



Policy and Advocacy Committee Minutes

This Policy and Advocacy Committee Meeting was webcasted. A record of the webcast is available at <https://www.youtube.com/watch?v=NbQ3H2FHDug&feature=youtu.be>.

DATE October 19, 2018

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

TIME 9:00 a.m.

ATTENDEES

Members Present: Christina Wong, Chair, LCSW Member
Betty Connolly, LEP Member
Jonathan Maddox, LMFT Member

Members Absent: 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

Other Attendees: *See voluntary sign-in sheet (attached)*

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

Christina Wong, Chair of the Policy and Advocacy Committee (Committee), called the meeting to order at 9:32 a.m. Christina Kitamura called roll, and a quorum was established.

Ms. Wong welcomed Jonathan Maddox to the Committee.

II. Approval of Committee Meeting Minutes

a. August 24, 2018

This item was tabled.

b. April 21, 2017

MOTION: To approve the April 21, 2017 minutes. Wong moved; Connolly seconded. Motion carried; 3 yea, 0 nay.

Roll call vote:

MEMBER	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Betty Connolly	x				
Jonathan Maddox	x				
Dr. Christine Wietlisbach				x	
Christina Wong	x				

III. Discussion and Possible Recommendation Regarding Proposed Technical and Non-Substantive Amendments to Business and Professions Code Sections 4980.36, 4980.37, 4980.395, 4980.41, 4980.43.1, 4980.43.4, 4980.50, 4980.57, 4980.81, 4989.22, 4990.26, 4992.1, 4996.2, 4996.20, 4996.22, 4996.23.3, 4999.12, 4999.30, 4999.32, 4999.33, 4999.46.1, 4999.46.4, 4999.52

Rosanne Helms provided an overview of the background and recommendation regarding proposed technical and non-substantive amendments to listed Business and Professions Code (BPC) sections:

1. Amend BPC §4980.36 – Law and Ethics Topics

Recommendation: Amend BPC §4980.36(d)(2)(J)(vi) to read “The application of legal and ethical standards in different types of work settings.”

2. Amend BPC Sections 4980.36, 4999.32, 4999.33 – Single Integrated Degree Program

Recommendation: Add a reference to the required degree being a single integrated program.

3. Amend BPC §§4980.36, 4980.37, 4980.81, 4999.32, and 4999.33 – Assessment, Diagnosis, and Prognosis

Recommendation: Replace the term “prognosis” with the term “treatment planning.”

4. Amend BPC Sections 4980.43.1, 4990.26, 4996.20, 4999.12, and 4999.46.1 – References to “Laws and Regulations”

Recommendation: Change references to “laws and regulations” to “statutes and regulations.”

5. Amend BPC Sections 4980.43.4, 4996.23.3, and 4999.46.4 – Pre-Licensee Service Locations

Recommendation: Amend the acceptable service locations to the locations the employer “permits business to be conducted.” This amendment will match language proposed in upcoming regulations recently approved by the Exempt Setting Committee.

6. Amend BPC Sections 4980.50, 4989.22, 4992.1, and 4999.52 – Pending Complaints or Investigations and Examinations

Recommendation: Delete obsolete references to withholding exam results and obsolete 2016 effective dates. Add a provision allowing the Board to deny exam admission or refuse to issue a license if a petition to revoke probation has been filed.

7. Delete BPC §4980.395 – Aging & Long-Term Care Requirement: Applicants Beginning Graduate Study Prior to January 1, 2004

Recommendation: Delete BPC §4980.395 as it is obsolete.

8. Delete BPC §4980.57; Amend BPC §§ 4980.41, 4996.2, and 4996.22 – Spousal and Partner Abuse Assessment Coursework Requirement

Recommendation: Streamline the spousal and partner abuse assessment coursework requirements in BPC §§4980.57 and 4980.41 for LMFTs, and 4996.2 and 4996.22 for LCSWs, so that the 7-hour requirement must be completed pre-licensure.

9. Amend BPC §4990.30 – Petition for Reinstatement of a Registration

Recommendation: Amend §4990.30(b)(1) and (3) to note that if a registrant applying for reinstatement under the allowed timeframes is ineligible for reinstatement due to the registration number being older than six years, then he or she may apply for a subsequent registration number.

