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**Policy and Advocacy Committee
Draft Meeting Minutes
April 12, 2018**

Department of Consumer Affairs
Hearing Room
1625 North Market Blvd., #S-102
Sacramento, CA 95834

Members Present

Christina Wong, Chair, LCSW Member
Samara Ashley, Public Member (*left the meeting at 2:57 p.m.*)
Deborah Brown, Chair, Public Member
Dr. Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Assistant Executive Officer
Sabina Knight, Legal Counsel
Rosanne Helms, Legislative Analyst
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst

Guests

See sign-in sheet

I. Call to Order and Establishment of Quorum

Christina Wong, Chair of the Policy and Advocacy Committee (Committee), called the meeting to order at 10:29 a.m. Christina Kitamura called roll, and a quorum was established.

II. Introductions

Committee members, Board staff introduced themselves. Meeting attendees voluntarily introduced themselves.

Ms. Wong announced that items VIII (AB 1973), XIII (AB 2302), and XV (AB 2483) are removed from the agenda.

1 **III. Approval of February 3, 2017 Meeting Minutes**

2 Dr. Ben Caldwell submitted suggested edits via email. The edits were provided to
3 Christina Kitamura.

4
5 ***Deborah Brown moved to direct staff to make non-substantive changes to the***
6 ***February 3, 2017 meeting minutes, and accepted the minutes as amended.***
7 ***Christina Wong seconded. The Committee voted to pass the motion.***

8
9 Vote:

10 Deborah Brown - yes
11 Samara Ashley - yes
12 Christina Wong - yes
13 Dr. Christine Wietlisbach - abstain
14

15 **IV. Discussion and Possible Recommendation Regarding Assembly Bill 456**
16 **(Thurmond) Healing Arts: Associate Clinical Social Workers, 90-Day Rule**

17 AB 456 would extend the Board's "90-day rule" to applicants for registration as an
18 associate clinical social worker (ASW).

19
20 Intent

21 The author's office states that the delay between graduation and receipt of a
22 registration number creates a hiring barrier for ASW applicants, and creates an
23 unnecessary inequity between ASW applicants, who cannot utilize the 90-day rule,
24 and associate MFT and PCC applicants, who can. They note that removal of barriers
25 for the public mental health workforce has been recognized as a major priority of both
26 the California Office of Statewide Health Planning and Development and the Mental
27 Health Services Act (MHSA).

28
29 Related Legislation

30 AB 93 is a Board-sponsored bill running this year to strengthen the Board's
31 requirements related to supervision. AB 93 affects code sections that contain the 90-
32 day rule. This bill and AB 93 both became two-year bills last year, due to consumer-
33 protection related concerns in the Senate. The Senate had concerns that the 90-day
34 rule allowed unregistered individuals to provide mental health services without a
35 fingerprint clearance.

36
37 AB 93 has been amended to contain the agreed-upon 90-day rule language for LMFT
38 and LPCC applicants. AB 456 adds the 90-day rule for LCSW applicants, with the
39 same agreed-upon language.

40
41 Double-Jointing Language

42 AB 93 makes significant amendments to several of the Board's statutes related to
43 supervised experience. This includes both sections contained in AB 456: BPC
44 sections 4996.18 and 4996.23.

45
46 If AB 93 passes, the two code sections in AB 456 will be significantly different than
47 current law. To account for this, double-jointing language is needed. Staff has
48 requested that the legislature draft double-jointing language in time for the Board's
49 May meeting so that the Board can maintain a current position on AB 456. This

1 means that the Board will consider two versions of AB 456: one version if AB 93 were
2 to pass, and a second version if AB 93 were to fail.

3
4 Rebecca Gonzales, National Association of Social Workers - California Chapter
5 (NASW-CA), stated that NASW-CA supports AB 456.

6
7 ***Samara Ashley moved to recommend to the Board to support AB 456. Christina***
8 ***Wong seconded. The Committee voted to pass the motion.***

9
10 Vote:

11 Deborah Brown - yes
12 Samara Ashley - yes
13 Christina Wong - yes
14 Dr. Christine Wietlisbach - yes

15
16 **V. Discussion and Possible Recommendation Regarding Assembly Bill 767 (Quirk-**
17 **Silva) Master Business License Act**

18
19 AB 767 bill was amended on April 9th. This bill creates a master business license
20 under the Governor's Office of Business and Economic Development (GO-Biz). It
21 would allow a person who needs to apply for more than one business license to submit
22 a single master application through GO-Biz, which would then distribute the application
23 information to the various relevant licensing entities.

24
25 Current law establishes the Permit Assistance Program within GO-Biz to provide
26 permit and regulatory compliance assistance to businesses, and requires the agency
27 to post licensing, permitting, and registration requirements of state agencies on its web
28 site.

29
30 AB 767 would do the following:

- 31
- 32 • Establish the Master Business License Act, and create a business license center
33 under GO-Biz that would develop and administer an online master business
34 license system capable of storing, retrieving, and exchanging license information. It
would also incorporate licenses into the system.
 - 35 • Require the office to adopt and update a schedule for the buildout of the system to
36 allow for integration of additional licenses if funding is available.
 - 37 • Require each state regulatory agency to cooperate and provide assistance to GO-
38 Biz in implementing the Act. However, the state agency may deny or limit the
39 ability of GO-Biz to establish an application to obtain multiple licenses from that
40 agency.

41
42 Intent

43 The author's office states that the most common form of business in California are sole
44 proprietorships. They note that these small businesses face regulatory hurdles when
45 starting or expanding. The goal of this bill is to take the California Business Portal
46 website to the next level by creating a single online interface to sue for numerous
47 application processes.

1 Effect on Board Applicants

- 2 • An entity that is not familiar with the details of the process for each Board license
3 type and that is accepting applications, could add an unnecessary level of
4 complexity to the licensure process.
- 5 • It may be unreasonable to assume that an outlying agency can take on the task of
6 tracking the licensing requirements for each Department of Consumer Affairs'
7 (DCA) boards and bureaus, and keeping that information up-to-date.

8
9 Board Acceptance of Online Applications

10 The Board does not accept online applications, except for renewal applications.

11
12 Recommended Position

13 At its May 2017 meeting, the Board took a “support if amended” position on AB 767,
14 requesting that its license types not be included in the proposed language.

15
16 ***Samara Ashley moved to recommend to the Board to support AB 767 if amended***
17 ***to ensure BBS licensees are removed from the bill. Dr. Christine Wietlisbach***
18 ***seconded. The Committee voted to pass the motion.***

19
20 Vote:

- 21 Deborah Brown - yes
22 Samara Ashley - yes
23 Christina Wong - yes
24 Dr. Christine Wietlisbach - yes
25

26 **VI. Discussion and Possible Recommendation Regarding Assembly Bill 1436**
27 **(Levine) Board of Behavioral Sciences: Suicide Prevention Training**

28 AB 1436 is not in print yet. However, the language was provided to staff for analysis.

29
30 This bill would require, beginning January 1, 2021, applicants for licensure as a
31 marriage and family therapist, clinical social worker, or professional clinical counselor
32 to demonstrate completion of at least six hours of coursework or supervised
33 experience in suicide risk assessment and intervention. Current licensees would also
34 be required to demonstrate completion of this coursework or supervised experience in
35 their first renewal period after this date.

36
37 AB 1436 would do the following:

38 Require that coursework or experience must be gained via one of the following
39 methods:

- 40 • As part of a qualifying degree; or
41 • As part of the applicant’s applied experience via practicum, internship, formal
42 doctoral placement, or other qualifying supervised professional experience; or
43 • Via a continuing education (CE) course from a provider designated as acceptable
44 by the Board.

45
46 Intent

47 The purpose of this bill is to establish a baseline coursework requirement in suicide
48 risk assessment and intervention. Several organizations, including the United States

1 Department of Health and Human Services, and the Institute of Medicine, have
2 indicated a need for improved education and training in suicide assessment.

3
4 Previous Legislation and Board Findings

5 During the 2013-2014 Legislative Session, AB 2198 was introduced to ensure that
6 licensed mental health professionals were receiving adequate training in suicide
7 assessment, treatment, and management. The bill would have required licensees of
8 the Board and the Board of Psychology (BOP) to complete a six-hour training course
9 in the subject. New applicants for licensure would have been required to complete a
10 15-hour course in the subject.

