Board of Behavioral Sciences

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Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

BOARD MEETING MINUTES

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

November 20 (part 1): https://youtu.be/pflOukX8TIQ
November 20 (part 2): https://youtu.be/nkEfz0wkTsQ
November 21 (part 1): https://youtu.be/5ZOkIteBwSE
November 21 (part 2): https://youtu.be/nbWi4jyTl8c
November 22 (part 1): https://youtu.be/HFnvd64PEgM
November 22 (part 2): https://youtu.be/KB5w9FtrakY

DATE November 20, 2019

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

TIME 8:30 a.m.

ATTENDEES

Members Present: Betty Connolly, Chair, LEP Member
Max Disposti, Vice Chair, Public Member
Crystal Anthony, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Jonathan Maddox, LMFT Member
Christina Wong, LCSW Member

Members Absent: *All members present*

Staff Present: Kim Madsen, Executive Officer
Steve Sodergren, Assistant Executive Officer
Jonathan Burke, Enforcement Manager
Sabina Knight, Legal Counsel
Christina Kitamura, Administrative Analyst

DRAFT

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

OPEN SESSION

I. Call to Order and Establishment of Quorum

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

II. Public Comment for Items Not on the Agenda

No comments.

III. Suggestions for Future Agenda Items

No suggestions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

IX. Petition for Early Termination of Probation for Edana Eugena Magee, ASW 74184

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

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

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

The record was closed at 12:54 p.m.

CLOSED SESSION

X. 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. The Board Will Also, Pursuant to Section 11126(a)(1) of the Government Code, Meet in Closed Session to Evaluate the Performance of the Executive Officer.

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

OPEN SESSION

XI. Recess Until 8:30 a.m. on Thursday, November 21, 2019

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

DATE November 21, 2019

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

TIME 8:30 a.m.

ATTENDEES

Members Present: Betty Connolly, Chair, LEP Member
Max Disposti, Vice Chair, Public Member
Crystal Anthony, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Jonathan Maddox, LMFT Member
Christina Wong, LCSW Member

Members Absent: *All members present*

Staff Present: Kim Madsen, Executive Officer
Steve Sodergren, Assistant Executive Officer
Jonathan Burke, Enforcement Manager
Sabina Knight, Legal Counsel
Christina Kitamura, Administrative Analyst

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

OPEN SESSION

XII. Call to Order and Establishment of Quorum

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

XIII. Public Comments for Items Not on the Agenda

No comments.

XIV. Suggestions for Future Agenda Items

No suggestions.

Administrative Law Judge Sean Gavin 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.

XV. Petition for Modification of Probation for Matthew D. Woodbury, LCSW 19901

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

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

XVI. Petition for Early Termination of Probation for Ann Marie Doqui, LCSW 18354

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

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

XVII. Petition for Early Termination of Probation for Stephanie Jean Fell, LMFT 112362

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

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

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

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

CLOSED SESSION

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

OPEN SESSION

XVIII. Petition for Modification of Probation for Cassandra Ruth Pacheco, LCSW 80478

The hearing was opened at 1:08 p.m. Cassandra Pacheco was present and represented herself. Ms. Crawford presented the background of Ms. Pacheco's probation.

Ms. Pacheco was sworn in. She presented her request for modification of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 2:01 p.m.

XIX. Petition for Early Termination of Probation for Brianne Nichole Smith, LMFT 105848

The hearing was opened at 2:16 p.m. Brianne Smith was present and represented herself. Ms. Crawford presented the background of Ms. Smith's probation.

Ms. Smith was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 2:56 p.m.

XX. Petition for Early Termination of Probation for Brian Jacob Bass, LCSW 78872

The hearing was opened at 3:00 p.m. Brian Bass was present and represented himself. Ms. Crawford presented the background of Mr. Bass' probation.

Mr. Bass was sworn in. He presented his request for early termination of probation and information to support the request. The Board entered in closed session at the direction of Judge Gavin. Cross-examination by Ms. Crawford and Board members took place during closed session.

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

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

CLOSED SESSION

XXI. 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

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

OPEN SESSION

XXII. Recess Until 8:30 a.m. on Friday, November 22, 2019

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

DATE November 22, 2019

LOCATION Department of Consumer Affairs
HQ2 Hearing Room
1747 N. Market Blvd., #186
Sacramento, CA 95834

TIME 8:30 a.m.

ATTENDEES

Members Present: Betty Connolly, Chair, LEP Member
Max Disposti, Vice Chair, Public Member
Crystal Anthony, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Jonathan Maddox, LMFT Member
Christina Wong, LCSW Member

Members Absent: *All members present*

Staff Present: Kim Madsen, Executive Officer
Sabina Knight, Legal Counsel
Rosanne Helms, Legislative Analyst
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst

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

OPEN SESSION

XXIII. Call to Order, Establishment of Quorum, and Introductions

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

XXIV. Department of Consumer Affairs Update – DCA Director Kimberly Kirchmeyer

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

1. Client services and satisfaction

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

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

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

Changes to DCA's Executive Office:

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

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

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

XXV. Consent Calendar

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

May 2019 meeting minutes were tabled.

