

POLICY AND ADVOCACY COMMITTEE MINUTES

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A recorded webcast of this meeting is available at
<https://www.youtube.com/watch?v=dtQwlroBxBw>.

DATE July 29, 2022

TIME 9:00 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Abigail Ortega, LCSW Member
John Sovec, LMFT Member
Wendy Strack, Public Member

Staff Present: Steve Sodergren, Executive Officer
Marlon McManus, Assistant Executive Officer
Rosanne Helms, Legislative Manager
Sabina Knight, Legal Counsel

Other Attendees: Public participation via WebEx video conference/phone
conference and in-person at Department of Consumer Affairs

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

2
3 Max Disposti, Chair of the Policy and Advocacy Committee (Committee) called
4 the meeting to order. Roll was called, and a quorum was established.

5
6 **II. Introductions**

7
8 Committee members, Board staff and some public attendees introduced
9 themselves.

10
11 **III. Consent Calendar: Discussion and Possible Approval of April 20, 2022**
12 **Committee Meeting Minutes**

13
14 This item was tabled.

15
16 **IV. Discussion and Possible Recommendation Regarding Changes to**
17 **Enforcement Regulations: Unprofessional Conduct, Amount of Fines,**
18 **Uniform Standards Related to Substance Abuse and Disciplinary**
19 **Guidelines (Title 16, California Code of Sections 1823, 1845, 1858, 1881,**
20 **1886.40 and 1888 and Uniform Standards Related to Substance Abuse**
21 **and Disciplinary Guidelines (Rev. December 2020))**

22
23 A number of revisions are proposed to the Board’s “Uniform Standards Related
24 to Substance Abuse and Disciplinary Guidelines” and section 1888 of Title 16
25 of the California Code of Regulations (CCR). The Board had approved many of
26 these changes in 2015. However, due to legislation that affected some of the
27 proposed changes, this package was held. During the time it was being held,
28 additional changes have been identified and are included in the proposal.

29
30 The Committee and staff discussed the major proposed changes. Because
31 there are many changes to this document, the remainder of the changes will be
32 discussed at the October 2022 Committee meeting.

33
34 Discussion

35 Sovec: 1.) Relapse Prevention Plan – Does this already exist in other
36 organizations within DCA, or would BBS be creating this? How do we codify it?
37 2.) Supervised Practice – Suggests pointing out the code that defines a
38 supervisor and the requirements of a supervisor. 3.) Concerned about setting
39 standard penalties at 5 years. Wants to consider looking at 3 years as a
40 minimum penalty and 5 years as a maximum penalty.

41
42 Ortega: Amendments for minimum suspension of 60 days rather than 120
43 days, and some others are amended to 60 days rather than 90 days. Why?

44
45 Strack: Improper Supervision – suggests listing suspension as a maximum
46 penalty.

1 Sovec: 1.) Gross Negligence/Incompetence – There is a section referring to
2 rehabilitation and monitoring program, support program, and relapse
3 prevention. These should not be listed here. 2.) Rehabilitation and monitoring –
4 Does the Board have the authority to order somebody to attend a rehabilitation
5 program? 3.) What is the difference between the 3 sexually related violations
6 and why the minimum penalties change amongst them?
7

8 Public Comment

9 Jennifer Alley, California Association of Marriage and Family Therapists
10 (CAMFT): 1.) Agreed with Strack about suspension being severe for a
11 minimum penalty for issues regarding supervision. Would like to see this
12 revised. 2.) Clinical Diagnostic Evaluation – For people who are on probation
13 that require an evaluation that limits the clinical diagnostic evaluation to
14 psychologists and psychiatrists. Why are LCSWs, LMFTs, and LPCCs
15 excluded from completing that evaluation?
16

17 Rebecca Gonzales, National Association of Licensed Clinical Social Workers,
18 California Division (NASW-CA): There should be a range of minimum and
19 maximum penalties.
20