11
12 While the Board shared the author's concerns that some health care professionals
13 may lack training in suicide assessment, treatment and management, it indicated that
14 it did not believe the bill, as written, would accomplish its objective. At its May 2014
15 meeting, the Board took an "oppose unless amended" position on the bill. The Board
16 asked that it be amended to instead form a task force to include members of the
17 Board, stakeholders, the BOP, county mental health officials, and university educators.
18 However, the bill was not amended.

19
20 The Governor vetoed AB 2198. In his veto message, he asked that the licensing
21 boards evaluate the issues the bill raised and take any necessary actions.

22
23 In response to the Governor's veto message, in the spring of 2015 the Board designed
24 a survey for schools in California offering a degree program intended to lead to Board
25 licensure. The purpose was to determine the extent of exposure to the topics of
26 suicide assessment, treatment, and management for students enrolled in these degree
27 programs. These programs were asked to report courses required by the program
28 covering these topics, and the number of hours or units devoted to the subject.

29
30 Twenty-eight Master's degree programs responded to the 2015 survey. The Board
31 found that schools commonly integrated the topic across a variety of courses, including
32 practicum. Due to these findings, the Board concluded that mandating a specified
33 number of hours was unlikely to be effective. However, the Board offered alternative
34 solutions:

- 35
- 36 ● Ensuring frontline healthcare professionals had adequate training;
 - 37 ● Formation of a task force to discuss the latest research and to develop a model of
38 curriculum;
 - 39 ● Assess resources at the county mental health level to determine if there is an
40 adequate level of support; and
 - 41 ● Increase public awareness through media campaigns to reduce stigma and identify
42 local resources.

43
44 In 2017, the Board took a support position on AB 1372, which allows a crisis
45 stabilization unit to provide medically necessary crisis stabilization services to
46 individuals in crisis beyond the allowable treatment time of 24 hours if the individual
47 needs psychiatric care, and beds or services are not available. AB 1372 is a two-year
bill.

1 Board of Psychology Actions

2 The BOP conducted surveys of its programs. The surveys found that most
3 respondents provided some education and training on suicided risk assessment and
4 intervention. However, the amount varied widely. Due to these findings, the BOP
5 sponsored AB 89, which requires its applicants and licensees to demonstrate
6 completion of at least 6 hours of coursework or supervised experience in suicide risk
7 assessment and intervention.
8

9 Board Survey

10 In late 2017, the Board conducted a second survey to gain updated information. The
11 survey results were as follows:
12

13 a. How many total clock hours of coverage does the school's degree program
14 curriculum provide on suicide risk assessment and intervention?

- 15 ● No responding school programs reported less than 2 hours of coursework
16 coverage.
- 17 ● Eight school programs (18% of respondents) reported having 3-5 hours.
- 18 ● Twenty-two programs (50%) reported having 6-10 hours.
- 19 ● Eight programs (18%) reported having 11-20 hours.
- 20 ● Six programs (14%) reported having more than 20 hours.

21
22 b. Is the coursework contained in one course, or integrated across several courses?

23
24 Approximately 20% of programs indicated that their suicide risk assessment and
25 intervention coursework is contained in one course; 79% indicated it is integrated
26 throughout the program in several courses.
27

28 c. Which required courses cover this topic, and the clock hours of coverage in
29 each?
30

31 The responses identifying courses containing suicide risk assessment and
32 intervention varied widely. Commonly mentioned courses were:

- 33 ● Law and Ethics
- 34 ● Practicum
- 35 ● Psychopathology
- 36 ● Assessment
- 37 ● Crisis/Trauma
- 38 ● Substance Abuse
39

40 Fiscal Impact

41 The fiscal impact of this bill would be absorbed within existing resources, with minor
42 changes in the BreEZe system.
43

44 Suggested Technical Amendments

45 a. Reference to “supervised professional experience.” This term is defined in the
46 BOP’s regulations. The reference should be corrected to the Board’s term
47 “supervised experience.”

48 b. Reference to “formal postdoctoral placement” as one type of applied experience.
49 The Board’s licensing chapters do not set requirements for formal postdoctoral

1 placements. If the Board wishes to accept this type of experience, it should be
2 changed to reference the BOP's postdoctoral placement requirements.

- 3 c. Requirement for current licensees. Staff suggested clean-up language regarding
4 methods of coursework requirements.
5

6 Gordon Doughty, American Foundation for Suicide Prevention, commented that
7 suicide one of the top ten leading causes of death for over a decade, and that the
8 number of suicides is increasing. He added that:

- 9
 - In 2016, there were 44,695 suicides in the United States.
 - 10% of the national suicide total was in California.

10 Mr. Doughty asked the Board to sponsor or support AB 1436.
11

12 Victor Ojakian stated that in talking to people in the professions licensed by the Board,
13 they do not feel adequately trained in suicide assessment and intervention, and that
14 some state government agencies, such as the California Department of Corrections
15 and Rehabilitation, have corroborated that. Mr. Ojakian added that 9 other states have
16 passed this type of legislation.
17
18

19 Ms. Madsen commented on the idea of supporting versus sponsoring AB 1436. She
20 stated that the Board is not in a position to sponsor the bill due to other major
21 legislation that the Board is currently working on. However, given the topic and current
22 rising numbers of suicide, the Board is in a better position to support AB 1436, if it so
23 chooses.
24

25 David Jensen, California Association of Marriage and Family Therapists (CAMFT),
26 stated that CAMFT has been supporting this effort in general, however, CAMFT has
27 always been opposed to forced CE.
28

29 Ms. Gonzales stated that NASW-CA does not have a position on AB 1436.
30

31 G.V. Ayers, California Association for Licensed Professional Clinical Counselors
32 (CALPCC), stated that CALPCC does not have a position on AB 1436.
33

34 Since a formal bill has not been introduced, no action was taken.
35
36

37 **VII. Discussion and Possible Recommendation Regarding Assembly Bill 1779**
38 **(Nazarian) Sexual Orientation Change Efforts**

39 AB 1779 was amended on April 5th. This bill would prohibit a mental health provider
40 from engaging in sexual orientation change efforts with a patient of any age who is
41 under a conservatorship or guardianship. This bill also makes it unprofessional
42 conduct for a mental health provider to attempt sexual orientation change efforts on a
43 patient of any age who is under a conservatorship or guardianship.
44

45 Intent

46 According to the author's office, AB 1779 seeks to close a loophole in current law to
47 expand the protection of a vulnerable population from the effects of sexual orientation
48 change effort therapy.
49

1 Previous Legislation

2 SB 1172 in 2012 established the existing law that prohibits a mental health provider
3 from engaging in sexual orientation change efforts with a patient under 18. The Board
4 took a support position on SB 1172.

5
6 Ms. Gonzales stated that NASW-CA supports AB 1779.

7
8 ***Dr. Christine Wietlisbach moved to recommend to the Board to support AB 1779.***
9 ***Samara Ashley seconded. The Committee voted to pass the motion.***

10
11 Vote:

12 Deborah Brown – no vote (stepped out of the meeting)

13 Samara Ashley – yes

14 Christina Wong – yes

15 Dr. Christine Wietlisbach – yes

16
17 **VIII. Discussion and Possible Recommendation Regarding Assembly Bill 1973**
18 **(Quirk) Reporting Crimes**

19
20 This item was removed.

21
22 **IX. Discussion and Possible Recommendation Regarding Assembly Bill 2088**
23 **(Santiago) Patient Records: Addenda**

24 AB 2088 is sponsored by CAMFT. This bill would allow any patient, adult or minor,
25 who inspects his or her patient records to provide the health care provider with a
26 written addendum to any item or statement in the records that the patient believes is
27 incomplete or incorrect.

28
29 Current law only allows for an adult patient to provide a written addendum to their
30 records.

31
32 Intent

33 According to author's office, the right to addend a treatment record "is critical given
34 that these records may be subject to disclosure and have the potential to impact the
35 patients' lives and their ability to pursue various endeavors."

36
37 Mr. Jensen stated that if the minor can consent to their own therapy, they should have
38 the right to addend their records.