MOTION: To direct staff to make any discussed changes, and any non-substantive changes, and submit to the Board for consideration as a legislative proposal. Maddox moved; Wong seconded. Motion carried; 3 yea, 0 nay.

Roll call vote:

MEMBER	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Betty Connolly	x				
Jonathan Maddox	x				
Dr. Christine Wietlisbach				x	
Christina Wong	x				

IV. Discussion and Possible Recommendation Regarding Licensed Educational Psychologists Supervising Associates Gaining Experience Hours in School Settings

Ms. Helms provided an overview of the background and recommendation regarding Licensed Educational Psychologists (LEP) supervising associates gaining experience hours in school settings.

Recommendation: Conduct a discussion regarding allowing LEPs to supervise Associate Marriage and Family Therapists (AMFT), Associate Social Workers (ASW), and Associate Professional Clinical Counselors (APCC). If LEPs should be allowed to supervise associates, then the following points should be discussed:

- In what specific settings should LEPs be allowed to supervise?
- Should there be a limit on the number of supervised experience hours gained under an LEP? If so, what is a reasonable limit?

Ms. Connolly: Supports the proposal allowing LEPs to provide supervision and believes that that the hours should be capped. Educationally-Related Mental Health Services (ERMHS) provided in schools are unique and specific. Often times, licensees who have not practiced in schools under the requirements of ERMHS are coming with a very different approach. LEPs have the expertise in understanding disabilities, special education laws and parameters.

After some discussion, Ms. Connolly and Ms. Madsen determined that it would be appropriate to cap hours at 1,440.

Mr. Maddox: Does not support LEPs supervising AMFTs or APCCs because the scope of practice is drastically different. Most school districts contract with the county to provide ERMHS. Associates from the county agencies that provide these services have a clinical supervisor that provides supervision and ensures that the associate can function within the scope of their practice. It is not necessary for associates to become competent in learning disabilities and the learning process. They must be able to address mental health disabilities that are impacting a student's ability to make use of their educational setting, which requires a different scope of supervision.

Mr. Maddox: Concerned about the potential long-term impact regarding the associate's understanding and functioning in their scope of practice and in preparation for licensure.

Mr. Maddox: Recognized that there is a benefit to having "broad-based multi-disciplinary work" and suggested that language be constructed to state that the LEP provide "consultation" to support the needs of associates that are working in school settings, but not call it "supervision."

Ms. Madsen: Believes that the schools are no longer receiving community mental health contracting. This could be surveyed to determine if the service is available and bring it back for further discussion. If it is not available, this proposal would bridge the gap.

Ms. Madsen: Suggested looking at “weeks of supervision” as well as “hours of supervision” under each specific license type.

Mr. Maddox: San Francisco county has ERMHS services but is interested in what other counties are doing.

Ms. Wong: Shares Mr. Maddox’s concerns. In Butte county, ERMHS services are provided in the school setting by the county. Board staff could do a more research. LEPs can approach mental health in the “hybrid” setting. Likes the idea of having different supervisors from different disciplines and can see the advantage.

Ms. Connolly: Several of BBS licensees allow for supervision across licenses. That provides an interesting and quality perspective.

Ms. Connolly: Many school districts contract with counties to provide ERMHS services, which is an option. Many districts use their LEPs to provide that service. LEPs are one of the primary providers of mental health services in the school setting. LEPs can provide quality supervision.

Ms. Connolly: One of the challenges that schools face when hiring MFTs or social workers, is that they lack an understanding of what ERMHS is and what it is not. There is a difference when working in a school than in a therapeutic session.

Mr. Maddox: Expressed concerned about how supervision regarding Medi-Cal standards and documentation will be supported in this setting.

Mr. Maddox: Suggested that this proposal be discussed at the Board level.

Ms. Wong: In response to Medi-Cal concerns, it comes back to the quality of supervision.

Heidi Holmblad, California Association of School Psychologists (CASP): Medi-Cal will be changing rapidly next year. LEPs are going to be able to bill for Medi-Cal; therefore, CASP wants LEPs to supervise.

Ms. Holmblad: Currently, associates in the school setting must be supervised by two different people; they must be supervised by someone with a PPS credential. The goal is to reduce the number of supervisors that are working with the associates at the same time. LEPs are licensed and have the PPS credential; therefore, they would be best for this. There needs to be a discussion about AB 114, which mandated schools to provide ERMHS.