21 Ben Caldwell: 1.) It seems appropriate to consider whether a supervisor's
22 license should be suspended for a supervision related violation. 2.) Suggested
23 coming back to the next meeting with data about how well probation, overall,
24 seems to be working, and if there are potentially some differences when it
25 comes to types of violations.
26

27 Matt Rensi: Supervision - Would an associate qualify to provide the
28 psychotherapy? 2.) It does not specify whether it is individual or group
29 psychotherapy. 3.) Time limit?
30

31 Discussion regarding Penalty Guidelines, page 31: New violation added.
32 Engaging in Sexual Orientation Change Efforts with a Patient Under Age 18.
33

34 Sovec: The standards appear to be appropriate for this violation. Suggests
35 considering the educational piece for this disciplinary action.
36

37 Discussion regarding other violations added, page 32-33: Failure to Cooperate
38 and Participate in a Pending Board Investigation; Failure to Provide Records to
39 the Board Within 15 Days of Receipt of Request; Failure to Report to the Board
40 within 30 Days; Failure to Comply with a Court Order Mandating Release of
41 Record to the Board.
42

43 No discussion.
44

45 Relapse Prevention Plan, Page 41

1 Disposti: Feels the time frame of 15 days is too limited and discuss whether
2 the time frame can be extended beyond 15 days.

3
4 Ortega: Change the language to allow more flexibility.

5
6 Rehabilitation and Monitoring Program, page 41: This section that may not be
7 necessary as it seems to apply to boards that have a diversion program.

8
9 Sovec: Suggests removing this section.

10
11 Sabina Knight: Before removing this section, staff must confirm that this is not
12 part of the uniform standards.

13
14 Public Comment

15 R. Gonzales: Regarding Engaging in Sexual Orientation Change Efforts with a
16 Patient Under Age 18: The terms for a psychological/psychiatric evaluation
17 and psychotherapy does not make sense for this particular violation.

18
19 No action taken. Staff will develop a new draft and bring it back to the next
20 meeting. Staff will also bring back answers to questions.

21
22 **V. Discussion and Possible Recommendation Regarding Telehealth**
23 **Clarifications for Trainee Practicum (Business and Professions Code**
24 **§§4980.36, 4980.37, 4980.78, 4999.32, 4999.33, and 4999.62)**

25
26 The Board is in the process of pursuing legislation to clarify that MFT and PCC
27 trainees may provide services via telehealth. However, the question arises
28 regarding the meaning of “face-to-face” practicum hours required as part of the
29 degree programs. The Telehealth Committee directed staff to draft language
30 amending the practicum “face-to-face” experience hours requirement as
31 follows:

- 32
- 33 • Permit either all in-person experience hours, or a combination of both in-
34 person and videoconference experience hours;
 - 35 • Recommend that the telehealth regulations the Board has in place for
36 associates and licensees be followed; and
 - 37 • Include a placeholder sunset date in the new language. The sunset date
38 is to be determined by the Board if it approves the proposal to run as
39 legislation.
40

41
42 The Policy and Advocacy Committee determined that a phase-in date is
43 needed. Therefore, the language modifying the definition of “face-to-face”
44 practicum experience was given a phase-in date, applying to practicum gained
45 on or after January 1, 2024.

1 Motion: Direct staff to make any non-substantive changes and bring to the
2 Board for consideration as proposed legislations

3
4 Disposti moved; Sovec seconded.

5
6 Public Comment:

7 Ben Caldwell: Requested that the Committee not adopt this recommendation.
8 The vague language in law is allowing for practicum students to get all of their
9 experience via video conferencing if it is consistent with accreditation
10 standards. The impact of this change would be a “step backward” because it
11 would require all practicum students to get at least one hour of experience in
12 practicum, which is not solving a problem. The Board is moving backwards in
13 acceptance of technology while education and clinical work are moving forward
14 in the adoption of technology.

15
16 Disposti: Responded by clarifying that the Board is not taking a stance against
17 accepting technology; the Board is interpreting “face-to-face”.