39
40 Janlee Wong, NASW-CA, stated that allowing the client to addend his or her record is
41 problematic. He explained that the record is the clinician's account of what took place
42 in treatment. The addendum could be a difference of opinion between the patient and
43 clinician. Furthermore, changing the official record could have consequences in court
44 if the record is challenged or subpoenaed.

45
46 Mr. Ayres stated that CALPCC supports AB 2088.

47
48 Dr. Wietlisbach disagreed with Mr. Wong, stating that it is important for the addendum
49 to become part of the official record. It is her opinion that it will be seen for what it is.
50

1 **Dr. Christine Wietlisbach moved to recommend to the Board to support AB 2088.**
2 **Christina Wong seconded. The Committee voted to pass the motion.**

3
4 Vote:

5 Deborah Brown – yes
6 Samara Ashley – yes
7 Christina Wong – yes
8 Dr. Christine Wietlisbach – yes
9

10 *The Committee took a break at 11:45 a.m. and reconvened at 11:56 a.m.*

11
12 **X. Discussion and Possible Recommendation Regarding Assembly Bill 2138 (Chiu)**
13 **Licensing Boards: Denial of Application: Criminal Conviction**

14 AB 2138 was amended on April 2nd. This bill would make significant amendments to
15 the Board's enforcement process, including limits on when a board can deny, revoke
16 or suspend a license based on a conviction or other act and limits on the length of
17 probation. It also limits the Board's timeframe to decide on a petition to modify
18 probation to 90 days.

19
20 Amendments to denying a license

21 1. AB 2138 only permits a board to deny a license on grounds that the applicant has
22 been convicted of a crime or subjected to formal discipline under the following
23 circumstances:

- 24 a. The applicant is presently incarcerated for the conviction, or the conviction
25 occurred within the past 5 years. (The 5-year limit does not apply to a violent
26 felony as defined in the Penal Code.) A board may only deny for these
27 reasons if the crime is directly and adversely related to the qualifications,
28 functions, or duties of the business or profession; or
- 29 b. The applicant has been subject to formal discipline by a licensing board in the
30 past 5 years based on professional misconduct that would have been cause for
31 discipline by the board to which he/she is applying, and the misconduct is
32 directly and adversely related to the qualifications, functions, or duties of the
33 business or profession. However, disciplinary action within the past 5 years
34 cannot be a basis for denial if the basis for the disciplinary action was a
35 conviction that has been dismissed pursuant to the Penal Code (PC).
36

37 2. AB 2138 also prohibits a board from denying a license on the basis that he or she
38 was convicted of a crime, or on the basis of acts underlying a conviction of a crime
39 if the applicant has obtained a certificate of rehabilitation or expungement.

40
41 3. AB 2138 prohibits a board from denying a license based on an arrest that resulted
42 in an outcome other than a conviction, such as an arrest that resulted in an
43 infraction, citation, or juvenile adjudication.

44
45 4. AB 2138 prohibits a board from denying a license solely on the applicant's failure
46 to disclose a fact that would not have been cause for denial of the license.

47
48 5. AB 2138 prohibits a board from requiring an applicant to disclose any information
49 or documentation regarding criminal history. If the board decides to deny an

1 application based on an applicant's conviction history, it must notify the applicant of
2 the denial, the procedure to challenge the decision or request reconsideration, the
3 right to appeal, and the process for the applicant to request a copy of his or her
4 complete conviction history and question the accuracy or completeness of the
5 record.
6

7 6. AB 2138 requires a board to retain documents submitted by the applicant, notices
8 provided to the applicant, all communications from and provided to the applicant,
9 and criminal history reports, for at least 3 years.

10
11 7. AB 2138 requires a board to retain the following data and report it each year on its
12 web site and to the Legislature:

- 13 a. Number of applications received for each license type;
14 b. Number of applications requiring criminal history inquiries;
15 c. Number of applicants with a criminal record who were denied or disqualified
16 from licensure;
17 d. Number of applicants with a criminal record who provided evidence of
18 rehabilitation;
19 e. Number of applicants with a criminal record who appealed a denial or
20 disqualification from licensure; and
21 f. Outcome and demographic information, including voluntarily provided
22 information on race or gender, of any applicant described in items c, d, or e
23 above.
24

25 8. AB 2138 allows a probationer to petition the board for a modification or termination
26 of probation after one year. The board would then have 90 days to make a
27 decision. If the board does not deny the petition within 90 days, it is considered
28 granted.
29

30 Amendments to suspending or revoking a license

31 1. AB 2138 permits the board to suspend or revoke a license on grounds the licensee
32 has been convicted of a crime, only if the crime is directly and adversely related to
33 the qualifications, functions, or duties of the profession, and if one of the following
34 is met:

- 35 a. The applicant is presently incarcerated; or
36 b. The conviction occurred within the past 5 years (except for a "violent felony").
37

38 2. AB 2138 prohibits a board from requiring a licensee to disclose any documentation
39 or information about his or her criminal history.
40

41 3. AB 2138 deletes the provision in law allowing a board to suspend a license if the
42 licensee is not in compliance with a child support order.
43

44 4. AB 2138 removes the board's ability to inquire into the circumstances surrounding
45 the commission of the crime to determine discipline or to determine the conviction
46 is substantially related to the qualification, functions, or duties of the licensee.
47

48 Intent

49 According to the author, approximately 1 in 3 adults in California have arrest or
50 conviction records. They note that California has one of the highest re-offense rates in

1 the country, with many committing new crimes within a year of release. A root cause
2 of this is the inability of these individuals to gain employment after release from jail.
3 However, nearly 30% of California jobs require licensure, and qualified individuals are
4 often denied a license, or their license is revoked or suspended based on prior arrests
5 or convictions, many of which are old, unrelated to the job, or dismissed. The author is
6 seeking to remove barriers on these individuals' ability to gain employment.
7

8 Board Denials Based on Convictions

9 The Board compiled data on applications denied based on convictions for fiscal years
10 (FY) 2015/2016 and 2016/2017:

- 11 • During FY 2015/2016, 28 application denials were appealed. Of these denials, 20
12 (71%) were for non-violent convictions.
- 13 • During FY 2016/2017, 17 application denials were appealed. Of these denials, 16
14 (94%) were for non-violent convictions.

15
16 The data only includes denied applications that were appealed.
17

18 Effect on Penal Code 23 Revocations

19 At times, when a Board licensee is charged with a serious crime, PC §23 permits a state
20 agency to appear in court to provide information or make recommendations to the court
21 that the license be temporarily revoked. It is unclear how or if this bill would inhibit the
22 Board's ability to seek a PC §23 revocation.
23

24 Department of Justice Background Checks

25 This bill prohibits the Board from requiring a licensee or applicant to self-disclose
26 criminal history information. The rationale for this is that any criminal history will show
27 up on the person's Department of Justice (DOJ) background check.
28

29 However, according to the Board's enforcement unit, there are times that some criminal
30 history is left off the DOJ background check, especially for more recent crimes.
31

32 Effect on Probation Process

33 This bill restricts most probation terms to two years or less. According to the Board's
34 enforcement unit, current probation terms typically range between 3 and 5 years.
35

36 Current law allows a probationer to petition to modify probation after 2 years for a
37 probation term of 3 years or more, or after 1 year for a probation of less than 3 years.
38 Upon filing of the petition, the hearing must be held within 180 days.
39

40 This bill allows a probationer to petition to modify probation after 1 year and requires the
41 Board to decide within 90 days of the petition's filing.
42

43 Fiscal Effect

44 This bill would likely have a substantial fiscal impact on the Board due to two factors:

- 45 • It shortens the timeframe for a probation petition. Currently, a hearing must be held
46 within 180 days, but under the bill, the Board must decide within 90 days. Therefore,
47 the Board would be required to meet more frequently to make these decisions. It
48 would also likely need additional legal staff and enforcement staff to comply with the
49 90-day time limit.