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

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

Roll call vote:

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

XXVI. Board Chair Report

a. Board Member Activities

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

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

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

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

b. Introduction to New Board Member

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

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

c. Recognition of Board Staff for Years of Service

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

Andrea Bertram-Mueller
Lisa Cigelske
Valarie Enloe
Portia Hillman
Julie Ruprecht
Craig Zimmerman

d. 2020 Board and Committee Meeting Dates

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

XXVII. Executive Officer Report

a. Budget Report

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

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

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

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

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

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

b. Operations Report

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

Licensing Program

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

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

Examination Program

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

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

Administration Program

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

Enforcement Program

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

Continuing Education Audits

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

Outreach Activity

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

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

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

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

New Exam Vendor

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

c. Personnel Report

New Employees/Promotions

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

d. Strategic Plan Update

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

XXVIII. Update on Exam Vendor Contract

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

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

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

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

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

XXIX. Presentation Regarding the Licensed Mental Health Services Provider Education Program – Office of Statewide Health Planning and Development

This item was removed from the agenda.

XXX. Update on 2019-2020 Sunset Review Report

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

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

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

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

Roll call vote:

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

XXXI. Discussion and Possible Action Regarding the Policy and Advocacy Committee Recommendations

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

1. Amend BPC Sections 4987.5, 4998, and 4999.123 – Professional Corporations

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

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

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

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

2. Amend BPC Section 4980.43.3 - Renumbering

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

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

3. Amend BPC Sections 4980.43.2, 4996.23.1, 4999.46.2 – Definition of "One Hour of Direct Supervisor Contact"

These sections define "one hour of direct supervisor contact" as a specified amount of face-to-face contact between one supervisor and their supervisees.

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

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

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

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

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

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

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

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

At its October 2019 meeting, the Policy and Advocacy Committee (Committee) recommended to amend references to "therapist" and "psychotherapist" in these sections to "counselor" for consistency with other references in the section.

Discussion

Ben Caldwell: Expressed concerns regarding term "counselor" to apply to all BBS license and registration types. Suggests using the term "psychotherapists". The term "counselor" will confuse consumers.

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

Connolly: The Committee had an extensive discussion regarding the use of the term "psychotherapist." However, she understands Dr. Caldwell's concerns. Counselors is an appropriate term for unlicensed

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

Helms: Suggested the following language:

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

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

5. Amend BPC Section 4990.30 - Petitions for Reinstatement or Modification of Penalty

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

- Subdivision (b) currently specifies timeframes after which a petition can be filed with the Board. Until recently, the Board has operated under the assumption that time during which a probation is tolled also counts toward the specified timeframes. However, in a recent case, an administrative law judge stated that this is incorrect. Staff wishes to clarify that the timeframes exclude any periods of probation tolling.

- Subdivision (c) states that that a petition may be heard either by the Board, or that the Board can assign the petition to an administrative law judge. However, subdivision (d) implies that the petitioner has some say in who hears the case, stating "The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets." While the intent of this is likely to provide that the petitioner may request their case to be heard, it inadvertently implies that a petitioner can request the Board to hear a case instead of an administrative law judge.

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

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

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

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

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

7. Amend BPC Section 4999.46.1 – Delete Duplicative Definition of Supervision

Currently, BPC §4999.12 and §4999.46.1 of LPCC statute define "supervision." BPC §4999.12 defines terms used throughout the LPCC licensing statute, and therefore, the definition is most appropriate there.

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

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

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

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

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

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

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

9. Amend BPC 4996.17.2 – Correct Numbering Reference

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

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

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

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

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

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

Roll call vote:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Amend BPC Sections 4982, 4989.54, 4992.3, and 4999.90– Unprofessional Conduct Provisions.

Background: These sections define "conviction." However, AB 2138 amended the definition of a conviction in BPC §7.5 for the purposes of denying a license pursuant to BPC §480.

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

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

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

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

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

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

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

Roll call vote:

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

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

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

Examination Waiting Periods

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

Professional Corporations

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

Accrediting Agencies and Equivalent Degrees

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

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

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

Roll call vote:

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

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

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

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

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

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

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

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

Background

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

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

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

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

Next Steps

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

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

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

Helms outlined additional amendments:

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

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

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

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

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

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

Roll call vote:

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

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

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

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

Roll call vote:

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

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

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

- Delete the regulations that were necessary for the CE program's 2015 transition away from Board approval of individual CE providers
- Clarify, update and make minor changes to provisions of the current regulations
- Amend the requirements to qualify for a CE waiver
- Update, clarify and streamline the regulations pertaining to "additional training" requirements.