Ms. Holmblad: Currently, very few counties contract with schools to provide ERMHS because it is difficult to get the money back from the counties to do that. This won’t be the case in the future. CASP agreed to take part in a discussion with the full Board.

No action taken. This item will move forward to the Board for further discussion.

V. Discussion and Possible Recommendation Regarding Registrant Employment by Temporary Staffing Agencies

Christy Berger provided an overview of the recommendation regarding registrant employment by temporary staffing agencies.

Current law for the LMFT, LCSW and LPCC professions does not address a temporary agency’s involvement in placing individuals gaining hours of experience toward licensure.

The proposed language does not refer to the temporary staffing agency or the contracting agency as the “employer” because this may vary. Current law requires a trainee or associate to perform services only at the places permitted by the employer. The temporary agency is often the supervisee’s employer. However, because the contracting agency is responsible for clinical services, the contracting agency should determine where the supervisee is permitted to perform services. The proposed language specifies that the contracting agency shall determine where the supervisee may perform services.

Current law requires a written oversight agreement when the supervisor and supervisee have different employers and is signed by the supervisee’s employer and his/her supervisor. The proposed language specifies that the written agreement shall be between the contracting agency and the supervisor. In addition, it clarifies that no written agreement shall be required when the supervisor is an employee of the contracting agency.

The language clarifies that any trainee, associate or applicant for licensure placed by a temporary agency must either be a W-2 employee or volunteer.

MOTION: To direct staff to make any discussed changes, and any non-substantive changes, and recommend to the Board as regulatory proposal. Wong moved; Connolly seconded. The motion carried; 3 yea, 0 nay.

Roll call vote:

MEMBER	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Betty Connolly	x				
Jonathan Maddox	x				
Dr. Christine Wietlisbach				x	
Christina Wong	x				

VI. Discussion and Possible Recommendations Regarding Practice Setting Definitions

Ms. Berger provided an overview of the recommendation regarding practice setting definitions.

Proposed Language: Exempt Settings

The Exempt Setting Committee developed language that would require unlicensed/unregistered therapists working in an exempt setting to provide consumers with a printed disclosure, prior to initiating psychotherapy, containing information about how to file a complaint about the therapist with the agency.

In addition, the Exempt Setting Committee developed language that would require all settings in which psychotherapy is performed to provide written information to consumers about where to file a complaint with the Board about a licensed or registered psychotherapist.

The Exempt Setting Committee and stakeholders expressed concerns regarding consumer protection and expressed an interest in educating the public regarding services sought from exempt settings.

Proposed Definitions: Private Practice and “Other For-Profit” Settings

The Exempt Setting Committee developed language that would separately define “Private Practice” (including professional corporations, which is already assumed under the law as a private practice) and “Other For-Profit” settings. The Exempt Setting Committee considered including “other for-profit” settings within the private practice definition. However, the decision was made to define them separately because it would subject these types of companies to all of the laws pertaining to private practices.

Military Members Issued a Renewal Waiver Prohibited from Working in Private Practice

Should active duty military on a renewal waiver be allowed to work in another for-profit setting?

The Committee agreed that it should be allowed.

Private Practice Restriction on Fictitious Business Names

Should other types of for-profit settings be subject to a fictitious business name law similar to what BBS has?

Ms. Madsen: If staff is not paying attention to the business name now, and BBS has not received any complaints regarding fictitious or misleading business names, then the answer is no.

The Committee agreed.

LEPs in Private Practice

Should a separate private practice definition be developed for LEP law that prohibits profiting from employer’s clients in any company wholly or partially owned by an LEP which offers services related to the LEP scope of practice?

Suggestion: Amend the unprofessional conduct provision to include “his or her private practice or place of employment” instead of creating a separate private practice definition.

Unregistered Individuals May Not Work in Private Practice

It is appropriate to continue allowing students to be placed in “other for-profit” settings?

The Committee agreed that it is appropriate.

Is it appropriate to continue allowing applicants pending associate registration to provide clinical services in “other for-profit” settings?

The Committee agreed that it is appropriate.

Supervisor Employment/Practice Requirements in Private Practice

Is there is adequate oversight in “other for-profit” settings that are not corporations, that would safely allow the use of supervisors who:

- Are not employed by the associate’s employer; or,
- Do not practice at the same site as the associate’s employer; or,
- Both of the above?