- 1 • It requires extensive data collection on applicants and licensees who have a criminal
2 record. The Board would need modifications to its Breeze database system to track
3 the required information, and potentially an additional staff position to collect and
4 compile the information.
5

6 Conflict with Current Board Law

7 The provisions of this bill contradict and override several existing enforcement
8 provisions in the Boards existing licensing laws. For example, the Board's
9 unprofessional conduct sections state criteria for denying a license or registration,
10 much of which would be overridden. If this bill passes, the Board will need to work
11 with its legal counsel to determine which areas of its licensing laws are in conflict and
12 would need to be revised. The Board's Uniform Standards Related to Substance
13 Abuse and Disciplinary Guidelines would also need significant revisions.
14

15 Ms. Madsen expressed concerns regarding AB 2138, stating that the intent to assist
16 applicants who have prior criminal conviction history in the licensure process is an
17 overreach. This bill removes the Board's discretion, meaning it cannot look at anything
18 older than 5 years even if there is a significant pattern. It also means that if the Board
19 wants to impose a longer probation period than what is specified, it must demonstrate
20 clear and convincing evidence, which is the standard that is used to revoke a license.
21 The bill redefines "substantially related" to "directly and adversely related," which is
22 another threshold. The Board takes various information and evidence into account
23 when making decisions. This information and evidence will not be considered due to
24 the "5 years or less" standard. The legislature mandates that the Board's priority is
25 consumer protection. This bill undermines that.
26

27 Ms. Gonzales commented that the bill streamlines the process for licenses with a
28 criminal record to obtain a license under DCA. She noted the following points:

- 29 • California has nearly 8 million people living with criminal records;
30 • Employment is the most important factor in reducing recidivism;
31 • Almost 30% of jobs require occupational licensing.
32

33 Ms. Gonzales claimed that DCA's licensure process can deter people with a criminal
34 record from applying for licensure, as well as rejecting qualified workers from their
35 chosen profession. NASW-CA believes that social workers who have overcome
36 barriers and have gone through a graduate program can become good clinicians
37 because they can relate to their clients. NASW-CA supports AB 2138.
38

39 Sanda Lindner, Chair of NASW Rehabilitation and Inclusion Council, stated that the
40 council was tasked with looking into the BBS licensure process for social work
41 applicants with criminal history. They found that the process was frustrating and
42 deterring because BBS does not provide clear rehabilitation guidelines that defines
43 rehabilitation. In 2017, the council conducted a survey and gathered data related to
44 the population in the "community." Out of 103 respondents, nearly 19.5% stated that
45 the largest obstacle and most challenging experience for them in applying for licensure
46 was the potential for, and actual denial, of the application. Ms. Linder shared results of
47 the council's survey pertaining to how the community defines rehabilitation.
48

1 Dr. Wietlisbach commented that she understands the intent of this bill and the fact that
2 people can be rehabilitated. However, there is the consumer protection mandate. She
3 asked if there are amendments that would make this “workable.”
4

5 Ms. Madsen expressed that it is important to be cautious about specifying which
6 conviction categories will not allow you to become licensed and which categories will
7 let you in. If the Board starts specifying, then that eliminates the ability to consider life
8 experiences that paved the way to turning the applicant’s life around. Once the
9 language gets too specific, there is no allowance for discretion.
10

11 The Committee directed staff to continue to work with the author’s office and report to
12 the Board in May.
13

14 **XI. Discussion and Possible Recommendation Regarding Assembly Bill 2143**
15 **(Cabalero) Licensed Mental Health Service Provider Education Program:**
16 **Providers**

17 AB 2143 would include the Board’s Licensed Educational Psychologist (LEP)
18 licensees in the Mental Health Practitioner Education Fund loan repayment grant
19 program.
20

21 AB 2143 would do the following:

- 22 1. Require the Board to collect an additional \$20 fee from LEPs upon license
23 renewal, for deposit into the Mental Health Practitioner Education Fund.
24
- 25 2. Allow LEPs, psychiatric mental health nurse practitioners and physician
26 assistants to be eligible to apply for grants to reimburse education loans under
27 the Licensed Mental Health Service Provider Education Program if they are
28 providing direct patient care in a publicly funded facility or a mental health
29 professional shortage area.
30

31 Intent

32 The author’s intent is to provide incentives for LEPs, physician assistants, and
33 psychiatric mental health nurse practitioners to practice in community mental health or
34 in underserved settings by extending the Licensed Mental Health Service Provider
35 Education loan repayment program to them. They hope that doing so will attract these
36 professionals to underserved communities and will also decrease wait times for
37 services in these communities.
38

39 Ms. Brown requested information regarding how these fees are spent, and if the fees
40 are providing the services that it is intended to provide.
41

42 ***Dr. Christine Wietlisbach moved to recommend to the Board to support AB 2143.***
43 ***Samara Ashley seconded. The Committee voted to pass the motion.***
44

45 Vote:

- 46 Deborah Brown – yes
- 47 Samara Ashley – yes
- 48 Christina Wong – yes
- 49 Dr. Christine Wietlisbach – yes
50

1 **XII. Discussion and Possible Recommendation Regarding Assembly Bill 2296**
2 **(Waldron) Professional Clinical Counselors**

3
4 AB 2296 was amended on April 10, 2018. This bill seeks to add licensed professional
5 clinical counselors (LPCCs) and licensed clinical social workers (LCSWs) to areas of
6 California law where other comparable licensed mental health professionals are
7 included.

8
9 AB 2296 would do the following:

- 10 1. Add LPCCs and LCSWs to various statutes where similar mental health
11 professionals are already included.
12
13 2. Remove the half-quarter unit requirement for LPCC core content areas.
14 Currently, LPCC applicants must have 3 semester units or 4.5 quarter units of
15 coursework in each core content area. Under this proposal, they would instead
16 need 3 semester units or 4 quarter units of coursework in each core content
17 area.
18
19 3. For in-state applicants only, AB 2296 pushes back the requirement that
20 applicants must not be deficient in the “assessment” or “diagnosis” core content
21 areas, until August 31, 2020. Under the proposed amendments, the following
22 individuals must not be deficient in the “assessment” or “diagnosis” core content
23 areas:
24 a. Applicants whose application for a license is received after August 31, 2020;
25 or
26 b. Applicants who are not registered as an associate by August 31, 2020.

27
28 Intent

29 This is primarily a cleanup measure to add LPCCs to provisions of law where other
30 licensed mental health professionals are already included. There are several
31 instances in California law that have not been updated to include them.
32

33 In addition, the bill makes two amendments to LPCC education requirements
34 regarding core content areas of study. These amendments have previously been
35 considered by the Committee.
36

37 Mr. Jensen expressed that CAMFT supports AB 2296.

38
39 Ms. Gonzalez expressed that NASW-CA supports AB 2296.

40
41 ***Dr. Christine Wietlisbach moved to recommend to the Board to support AB 2296.***
42 ***Samara Ashley seconded. The Committee voted to pass the motion.***
43

44 Vote:

- 45 Deborah Brown – yes
46 Samara Ashley – yes
47 Christina Wong – yes
48 Dr. Christine Wietlisbach – yes
49

1 **XIII. Discussion and Possible Recommendation Regarding Assembly Bill 2302**
2 **(Baker) Child Abuse: Sexual Assault: Mandated Reporters**

3 This item was removed.
4

5 **XIV. Discussion and Possible Recommendation Regarding Assembly Bill 2409 (Kiley)**
6 **Professions and Vocations: Occupational Regulations**

7 AB 2409 is the “sister bill” to AB 2138. This bill establishes that a person has a right to
8 engage in a lawful profession without being subject to occupational regulation that
9 imposes a substantial burden on that right. The bill also specifies criteria a licensing
10 board must meet to disqualify a person from obtaining a license based on a criminal
11 record.
12

13 AB 2409 does the following:

- 14 1. Establishes that, regardless of BPC §480 or any other law, a person has a right to
15 engage in a lawful profession without being subject to occupational regulation that
16 imposes a substantial burden on that right. This includes the right of a person with
17 a criminal record to obtain a license, and a right not to have a board use the
18 person’s criminal record as an automatic or mandatory permanent bar to engaging
19 in a profession.
20
- 21 2. States that, overriding any other law, a person behind on taxes or student loans
22 has a right to obtain a license to engage in a profession, and a right not to have a
23 board use the person’s status regarding taxes or student loans be an automatic or
24 permanent bar to engaging in a profession.
25
- 26 3. Permits the board to find the person’s criminal record disqualifies him or her from
27 obtaining a license only if all the following are met by clear and convincing
28 evidence:
 - 29 a. The conviction was for a felony or a violent misdemeanor and the board
30 concludes that the state has an important interest in protecting public safety
31 that is superior to the person’s individual right;
 - 32 b. The offense is substantially related to the qualifications, functions, or duties of
33 the profession;
 - 34 c. Based on the nature of the specific offense and current circumstances, the
35 person would be put in a position in which he or she is more likely to reoffend
36 by having the license versus not having the license; and
 - 37 d. A re-offense would cause greater harm that it would if the person did not have
38 a license and was not put in a position in which the person is more likely to
39 reoffend.
40
- 41 4. Requires the board to decide on a petition within 90 days of it being filed.
42
- 43 5. If a board denies a petition, allows the person to file an appeal to a court of general
44 jurisdiction.