18
19 Jennifer Alley, California Association of Marriage and Family Therapists
20 (CAMFT): Has concerns about the language as drafted to require a minimum
21 of one hour of in-person experience; however, this can be discussed further.
22 She requested to align the sunset date of the remote supervision, which is
23 2026.

24
25 Cathy Atkins, CAMFT: Expressed concerns regarding the one-hour minimum
26 in-person requirement. She cautioned the Board in making too many changes
27 at once. Expressed that when it’s time to review, it’s difficult to weigh if there is
28 an issue and which of the many changes caused the issue. Furthermore, she
29 expressed that while others are saying that there hasn’t been any proof of
30 safety concerns to date, that this is new and recent. Schools are just beginning
31 to see the damage done to students who were unable to attend in-person. She
32 asked the Committee to slow this process down.

33
34 Michelle Crawford Morrison: Agreed that the Board should slow down this
35 process in pursuing legislation that would decide the number or type of hours
36 trainees must obtain. There is no research to say that clinical training online is
37 causing problems/not causing problems.

38
39 Curt Widhalm: Asking that the Board not become overly restrictive by having a
40 specified requirement of in-person hours. There have been a number of
41 students with different challenges who have difficulties in being able to reach
42 those in-person requirements. Requested that this process is slowed down.

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Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Abigail Ortega	x				
John Sovec	x				
Wendy Strack	x				

Motion carried: yea - 4, nay - 0

VI. Discussion and Possible Recommendation Regarding Draft Statutory Language for a Temporary Practice Allowance (Add Business and Professions Code §§4980.011, 4996.16.1, 4999.23)

The Board requires a therapist to hold a valid and current California license or registration if the individual is engaging in therapy via telehealth with a client who is physically located in California.

Many states have a similar requirement, though some states allow for flexibility so that clients who are travelling or who are transitioning to living in a new state may obtain temporary services for continuity of care purposes from an out-of-state licensee. Board staff examined the features of these laws and drafted potential language for California.

Motion: Direct staff to make any non-substantive changes and bring to the Board for consideration as a legislative proposal.

Disposti moved; Strack seconded.

Public Comment

Rebecca Gonzales, National Association of Social Workers – California Chapter (NASW-CA): NASW-CA supports the proposal and suggests a sunset date to evaluate this in the future.

J. Alley: CAMFT supports utilizing temporary practice.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Abigail Ortega		x			
John Sovec		x			
Wendy Strack	x				

Motion does not move forward: yea - 2, nay - 2

1 Sovec: Expressed concerns regarding the safety, self-attestation, and
2 telehealth industries, which are all consumer protection issues.

3
4 Further discussion ensued among the Committee members and staff. This
5 item was referred back to the Telehealth Committee.
6

7 **VII. Discussion and Possible Recommendation Regarding Statutory Changes**
8 **to Address the 6-Year Limit on Experience Hours and Associate**
9 **Registrations (Business and Professions Code §§4984.01, 4996.28,**
10 **4999.46.1, 4999.100)**

11
12 LCSW, LMFT and LPCC statutes set forth the six-year limits for registrants
13 gaining supervised experience hours:
14

- 15 • Age of Experience Hours: Hours of supervised experience must be
16 completed during the six-year period prior to submitting the application
17 for licensure. Once experience hours are six years old, they expire and
18 do not count towards licensure.
19
- 20 • Private Practice Prohibition: An associate registration may be renewed
21 five times. If the supervised experience has not been completed, a new
22 registration may be obtained if the California law and ethics exam has
23 been passed. However, individuals issued a subsequent registration are
24 not permitted to work in a private practice setting.
25

26 Previous Discussions

27 Standing committees have discussed this topic several times in the past years.
28 Options the Committee had considered were:

- 29 • Allow exceptions to the six-year rules due to specific circumstances such
30 as military service, acting as a primary caregiver, or disability.
- 31 • Extending one or both six-year limits to a longer period, such as 7 or 8
32 years.
- 33 • Abolishing the work setting limits of a subsequent registration number
34 but implementing stricter requirements to obtain a subsequent
35 registration number.
- 36 • Determining if recent law changes meant to streamline the licensure
37 process has reduced the average time required to gain a license.
38

39 Recent law changes that increase the applicant's ability to gain experience
40 hours, while preserving public protection safeguards:

- 41 • The elimination of the "buckets" for LMFT and LPCC applicants.
42 Effective January 1, 2016.