Proposed Changes

The proposed regulatory language would do all of the following:

Training Required Prior to Licensure

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

- Crisis or Trauma Counseling

2. Update the content required for the Human Sexuality course for consistency with statute, the DSM-V and to ensure currency.

3. Update the content required for the Alcoholism and Other Chemical Substance Dependency class to clarify that it should also include substance abuse.

Continuing Education for Licensees

4. Clarify that dual licensees only need to complete a total of 36 hours per renewal period.

5. Clarify that an individual who holds a retired license is exempt from CE requirements.

6. Delete the requirement that LMFTs and LCSWs who began graduate study prior to January 1, 1986 take a CE course in Alcoholism and Other Chemical Substance Dependency. All applicants for LMFT and LCSW licensure must now meet this requirement prior to license issuance.

7. Update the list of CE approval agencies and acceptable providers.

8. Delete outdated sections that pertained to the Board's former CE regulatory program and delineated the transition to the new program.

9. Allow a licensee who completes a board occupational analysis survey to be awarded with six hours of CE.

10. Clarify that a CE course taught by a licensee may only count toward his or her CE if it is a course taught for a board-accepted provider.

11. Specify that teaching a CE course may only count for 18 of the 36 hours of CE required to be taken every two-year renewal period. Current law specifies that the licensee may count the same number of hours as a licensee who took the course and may only claim a course once per renewal cycle. However, licensees may count the same class(es) taught each renewal period.

Discussion

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

"credited with" and change the corresponding language pertaining to other opportunities where "awarded" is referenced.

Continuing Education Waivers for Licensees

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

The proposed amendments are as follows:

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

- Require the licensee to demonstrate that their condition caused earned income to drop below the "substantial gainful activity" (SGA) amount for non-blind individuals as set by the Social Security Administration.
- Eligibility would be demonstrated through a combination of a physician or psychologist verification of disability, along with proof of income during the period of disability.

- Require licensees who are granted a CE waiver to take the 6-hour law and ethics course despite the waiver.

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

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

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

Roll call vote:

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

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

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

Clarifying Practice Setting Definitions

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

- It classifies all settings into two main types: exempt settings and non-exempt settings. The definition of exempt settings remains the same. Non-exempt settings are all settings that do not qualify as exempt settings.
- It carves out definitions of two specific types of non-exempt settings: private practices and professional corporations.
- It reiterates that an individual working in an exempt setting who holds a Board-issued license or registration is under the jurisdiction of the Board.
- It reiterates that an active license or registration number is required to provide psychotherapeutic services in any non-exempt setting, with two exceptions:
    - A trainee may provide services in a non-exempt setting as long as it is not a private practice or a professional corporation.
    - Specifies that an applicant for associate registration following the 90-day rule may provide services in a non-exempt setting as long as it is not a private practice or a professional corporation.
- It specifies that an entity that is licensed or certified by a government regulatory agency to provide health care services is not considered a private practice setting.
- It limits supervisors in any non-exempt setting to six individual or triadic supervisees at a time.
- It permits contracted supervisors in a private practice or professional corporation. The supervisor must provide psychotherapeutic services to clients at the same site as the associate.

The following amendment is specific to LPCC statute:

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

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

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

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

Roll call vote:

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

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

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

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

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

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

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

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

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

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

Maddox moved; Anthony seconded. Motion carried; 7 yea, 0 nay.
Roll call vote:

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

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

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

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

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

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

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

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

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

Roll call vote:

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

XXXIV. Discussion and Possible Action Regarding Comments Received Regarding Proposed Rulemaking to Implement AB 2138

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

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

Status of the Regulation Proposal

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

Summary of Comments Received and Proposed Responses

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

Discussion/Comments

Brew: The responses were appropriate.

No further discussion regarding comments and responses.

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

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

Roll call vote:

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

XXXV. Update on Board-Sponsored and Board-Monitored Legislation

Board-Sponsored Legislation

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

Board-Supported Legislation

AB 1651 Licensed Educational Psychologists: Supervision of Associates and Trainees

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

SB 163 Health Care Coverage: Pervasive Developmental Disorder or Autism

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

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

Board-Monitored Legislation

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

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

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

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

This bill was signed by the Governor.

XXXVI. Status of Board Rulemaking Proposals

Enforcement Process

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

XXXVII. Public Comment for Items Not on the Agenda

Mike Griffin, California Association of Marriage and Family Therapists (CAMFT): Concerns raised regarding "coaches" and unregulated people who offer services and charging money.

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

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

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

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

XXXVIII. Suggestions for Future Agenda Items

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

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

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

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

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

XXXIX. Adjournment

The Board adjourned at 3:25 p.m.