online or remote proctoring format may have unintended consequences including additional opportunities for candidate misconduct, exam subversion, and potential legal issues.

Board comment: Walker and Ortega expressed support for online and remote proctoring.

Dr. Tracy Montez, OPES: OPES does not support remote testing at this time for high-stakes licensing exams; the technology is still new. OPES acknowledges that it is something they will need to move toward, but currently there is a lot of error that can impact the process. She cautioned the Board in making decisions to move forward. Although OPES wants to be supportive, their mission is for consumer protection through fair, valid, and legally defensible exams.

No public comment.

XV. Discussion and Possible Action Regarding the Association of Social Worker Board's Examination Policies Amendments

The ASWB Board of Directors recently revised two exam administration policies. These revisions were made in an effort to increase efficiencies for member boards and streamline the processes for exam candidates. The policies that were revised are as follows:

- Waivers for the 90-day waiting period between exam attempts
- Nonstandard testing arrangements for English language learners (ELL)

ASWB has requested the Board to review the policies and confirm how they should process a candidate request for 90-day waivers and for ELL arrangements.

Board staff believe that the 90-day waiver would not compromise the integrity of the exam and would benefit the licensee workforce.

If ELL arrangements are approved, Board staff must continue to approve arrangements for candidates since this process is established in regulations.

Board Comment

Sovec: Would like to consider the waiver for other license types as well.

Huft: Questioned why the exam is not offered in other languages. Feels that anything that can be done to increase therapists getting into the profession should be considered.

Ortega: Echoed Sovec’s comment.

Ranasinghe: Many people in rural areas could benefit from the language exception; a dictionary would be very helpful.

Public Comment

Rebecca Gonzales, National Association of Social Workers California Chapter (NASW-CA): 90-day waiver makes sense. Looks forward to conversation about English as a second language.

Motion: Direct staff to work with ASWB to implement the 90-day waiver.

Huft moved. Walker seconded.

Public Comment: None

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich	x				
Susan Friedman				x	
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Dr. Annette Walker	x				
Yvette Casares Willis	x				

Motion carried: 9 yea, 0 nay.

**XVI. Discussion and Possible Action Regarding Policy and Advocacy
Committee Recommendation: Telehealth Clarifications for Trainee
Practicum (Business and Professions Code §§4980.36, 4980.37, 4980.78,
4999.32, 4999.33, and 4999.62)**

The Board is in the process of pursuing legislation to clarify that trainees may provide services via telehealth, based on past discussions and direction of the Telehealth Committee. However, a question arises about the meaning of “face-to-face” practicum hours required as part of the degree programs leading to LMFT and LPCC licensure. The Telehealth Committee directed staff to draft language amending the practicum “face-to-face” experience hours requirement as follows:

- Permit either all in-person experience hours or a combination of both in-person and videoconference experience hours;
- Recommend that the telehealth regulations for associates and licensees be followed; and
- Include a placeholder sunset date in the new language.

After conferring with legal counsel, it was determined that a phase-in date is necessary. Therefore, the language modifying the definition of “face-to-face” practicum experience was given a phase-in date. It is written to apply to practicum gained on or after January 1, 2024.

Public Comment

Jennifer Alley, California Association of Marriage and Family Therapists (CAMFT): The recommendation to alter the practicum requirements for MFTs lacks sufficient evidence and research. CAMFT urged the Board to reject the recommendation and continue to monitor the impact of various changes made during the pandemic and to the supervision requirements prior to making additional changes to the practicum.

Caldwell: He and Dr. Rousmaniere pointed out existing and emerging science suggesting that trainees and clients are well served in full telehealth practicum environments. Requests the Board to take time to better understand the full impact of the pandemic on therapist training and on the care provided by trainees. Urged the Board to not move forward with this legislative proposal.

Ben Fineman: Speaking on behalf of Dr. Rousmaniere who has published on subjects of telehealth and tele-supervision. Dr. Rousmaniere states “the recommendation for policy language lacks empirical research support and will create unnecessary barriers” and “could negatively impact the accessibility of mental health services, especially for low income residents of rural areas.” He urged the Board to take no action and review the empirical research.