1 Intent

2 The author's office is seeking to create a statutory right to challenge unfair licensing
3 requirements that pose unnecessary barriers to work. They state that California's
4 occupational laws are particularly restrictive in comparison to other states, and that
5 these licensing laws make it difficult for people with a criminal record to find jobs.
6

7 Current Board Process for Denial

8 Current law already outlines a process for an individual to appeal a license denial. The
9 Board's regulations also outline specific criteria that the Board must consider when
10 evaluating an applicant's rehabilitation
11

12 Unclear Denial Criteria

13 To deny a license, this bill requires a board to provide clear and convincing evidence
14 that having a license would make him or her more likely to reoffend, and that a re-
15 offense would cause greater harm than it would if the person did not have a license
16 and was not put in a position where he or she is more likely to reoffend.
17

18 The Board's highest priority is protection of the public. In addition, the Board is only
19 allowed to deny a license if the crime or act is substantially related to the qualifications,
20 functions, or duties of the profession. The Board must consider the person's
21 rehabilitation efforts when making this decision.
22

23 It is unclear how the Board would be able to provide "clear and convincing evidence"
24 that having or not having a license would make a person more likely to reoffend. Such
25 a determination would be conjecture, making the Board unable to meet the criteria to
26 deny a license.
27

28 Fiscal Impact

29 This bill would likely result in significant increased legal costs to the Board. Because it
30 sets unclear criteria that must be met by clear and convincing evidence, it opens the
31 door for costly legal challenges in general court. In addition, this bill decreases the
32 amount of time a board must decide on a petition. This will create a need for
33 additional enforcement staff so that these timelines can be met.
34

35 Ms. Madsen stated that her comments that were made concerning AB 2138 applies to
36 AB 2409. A concern regarding AB 2409 is that it reverses the burden of proof to the
37 Board, not the applicant.
38

39 Dr. Wietlisbach and Ms. Wong agreed that AB 2138 has more depth than AB 2409.
40

41 Ms. Ashley suggested that the Board continue to monitor AB 2409. The Committee
42 agreed.
43

44 *The Committee took a break 1:00 p.m. and reconvened at 2:21 p.m.*
45

46 **XV. Discussion and Possible Recommendation Regarding Assembly Bill 2483**
47 **(Voepf) Department of Consumer Affairs: Office of Supervision of Occupational**
48 **Boards**

49 This item was removed.
50

1 **XVI. Discussion and Possible Recommendation Regarding Assembly Bill 2608**
2 **(Stone) Licensed Mental Health Service Provider Education Program: Former**
3 **Foster Youth**

4 This bill creates a new fund under the Mental Health Practitioner Education Fund loan
5 repayment grant program specifically for loan repayment grants for LMFT and LCSW
6 licensees and registrants who were formerly in California's foster youth care system.
7 The program would be funded by levying an additional \$10 fee on LMFT and LCSWs
8 each renewal cycle.

9
10 AB 2608 does the following:

- 11 1. Beginning January 1, 2019, requires the Board to collect an additional \$10 fee to
12 LMFTs and LCSWs upon renewal, for deposit into the Mental Health Practitioner
13 Education Fund.
14
15 2. Requires the money deposited from the extra \$10 fee to be used solely to fund
16 grants to repay educational loans for applicants who meet the following criteria:
- 17 • Commit to provide direct patient care in a publicly funded facility or mental
18 health professional shortage area for at least 24 months;
 - 19 • Are LMFTs, associate MFTs, LCSWs, or ASWs; and
 - 20 • Were formerly in California's foster youth care system.
- 21
22 3. Allows this grant to a former foster youth to be combined with other Licensed
23 Mental Health Service Provider Education Program grants.
24
25 4. Requires individuals formerly in California's foster youth system to be given priority
26 over other grant applicants for the regular Mental Health Practitioner Education
27 Fund loan repayment grants.
28

29 LPCCs and Associate Professional Clinical Counselors Not Included

30 This bill creates a loan repayment grant program for former California foster youth who
31 are marriage and family therapist and clinical social work licensees and associates.
32 However, LPCC licensees and associates are not included in the program.
33

34 Ms. Madsen expressed that this is targeted for a specific group. Furthermore, the
35 Board is looking at a fee audit and possible adjustment. With additional fees, it will be
36 tough to justify the fee increase. The Board has not raised its fees in at least 15 years.
37

38 Dean Porter, CALPCC, asked that if the Board adds additional fees, giving priority to a
39 particulare group of applicants, where will it stop?
40

41 Ms. Helms added that the language is written to implement the bill by January 1st,
42 which is not enough time to implement.
43

44 Ms. Brown expressed that the Board cannot continue to add these fees when the
45 license fees need to be increased in order for the Board to be productive. The Board's
46 license population continues to increase every year, and additional staff is required to
47 absorb the additional work. The Board needs to evaluate its needs before adding
48 more fees for other funds.
49

1 Mr. Jensen suggested making this a voluntary program. Ms. Madsen stated that this
2 will be a problem due to BreEZe programming.

3
4 Ms. Porter suggested developing a policy stating that the Board cannot collect funds
5 through its licensing renewal fees on behalf of “special groups.”
6

7 Ms. Berger clarified that this fund is not like OSHPD. This fund helps getting
8 professionals to serve in underserved areas; it is not necessarily to help professionals
9 pay off their loans.

10
11 The Committee directed staff to work with the author’s office and express its concerns.
12

13 **XVII. Discussion and Possible Recommendation Regarding Assembly Bill 2780**
14 **(Bloom) Family Law: Support Orders and Child Custody**

15 *Samara Ashley left the meeting at 2:57 p.m. A quorum remained.*
16

17 AB 2780 would add mediators and court expert witnesses to the list of individuals a
18 court can appoint to conduct a child custody evaluation.

19
20 AB 2780 does the following:

- 21 1. Adds a mediator or an expert witness pursuant to Section 730 of the Evidence
22 Code, to the list of individuals a court may appoint to conduct a child custody
23 evaluation.
24
- 25 2. Expands the educational requirements for a vocational training counselor,
26 allowing them to have either a master’s degree in the behavioral sciences, or
27 another postgraduate degree that the court finds provides sufficient training to
28 perform a vocational evaluation.
29

30 Intent

31 The author indicates that there is a shortage of child custody evaluators and vocational
32 training counselors. By expanding the individuals who may work on these cases, they
33 hope to increase the supply of evaluators.
34

35 Inclusion of LPCCs

36 Currently, the Family Code specifies that LMFTs and LCSWs can be child custody
37 evaluators. LPCCs are not included in this list. One way to increase the supply of
38 child custody evaluators would be to allow LPCCs to do these evaluations.
39

40 Fiscal Impact

41 This bill adds mediators to those professionals who can conduct child custody
42 evaluations. Although mediators are not required to be licensed, they are required to
43 have a master’s degree in psychology, social work, marriage and family therapy, or
44 other related behavioral science. Therefore, some of them may be Board licensees.
45

46 It is unclear whether the Board would be required to investigate a mediator if he or she
47 held a Board license. If that were the case, the Board could expect a substantial
48 increase in workload and investigative costs in its Enforcement Unit.
49

50 The author indicated that they are still working on this bill.

1 The Committee directed staff to monitor AB 2780.

2
3 **XVIII. Discussion and Possible Recommendation Regarding Assembly Bill 2943 (Low)**
4 **Unlawful Business Practices: Sexual Orientation Change Efforts**

5 This bill would make advertising, offering to engage in, or engaging in sexual
6 orientation change efforts with an individual an unfair or deceptive act under the
7 Consumer Legal Remedies Act, allowing harmed consumers to bring legal action
8 against violators to recover damages.