The Committee agreed that there is adequate oversight.

Reimbursement of Expenses via 1099 Prohibited in Private Practice

Should reimbursement of expenses be allowed via 1099 for volunteers working in “other for-profit” settings?

The Committee agreed that it should be allowed.

Maximum Number of Supervisees in Private Practice

Should supervisors in “other for-profit” settings be permitted to supervise more than three associates.

The Committee agreed that it should be permitted. The Committee also suggested allowing supervisors in private practice settings be permitted to supervise up to four associates.

Private Practice Prohibited After 6-Year Registration Runs Out

Is it acceptable to continue allowing individuals to provide services indefinitely as a registrant in “other for-profit” settings?

The Committee agreed that it is acceptable.

LPCC Community Mental Health Setting Experience

Are “other for-profit” settings likely to offer psychopharmacological interventions in conjunction with psychotherapy, and to offer coordinated/collaborative care? If not, should such settings also be excluded?

The Committee believes that “other for-profit” settings are likely to offer psychopharmacological interventions in conjunction with psychotherapy. The Committee agrees that is should not be excluded.

Proposed Language Re: LCSW Students

For degree programs leading to LCSW licensure, current law reads somewhat differently than for LMFT and LPCC law. BPC section 4996.15 generally allows students to be placed in exempt settings or “in a recognized training program.” The reference to “recognized training program” may be obsolete. This phrase is proposed to be deleted as it could give the impression that other types of settings, including private practice, are acceptable.

Staff will work on changes to the language and bring proposed language to the Committee at its next meeting.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA), referred to Attachment C where it defines “licensed mental health professionals.” The definition included “registered associates.” He suggested working on the language so that it is clear that registered associates are not licensed.

MOTION: To direct staff to make any discussed changes, and any non-substantive changes, and submit attachments A, C, and E to the Board for consideration as a legislative proposal, and to continue to work on the draft language. Connolly moved; Wong seconded. Motion carried; 3 yea, 0 nay.

Roll call vote:

MEMBER	YEA	NAY	ABSTAIN	ABSENT	RECUSAL
Betty Connolly	x				
Jonathan Maddox	x				
Dr. Christine Wietlisbach				x	
Christina Wong	x				

VII. Status on Board-Sponsored, Board-Supported, and Board-Monitored Legislation

Rosanne Helms provided a brief update on legislation.

AB 93: Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision
Signed by the Governor.

AB 456: Healing Arts: Associate Clinical Social Workers
Signed by the Governor.

AB 1436: Board of Behavioral Sciences: Licensees: Suicide Prevention Training
Signed by the Governor.

AB 2296: Licensed Professional Clinical Counselors: Licensed Clinical Social Workers
Signed by the Governor.

AB 2138: Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction
Signed by the Governor.

This becomes effective July 1, 2020 and makes significant amendments to the Board's enforcement process, including limits on when a board can deny a license based on convictions or other acts. DCA boards will be working with the department on regulations.

Ms. Madsen stated that additional dates will be necessary for this Committee to discuss regulations.

SB 906: Medi-Cal: Mental Health Services: Peer Support Specialist Certification
Vetoed by the Governor.

VIII. Status of Board Rulemaking Proposals

Ms. Berger provided a brief update on regulations.

Enforcement Process

The proposal was approved by the Board at its meeting in February 2017. The initial review process by Department of Consumer Affairs (DCA) began in July 2017. The proposal is currently being reviewed by Business, Consumer Services and Housing Agency (Agency).

Contact Information: Application Requirements: Incapacitated Supervisors

The proposal was approved by the Board at its meeting in March 2017 and began the DCA initial review process in August 2017. DCA provided some feedback; however, staff had to put a hold on the proposal due to actions that came out of the License Portability Committee, which will change application requirements.

Examination Rescoring; Application Abandonment; APCC Subsequent Registration Fee

The proposal was approved by the Board at its meeting in November 2017 and began the DCA initial review process in April 2018. The proposal is currently at Agency. Staff recently received feedback and will respond to Agency.

IX. Public Comment for Items Not on the Agenda

None

X. Suggestions for Future Agenda Items

None

XI. Adjournment

The Committee adjourned at 12:47 p.m.