Board Member Comment/Discussion

Jones: Believes that there should be training in both telehealth and in-person because they're both relevant. Getting more research may be the best thing to do.

Sovec: Being able to access people via telehealth is amazing. On the other hand, the idea that an individual can get their education, training and go through the license process without ever having in-person contact is a concern.

Jones: Very concerned about an individual doing their entire training electronically and never in front of another person, and that may have an impact on their clinical skills.

Ranasinghe: Suggested to table this item and get more data.

Helms: Suggested waiting for more academic research, which is just starting to emerge, but there's not enough research available yet.

No action taken.

XVII. Discussion and Possible Action Regarding Policy and Advocacy Committee Recommendation: Draft Statutory Language for a Temporary Practice Allowance (Add Business and Professions Code §§4980.011, 4996.16.1, 4999.23)

This item was cut from the agenda.

XVIII. Discussion and Possible Action Regarding Policy and Advocacy Committee Recommendation: Statutory Changes to Address the 6-Year Limit on Experience Hours and Associate Registrations (Business and Professions Code §§4984.01, 4996.28, 4999.46.1, 4999.100)

In November 2021, the Licensing Committee considered the following options:

- Allow exceptions to the six-year rules to certain applicants due to specific circumstances.
- Extending one or both of the six-year limits (age of experience hours, private practice prohibition) to a longer period of time.
- Abolishing the work setting limits of a subsequent registration number but implementing stricter requirements to obtain a subsequent registration number.
- Determining if recent law changes meant to streamline the licensure process has reduced the average time required to gain a license.

Issues for Discussion

1. Six Year Limit on Age of Experience Hours

Options:

- Monitor the situation to see if recent law changes help to alleviate some of the difficulties in obtaining supervised experience hours.
- Consider allowing documentation of receiving disability or FMLA leave to qualify for an extension of the allowable age of experience hours.
- Consider allowing a registrant to request an extension if a medical professional verifies a disability or medical condition.

2. Private Practice Prohibition for a Subsequent Registration Number

Does prohibiting private practice for those with a subsequent registration number provide any public protection benefit?

Recent or upcoming law changes may diminish the need for the private practice restriction:

- Recent Strengthening of Supervision Regulations
- Passage of California Law and Ethics Exam
- Proposed this year via AB 1759: Continuing Education for Registrants

Public Comment

Alley, CAMFT: CAMFT does not support the subsequent number for associates. Exploitation of associates is a real concern.

Gonzales, NASW-CA: NASW-CA opposes change to subsequent number registration for associates.

Caldwell: Eliminate private practice restriction on subsequent registrations, but pursue legislation allowing individuals with documented illness, disability, deployment, or caregiving responsibility to stop the clock on a temporary basis.

Board Member Comment/Discussion

Sovec: Private practice prohibition after 6 years does a disservice to those who may be pursuing licensure for future private practice. Perhaps the problem with associate mills is a supervision problem and requires tightening up the supervision piece.

Huft: Agrees that exploitation is a huge concern.

Helms provided options. One is to watch and monitor the situation.

The Board agreed to watch and monitor. No action taken.

XIX. Discussion and Possible Action Regarding AB 988 (Bauer-Kahan) Mental Health: 988 Crisis Hotline

AB 988 would implement a statewide 988 mental health crisis hotline system.

This bill was amended since the Board took a support position at its May meeting.

Motion: Support AB 988.

Ranasinghe moved. Huft seconded.

Public Comment

Alley, CAMFT: CAMFT supports AB 988.

Gonzales, NASW-CA: NASW-CA supports AB 988.

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich	x				
Susan Friedman				x	
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Dr. Annette Walker	x				
Yvette Casares Willis	x				

Motion carried: 9 yea, 0 nay.

XX. Discussion and Possible Action Regarding SB 923 (Wiener) Gender-Affirming Care

SB 923 takes a number of steps to provide a model for trans-inclusive care, including requiring health plan staff who are in direct contact with enrollees to complete evidence-based cultural competency training for the purpose of providing trans-inclusive health care.