9
10 AB 2843 would do the following:

- 11 1. Provide that advertising, offering to engage in, or engaging in sexual orientation
12 change efforts with an individual is an unlawful and unfair or deceptive act or
13 practice for purposes of the Consumer Legal Remedies Act.
14
15 2. Define “sexual orientation change efforts” for purposes of the Consumer Legal
16 Remedies Act. The definition is similar to the definition currently in the Business
17 and Professions Code (BPC). The one difference is the proposed language does
18 not specify that the sexual orientation change effort must be by a mental health
19 provider.

20
21 Intent

22 The author’s office stated that conversion therapy is a set of dangerous and
23 discredited practices that falsely claim to be able to change a person’s sexual
24 orientation from homosexual to heterosexual, change their gender identity or
25 expression, or lessen their same-sex sexual attraction.

26
27 The author’s office also notes that since the passage of California’s SB 1172, which
28 banned conversion therapy for minors, in 2012, nine other states, the District of
29 Columbia, and 32 local municipalities have also banned the therapy for minors.

30
31 Board Action for Unprofessional Conduct

32 This bill bans sexual orientation change efforts with patients of all ages via the Civil
33 Code. It is unclear how this would affect a licensing board’s ability to take disciplinary
34 action for unprofessional conduct, as the bill does not add provisions making it
35 unprofessional conduct into the BPC.

36
37 If this bill passes and sexual orientation efforts becomes an unlawful practice via the
38 Civil Code, the Board may be able to take disciplinary action for unprofessional
39 conduct via one of its more general unprofessional conduct provisions:

- 40 • Conviction of a crime substantially related to the qualifications functions or duties
41 of a licensee or registrant;
42 • Gross negligence; or
43 • Intentionally or recklessly causing physical or emotional harm to any client.

44
45 ***Dr. Christine Wietlisbach moved to recommend to the Board to support AB 2943.***
46 ***Deborah Brown seconded. The Committee voted to pass the motion.***

47
48 Vote:

49 Deborah Brown – yes

1 Christina Wong – yes
2 Dr. Christine Wietlisbach – yes
3

4 **XIX. Discussion and Possible Recommendation Regarding Assembly Bill 2968**
5 **(Levine) Therapist Sexual Behavior and Sexual Contact**

6 AB 2968 makes changes to sections of the BPC relating to the requirement that the
7 DCA create a brochure to educate the public about the prohibition of sexual contact in
8 therapy.
9

10 AB 2968 does the following:

- 11 1. Updates the definition of “psychotherapist” to include licensed educational
12 psychologists, and updates the terminology used for other Board license types.
13
- 14 2. Adds a definition of “sexual behavior” to include with “sexual contact.” “Sexual
15 behavior” is defined as inappropriate contact or communication of a sexual
16 nature. It does not include the provision of appropriate therapeutic interventions
17 relating to sexual issues.
18

19 Intent

20 This is an effort being led by the Board of Psychology (BOP) to modernize the
21 statutory language regarding the requirements for the “Professional Therapy Never
22 Includes Sex” brochure.
23

24 Specific areas of concern being addressed in this bill include outdated terminology that
25 does not include sexual behaviors that have arisen with advances in technology,
26 concern about the requirement to define civil and professional association’s complaint
27 procedures, and references to outdated license classifications.
28

29 Previous Board Consideration and Suggested Amendment

30 The Board considered a draft version of this bill’s language at its February 2018
31 meeting. The Board had two suggestions which were relayed to the BOP and the
32 author’s office:

- 33 a. Correct some minor errors in the references to Board license types under the
34 definition of a “psychotherapist.”
- 35 b. Make a change to a reference in 728(a). Currently, the language requires a
36 therapist who becomes aware that a client had alleged sexual contact or
37 behavior with a previous therapist must provide a brochure that “...*delineates the*
38 *rights of, and remedies for, clients who have been involved sexually with their*
39 *psychotherapists.*”
40

41 The Board suggested the following change to that language: “...*delineates the*
42 *rights of, and remedies for, clients who have been ~~involved sexually with the~~*
43 *victim of sexual behavior or sexual contact with their psychotherapists.*”
44

45 The Board’s suggested corrections to license type references in (a) above were
46 amended into the bill. The suggestion in (b) was not amended into the bill.
47

48 **Christina Wong moved to recommend to the Board to support AB 2968.**
49 **Deborah Brown seconded. The Committee voted to pass the motion.**

1 Vote:
2 Deborah Brown – yes
3 Christina Wong – yes
4 Dr. Christine Wietlisbach – yes
5

6 **XX. Discussion and Possible Recommendation Regarding Senate Bill 906 (Beall)**
7 **MediCal: Mental Health Service: Peer, Parent, Transition-Age and Family Support**
8 **Specialist Certification**

9 SB 906 requires the State Department of Health Care Services (DHCS) to establish a
10 peer, parent, transition-age, and family support specialist certification program. It also
11 allows DHCS to amend the state’s Medicaid plan to include these providers as a
12 provider type within the Medi-Cal program.
13

14 SB 906 does the following:

- 15 1. By July 1, 2019, requires the DHCS to establish a certification program for
16 adult, parent, transition-age youth, and family peer support specialists.
- 17 2. Requires DHCS to define responsibilities and practice guidelines for each type
18 of peer support specialist using best practice materials, and to determine
19 specified curriculum and core competencies.
- 20 3. Requires DHCS to specify training requirements and continuing education
21 requirements for certification.
- 22 4. Requires DHCS to determine clinical supervision requirements for certificate-
23 holders, requiring at a minimum, certificate holders be under the direction of a
24 mental health rehabilitation specialist as defined in the California Code of
25 Regulations.
- 26 5. States that this Act does not imply that a certification-holder is qualified or
27 authorized to diagnose an illness, prescribe medication, or provide clinical
28 services.
- 29 6. Allows DHCS to establish certification fees.
30

31 Intent

32 The goals of SB 906 are:

- 33 • To require DHCS to establish a peer support specialist certification program; and
- 34 • To authorize DHCS to add peer support providers as a provider type within the
35 Medi-Cal program.
36

37 The author notes that peer support programs have emerged as an evidence-based
38 practice across the nation, with the U.S. Department of Veterans Affairs and
39 approximately 40 states having a certification process. However, California does not
40 have a certification program or any established scope of practice.
41

42 Requirements in Other States

43 Several states recognize certified peer counselors. Staff surveyed Washington,
44 Tennessee and New Mexico to determine their requirements. The findings were
45 presented to the Committee.

1 History and Previous Legislation

2 The Board considered a bill very similar to this one in 2015-2016. SB 614 proposed
3 essentially the same program, although some modifications have been made. The
4 Board took a “support if amended” position on SB 614, asking for a clear exclusion of
5 psychotherapy services, a better-defined scope of services, and the inclusion of
6 LPCCs as acceptable supervisors. SB 614 was ultimately gut-and-amended to
7 address a different topic.

8
9 Scope of Practice and Scope or Practice Exclusions

10 One area of concern is §14045.19, which excludes “providing clinical services” from
11 work that peer support specialists are qualified or authorized to do. Staff requested
12 and provided more extensive language.

13
14 Inclusion of LPCCs as Supervisors

15 WIC §14045.14(g) of the bill permits licensed mental health professionals, as defined
16 in 9 CCR §782.26, to supervise peer support specialists. The definition of a “licensed
17 mental health professional” in that regulation section, which has not been updated
18 since 1997, does not include LPCCs.

19
20 Fingerprinting Not Required for Certification

21 This bill does not specify fingerprinting as a requirement to obtain certification.

22
23 Requirements Not Established in Legislation

24 Assuming this bill was to pass, it would become effective January 1, 2019, and the
25 certification program must be established by July 1, 2019. Regulations must be
26 established by July 1, 2021. However, the bill leaves discretion to DHCS to implement
27 the program via various instructions until regulations are adopted.