- 1 • Decreasing in required experience hours for LCSW applicants from
2 3,200 hours to 3,000 hours. Effective January 1, 2019.
- 3 • Allowing triadic supervision in lieu of individual supervision for LMFT,
4 LCSW, and LPCC applicants. Effective January 1, 2019.
- 5 • Allowing private practices and professional corporations to utilize
6 contract supervisors. Effective January 1, 2022.
- 7 • Increasing the allowable number of supervisees per supervisor in a non-
8 exempt setting from 3 to 6. Effective January 1, 2022
- 9 • Current Proposal (AB 1758): Permit supervision via videoconferencing
10 in all settings.

11
12 Research and data were also presented to the Committee:

- 13 • Number of registrants on a subsequent registration number
- 14 • Time to complete supervised experience hours
- 15 • Other states: age of experience hours

16
17 Discussion

18 Sovec: 1.) Does not feel it is necessary to create an extension for the 6-year
19 limit on age of experience hours. 2.) Supports the proposed language for
20 deletion of the private practice prohibition.

21
22 Motion: Direct staff to make any non-substantive changes to the language in
23 Attachment D and bring to the Board for consideration as a legislative proposal.

24
25 Sovec moved; Disposti seconded.

26
27 Public Comments:

28 J. Alley: 1.) CAMFT supports a hardship exemption for registrants (6-year
29 rule). There are objective processes for documenting disabilities, deployment
30 and caregiving. 2.) CAMFT does not support the removal of the private
31 practice prohibition. There have been many changes in the licensure pipeline,
32 and CAMFT would like to see how those changes impact the training and
33 education of future clinicians prior to removing the prohibition.

34
35 R. Gonzales: 1.) NASW-CA supports hardship exemptions for registrants and
36 does not support the removal of the private practice prohibition. 2.) Working in
37 a private practice with a subsequent registration could be isolating, and it is
38 very different from working in a public agency. Furthermore, it is not
39 appropriate for clinicians to be practicing without a license for those numbers of
40 years.

41
42 B. Caldwell: 1.) Believes that there would be a significant demand for hardship
43 exemptions and agrees that there are processes currently in place to document

1 hardships. 2.) The private practice prohibition for subsequent numbers was put
2 in place because the Board did not want to create a situation where a
3 supervisor could have an “associate farm.” This remains a concern. The
4 prohibition pushes associates to get licensed.
5

6 Strack: Requested that the Committee consider an extension for hardships,
7 such as a one-time extension for 1 year.
8

9 Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Abigail Ortega	x				
John Sovec	x				
Wendy Strack		x			

10
11 Motion carried: yea - 3, nay - 1
12

13 **VIII. Update on Board-Sponsored and Monitored Legislation**

14
15 AB 1758: Supervision via Video Conferencing (urgency legislation)

16 Status: The bill is in its third reading in the Senate.
17

18 AB 1759: CE Requirements and Telehealth

19 Status: The bill is on its third reading in the Senate.
20

21 **IX. Update on Board Rulemaking Proposals**

22
23 Updates on several regulatory proposals were listed in the meeting materials
24 for review. A flow chart for DCA’s new regulation approval process was also
25 provided.
26

27 **X. Suggestions for Future Agenda Items**

28
29 J. Alley: Two updates to the BreEZe system: 1.) Limit the publication of
30 licensees and registrants addresses to city and state, not the physical address.
31 2.) Prevent the use of or reference to “dead names.”
32

33 SG: Protecting pre-licensed individuals.
34

35 Adrienne Shilton: Workforce development specifically in the public behavioral
36 health system,
37

38 **XI. Public Comment for Items not on the Agenda**

39
40 None

1 **XII. Adjournment**

2

3 The Committee adjourned at 12:51 p.m.