Motion: Support SB 923.

Sovec moved. Disposti seconded.

Public Comment

Gonzales, NASW-CA: NASW-CA supports SB 923.

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich	x				
Susan Friedman				x	
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Dr. Annette Walker	x				
Yvette Casares Willis	x				

Motion carried: 9 yea, 0 nay.

XXI. Discussion and Possible Action Regarding SB 964 (Wiener) Behavioral Health

There were significant amendments to SB 964; however, those amendments were not in print yet. Ms. Helms provided those amendments, stating that most of the provisions were struck, leaving only one provision: Health and Safety Code §127815, which removed the University of California and allows for the commission of consultants to prepare a landscape analysis of the current behavioral health workforce and the state's workforce needs, and to make recommendations regarding addressing the state's behavioral health workforce shortage.

Motion: To support the legislative council draft of SB 964 dated July 21, 2022, 3:08 p.m.

Walker moved. Huft seconded.

Public Comment: None

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich	x				
Susan Friedman				x	
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Dr. Annette Walker	x				
Yvette Casares Willis	x				

Motion carried: 9 yea, 0 nay.

XXII. Telehealth Committee Update

During the last meeting, the Telehealth Committee members and stakeholders discussed the following:

- Future stakeholder listening session related to telehealth and emerging issues
- Creating a telehealth best practice document
- Creating a temporary practice allowance for out-of-state licensees
- Making further telehealth clarifications in law.

XXIII. Licensing Committee Update

The Licensing Committee (Committee) had worked to develop a proposal to delete the requirement that renewing associates with a failing California law and ethics exam score must complete a 12-hour California law and ethics course. Instead, this would be replaced with a 3-hour California law and ethics course requirement, which was approved by the Board. This proposal is pursued as legislative proposal, AB 1759.

At its November 2021 meeting, the Committee discussed the six-year limit on the age of experience hours, as well as the six-year length of an associate registration number.

Since the November meeting, two members of this committee are no longer on the Board. The Committee will resume after new Committee members are appointed.

XXIV. Update on Board-Sponsored and Monitored Legislation

AB 1758: Supervision via Video Conferencing

Status: On third reading in Senate.

AB 1759: CE Requirements and Telehealth

Status: On third reading in Senate.

SB 1495: Omnibus Bill

Staff is still waiting to hear if all of the Board's amendments will be accepted into the bill.

Status: On third reading in Senate.

XXV. Update on Board Rulemaking Proposals

Continuing Education and Additional Training Requirements

Status: Submitted to the Office of Administrative Law for final approval; will take effect on July 1, 2023.

Examination Waiting Periods, Professional Corporations, Accrediting Agencies and Equivalent Degrees

Status: Submitted to DCA for Initial Review Process

Enforcement Process

Status: Reviewed by Policy and Advocacy Committee at its July 29, 2022 meeting; Committee will review again at its October 14, 2022 meeting.

XXVI. Public Comment for Items not on the Agenda

None

XXVII. Suggestions for Future Agenda Items

Huft: Consider drafting a statement about CareDash and more broadly, 3rd party companies such as Cerebral.

Alley, CAMFT: BreZE system issues. Two changes requested on this system and to request the State general fund to make those changes if this requires a legislative/regulatory change. 1) Home addresses to remain confidential; instead limit address to city/state. 2) When an individual has transitioned, their "dead name" no longer appears linked to that license number and that their new legal name appears instead.

Gonzales, NASW-CA: 1) agrees with Alley on the changes to the BreEZe system. 2) Discuss and look into racial disparities on ASWB exam results.

Caldwell: Expanded on Gonzales' request. He provided data on pass rate for specific race groups and requested that racial disparities in license exams across the professions be placed on a future agenda.

Trisha Wallis: End the "dead naming" practice on the BreEZe system. This is a problem for binaries and trans and is an issue when clients or employers are researching licensure information. This opens them up to scrutiny, loss of privacy, safety concerns, loss of income due to perceptions.

XXVIII. Adjournment

The Board adjourned at 1:20 p.m.