28
29 ***Christina Wong moved to recommend to the Board to support SB 906 if***
30 ***amended to include LPCCs as supervisors and to include the language included***
31 ***in item 4 of the analysis regarding Scope of Practice. Dr. Christine Wietlisbach***
32 ***seconded. The Committee voted to pass the motion.***

33
34 Vote:

- 35 Deborah Brown – yes
- 36 Christina Wong – yes
- 37 Dr. Christine Wietlisbach – yes

38
39 *The Committee took a break at 3:26 p.m. and reconvened at 3:39 p.m.*

40
41 **XXI. Discussion and Possible Recommendation Regarding Senate Bill 968 (Pan)**
42 **Postsecondary Education: Mental Health Counselors**

43 SB 968 would require specified higher educational entities in California to hire one full-
44 time equivalent mental health counselor per 1,000 students enrolled at each of their
45 campuses.

46
47 SB 968 does the following:

- 48 1. Requires the following educational entities to have one full-time equivalent
49 mental health counselor per 1,000 students enrolled at each respective campus,
50 to the fullest extent consistent with state and federal law:

- 1 • The Trustees of the California State University;
- 2 • The governing board of each community college district.
- 3
- 4 2. Requests the Regents of the University of California also follow this standard.
- 5
- 6 3. Defines a “mental health counselor” as someone who meets both of the
- 7 following:
 - 8 • Provides individual and group counseling, crisis intervention, emergency
 - 9 services, or a combination of these; and
 - 10 • Is licensed in California by the applicable licensing entity.
- 11
- 12 4. Requires educational institutions subject to this requirement to report to the
- 13 legislature every three years on how funding was spent and on the number of
- 14 mental health counselors employed on each of its campuses.
- 15

16 Intent

17 The authors office states that the International Association of Counseling Services
18 recommends one full-time equivalent mental health counselor for every 1,000 to 1,500
19 students, and that exceeding this ratio could lead to longer wait lists for services, and
20 decreased support for academic success. They note that while the UC system reports
21 that their ratio falls within this recommended range, it is estimated to be significantly
22 higher for the CSU system. However, it is difficult to know exact ratios because of a
23 lack of reporting and data.

24

25 Definition of a “Mental Health Counselor”

26 Is the definition of “mental health counselor” appropriate? Would it be preferable to
27 specifically state which licensing boards are considered applicable licensing entities?

28

29 Consistency with Previous Board Recommendation

30 In 2014, the Board considered AB 2198. That bill proposed requiring licensees of this
31 Board and the BOP to complete a six-hour training course in suicide assessment,
32 treatment, and management. It would also have required new applicants who began
33 graduate study after January 1, 2016 to take a 15-hour course in this subject area.

34

35 While the Board noted that it shared the author’s concerns regarding the prevalence of
36 suicide, it did not believe AB 2198 would accomplish its objective. Therefore, the
37 Board took an “oppose unless amended” position on the bill and proposed the
38 formation of a task force to discuss the best course of action.

39

40 Mr. Jensen stated that CAMFT is working with the authors on SB 968 to include its
41 associates.

42

43 Ms. Porter stated that they would like to include the LPCC associates as well.

44

45 Mr. Wong, NASW-CA, stated that even though the associates do not need to be
46 written in legislation, NASW-CA would also like to include their associates if the MFT
47 associates and LPCC associates are included.

48

1 ***Deborah Brown moved to recommend to the Board to support SB 968 and***
2 ***provide technical assistance to the author’s office. Christina Wong seconded.***
3 ***The Committee voted to pass the motion.***
4

5 Vote:

6 Deborah Brown – yes
7 Christina Wong – yes
8 Dr. Christine Wietlisbach – yes
9

10 **XXII. Discussion and Possible Recommendation Regarding Assembly Bill 1116**
11 **(Grayson) Peer Support and Crisis Referral Services Act**

12 AB 1116 establishes that a communication between an emergency service personnel
13 worker and a peer support team member, crisis hotline staffer, or a crisis referral
14 service staffer is privileged for a noncriminal proceeding.
15

16 AB 1116 does the following:

17 Specifies that a communication made by emergency service personnel to a peer
18 support team member is privileged for purposes of a noncriminal proceeding to the
19 same extent, and subject to the same limitations, as a communication between a
20 patient and a psychotherapist.
21

22 Intent

23 The author states it is critical to provide first responders and law enforcement officials
24 with an opportunity to address critical incidents of stress through peer support and
25 other means to ensure they receive the help they need. Often, these emergency
26 personnel do not discuss the post-traumatic incidents they experience, due to concern
27 it may result in adverse job action.
28

29 The goal of this bill is to increase the availability of peer support by developing peer
30 support training courses, and to allow peer support communication to be kept
31 confidential.
32

33 Previous Board Position

34 AB 1116 is a two-year bill, and the Board considered it last year. A previous version of
35 this bill added staffers of a crisis hotline or crisis referral service for emergency service
36 personnel to the definition of “psychotherapists” and granted them the psychotherapist-
37 patient privilege under the Evidence Code for purposes of a noncriminal proceeding.
38 This caused concern about unintended consequences of adding unlicensed individuals
39 to the definition of a “psychotherapist.”
40

41 The bill was amended and no longer adds crisis hotline or crisis referral service
42 staffers to the definition of a “psychotherapist” under Evidence Code Section 1010.
43 Instead, it protects communication between an individual employed as emergency
44 service personnel and a peer support team member, or a person or volunteer staffing
45 a crisis hotline or crisis referral service for emergency service personnel as privileged
46 for purposes of a noncriminal proceeding. The communication is protected to the
47 same extent, and subject to the same limitations, as a communication between a
48 patient and a psychotherapist. However, it does not include them in the definition of a
49 psychotherapist. Due to this amendment, at its May 2017 meeting, the Board took a
50 “support” position on the bill.

1 Mr. Wong, NASW-CA, expressed a concern with AB 1116. He pointed out that this bill
2 could prohibit the psychotherapist from reporting to the employer if the first responder
3 is not fit to perform his or her job.

4
5 Ms. Helms offered to speak to the author about Mr. Wong's concern.

6
7 The Committee directed staff to monitor AB 1116.

8
9 **XXIII. Discussion and Possible Recommendation Regarding Senate Bill 399**
10 **(Portantino) Health Care Coverage: PDD or Autism**

11 SB 399 seeks to close some of the loopholes that insurance companies use to deny
12 treatment for behavioral health treatment. It also revises the definitions of a "qualified
13 autism service professional" and a "qualified autism service paraprofessional."

14
15 Intent

16 The author's office states that currently, patients with pervasive development disorder
17 or autism (PDD/A) are being denied treatment coverage for prescribed behavioral
18 health treatment, due to loopholes in the law. Some of these loopholes include the
19 requirement for parental participation, location requirements, vendorization
20 requirements, and only offering coverage for one form of behavioral health treatment.
21 This bill seeks to remove these loopholes, and to increase the requirements to qualify
22 as an autism service paraprofessional.

23
24 Effect on Board Licensees

25 This bill would broaden the requirements to qualify as an autism service professional.
26 Currently, one must meet the same education and experience requirements as a
27 behavioral service provider approved by a regional center to provide services. This bill
28 would leave that as one option to qualify but would also allow an individual with a
29 registration as an AMFT, ASW, or APCC to qualify. Under the proposed language, a
30 Board registrant would need to obtain at least 500 hours of experience designing and
31 implementing behavioral health treatment before he or she could supervise a qualified
32 autism service paraprofessional.

33
34 Previous Position

35 At its April 2017 meeting, the Committee recommended the Board consider watching
36 SB 399 and not take a position. The bill was a two-year bill at the time of the Board's
37 May 2017 meeting.; therefore, the bill was not considered.

38
39 The Committee did not take a position.

40
41 **XXIV. Discussion and Possible Recommendation Regarding California Code of**
42 **Regulations Section 1815.5: Telehealth Regulations**

43 Background

44 Prior to 2016, the Board's law offered very little guidance about telehealth, other than
45 providing a definition and some basic requirements for patient consent and
46 confidentiality in the BPC.

47
48 The lack of guidance was causing increasing confusion among licensees and
49 registrants as telehealth became more prevalent. To address this, the Board proposed
50 its first telehealth regulations. These regulations became effective on July 1, 2016.

1 The practice of psychotherapy via telehealth continues to evolve, and the Board has
2 received feedback that one particular area of its telehealth regulations is causing
3 confusion.
4

5 Discussion of Regulation §1815.5(f) and (e)

6 Regulation §1815.5(e) states that a California licensee or registrant may only provide
7 telehealth to a client in another jurisdiction if he or she meets the requirements to
8 lawfully provide services in that jurisdiction, and if telehealth is allowed by that
9 jurisdiction.
10

11 This subsection was added because many Board licensees and registrants are
12 unaware that it is common for jurisdictions to require a license to practice with a patient
13 located there. To avoid opening himself or herself up to liability, therapists need to
14 check to make sure they are following that jurisdiction's laws before practicing there.
15 Otherwise, that jurisdiction could decide to take disciplinary action if there were a
16 violation. If the jurisdiction decided to take such an action for a violation of their law, it
17 would be within their authority to do so.
18

19 Regulation §1815.5(f) states that failure to comply with any provisions of the Board's
20 telehealth regulations is unprofessional conduct.
21

22 CAMFT and other stakeholder have concerns that making it unprofessional conduct if
23 a therapist fails to check to make sure he or she is following the laws of the jurisdiction
24 where the client is located is too rigid and could lead to unintended consequences.
25 For example, it does not necessarily account for a patient who is travelling, a patient
26 who is transitioning to a new therapist, or a patient in crisis. They suggest that the
27 language in 1815.5(e) should follow the language in 1815.5(f) so that it functions as
28 guidance, rather than a requirement that one must follow to avoid discipline.
29

30 Whether another jurisdiction decides to take disciplinary action based on a complaint
31 they receive when a therapist is practicing with a patient in their jurisdiction who is
32 travelling, transitioning, or in crisis is at their discretion, and outside of the authority of
33 this Board.
34

35 Mr. Jensen stated that this is a very complex issue, and licensing boards are not
36 following case law that looks at issues of jurisdiction. There are many cases that carve
37 out an exception for "follow-up communication." The leading case is a California case
38 that was decided in 1996, which specifically holds that "follow-up communication
39 between an out-of-state physician and a resident in the state was not enough to create
40 personal jurisdiction to warrant the doctor for being sued in California."
41

42 Mr. Jensen added that every state has its licensing laws that are very restrictive in
43 nature, which ultimately creates a "bubble where nobody can have any interaction with
44 anybody else."
45

46 Mr. Jensen pointed out that patients will cross state lines to seek the best treatment
47 possible. The out-of-state physician will have to follow-up with the patient in their
48 home state. The intent was never to prohibit follow-up communication. The way that
49 the language reads in (e) and (f), anything that crosses state lines could be punishable
50 in California as unprofessional conduct, and that does not ring true with case law. It's

1 very clear in case law that the services do not follow the patient because it would be
2 improper to defend a physician in every state where the patient travels.

3
4 Mr. Jensen stated that in the 1996 case, it is clear that a patient's ability to choose a
5 provider actually supersedes the consumer protection agencies, and it is very clear
6 that specialty care always entails follow-up care.

7
8 Mr. Jensen further expressed that the laws are overbroad. Crisis must always take
9 precedence. The 1996 case law has allowed professionals to engage in follow-up
10 communication with their patients across state lines.

11
12 Mr. Jensen expressed the need to create safe harbor provisions that other states can
13 emulate in order to address the issue regarding patients who are temporarily out-of-
14 state.

15
16 Mr. Wong, NASW-CA, commented that the professional is responsible for knowing the
17 state laws and regulation; it is in the code of ethics. He also stated that the Tenth
18 Amendment of the U.S. Constitution states that the federal government shall not
19 regulate what states are responsible for regulating. This creates jurisdiction; however,
20 it does not fit today's technology and mobility.

21
22 Mr. Wong shared some ideas:

- 23 • National associations - standardizing definitions of residency; what is temporary
24 and not temporary; and attempt to get more states to adopt the same definitions.
- 25 • Getting treatment in exempt settings. Federal agencies' have a general
26 exemption.
- 27 • Establish compacts between states.

28
29 The Committee agreed to table this discussion until the May Board meeting, when a
30 committee will be established to address telehealth.

31 32 **XXV. Status on Board-Sponsored Legislation**

33 AB 93

34 This bill proposal represents the work of the Board's Supervision Committee. Its
35 amendments focus on strengthening the qualifications of supervisors, supervisor
36 responsibilities, types of supervision that may be provided, and acceptable work
37 settings for supervisees. The bill also strives to make the Board's supervision
38 requirements more consistent across its licensed professions.

39
40 AB 93 is in the Senate Appropriations Committee.

41 42 AB 2117

43 The Board is proposing a bill to make some amendments to its licensing process. The
44 bill will make amendments to specify how an expired registration may be renewed, and
45 to supervised experience hours required for long-term, out-of-state license holders. It
46 also makes some corrections to LCSW law regarding the California law and ethics
47 exam and law and ethics coursework.

48
49 AB 2117 is on its 3rd reading in the Assembly.

1 SB 1491

2 This bill proposal makes minor, technical, and non-substantive amendments to add
3 clarity and consistency to current licensing law.

4
5 SB 1491 is awaiting its 1st hearing in the Senate Business & Professions Committee.
6

7 **XXVI. Status of Board Rulemaking Proposals**

8 Application Processing Times and Registrant Advertising

9 This proposal would amend the Board’s advertising regulations in line with SB 1478,
10 which changes the term “intern” to “associate” effective January 1, 2018, and makes
11 several technical changes. This proposal would also amend the regulation that sets
12 forth minimum and maximum application processing time frames.

13
14 This proposal received final approval on March 14, 2108 and took effect immediately.
15

16 Enforcement Process

17 This proposal would result in updates to the Board’s disciplinary process. It would also
18 make updates to the Board’s “Uniform Standards Related to Substance Abuse and
19 Disciplinary Guidelines,” which are incorporated by reference into the Board’s
20 regulations.

21
22 DCA’s initial review process began in September 2017. The proposal is still under
23 DCA’s initial review.
24

25 Contact Information; Application Requirements; Incapacitated Supervisors

26 This proposal would:

- 27 • Require all registrants and licensees to provide and maintain a current, confidential
28 telephone number and email address with the Board.
- 29 • Codify the Board’s current practice of requiring applicants for registration or
30 licensure to provide the Board with a public mailing address, and ask applicants for
31 a confidential telephone number and email address.
- 32 • Codify the Board’s current practice of requiring applicants to provide
33 documentation that demonstrates compliance with legal mandates, such as official
34 transcripts; to submit a current photograph; and for examination candidates to sign
35 a security agreement.
- 36 • Require certain applications and forms to be signed under penalty of perjury.
- 37 • Provide standard procedures for cases where a registrant’s supervisor dies or is
38 incapacitated before the completed hours of experience have been signed off.
39

40 DCA’s initial review process began in August 2017. The proposal is still under DCA’s
41 initial review.

1 Examination Rescoring; Application Abandonment; APCC Subsequent Registration
2 Fee

3 This proposal would amend the Board's examination rescoring provisions to clarify that
4 rescoring pertains only to exams taken via paper and pencil, since all other taken
5 electronically are automatically rescored. This proposal would also make clarifying,
6 non-substantive changes to the Board's application abandonment criteria, and clarify
7 the fee required for subsequent Associate Professional Clinical Counselor
8 registrations.
9

10 The proposal was approved by the Board at its meeting in November 2017 and began
11 the DCA initial review process in April 2018. Upon completion of the DCA review, the
12 proposal will be submitted to OAL for publishing to initiate the 45-day public comment
13 period.
14

15 **XXVII. Public Comment for Items not on the Agenda**

16 Mr. Jensen commented on suicide prevention training, stating that it is not a bad idea;
17 however, it should be required on the clinical side of training, not through law and
18 ethics.
19

20 Mr. Wong, NASW-CA, commented that Mayor Darrell Steinberg and the Sacramento
21 City Council, in response to the Stephon Clark incident, is discussing how to provide
22 mental health services on a community basis.
23

24 **XXVIII. Suggestions for Future Agenda Items**

25 No suggestions were presented.
26

27 **XXIX. Adjournment**

28
29 The Committee adjourned at 4:48 p.m.