



BOARD MEETING MINUTES

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

- November 5 (part 1): <https://youtu.be/SsjpXj9Wkbg>
- November 5 (part 2): https://youtu.be/eE6anjFI_58
- November 5 (part 3): https://youtu.be/typj_zeAVhk
- November 6 (part 1): <https://youtu.be/NxScwKeY1PA>
- November 6 (part 2): <https://youtu.be/V7w6iX-zdOQ>

DATE November 5, 2020

MEETING PLATFORM Zoom Video Conference and Phone Conference

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

TIME 8:30 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
 Christina Wong, Vice Chair, LCSW Member
 Ross Erlich, Public Member
 Susan Friedman, Public Member
 Dr. Diana Herweck, LPCC Member
 Jonathan Maddox, LMFT Member
 Kelly Ranasinghe, Public Member
 John Sovec, LMFT Member

Members Absent: Crystal Anthony, LCSW Member
 Deborah Brown, Public Member
 Christopher Jones, LEP Member
 Wendy Strack, Public Member

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

Other Attendees: Wim van Rooyen, Administrative Law Judge
Anahita Crawford, Deputy Attorney General
Public participation via Zoom video conference/ phone conference

OPEN SESSION

I. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:34 a.m. Roll was called, and a quorum was established.

II. Public Comments for Items Not on the Agenda

None

III. Suggestions for Future Agenda Items

None

Administrative Law Judge Wim van Rooyen 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.

Petitions were heard in the following order: VIII, VII, IV, V, VI.

IV. Shahla Johnson Chapman, LMFT 112173, Petition for Modification of Probation

The hearing was opened at 11:50 a.m. Shahla Johnson Chapman represented herself. Ms. Crawford presented the background of Ms. Chapman's probation.

Ms. Chapman 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 1:24 p.m.

V. Sharlamaine Constance Hayes, LCSW 16197, Petition for Reinstatement of License

The hearing was opened at 2:29 p.m. Sharlamaine Hayes represented herself. Ms. Crawford presented the background of Ms. Hayes' revocation.

Ms. Hayes was sworn in. She presented her request for reinstatement of licensure and information to support the request and was cross-examined by Ms. Crawford and Board members. The record was closed at 3:49 p.m.

VI. Donald Charles Lewis, ASW 80267, Petition for Early Termination of Probation

The hearing was opened at 4:07 p.m. Donald Lewis represented himself. Ms. Crawford presented the background of Mr. Lewis' probation.

Mr. Lewis' was sworn in. He presented his 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 5:14 p.m.

VII. Ashley Huyen Devine, LMFT 120413 and APCC 5280, Petition for Early Termination of Probation

The hearing was opened at 10:18 a.m. Ashley Devine represented herself. Ms. Crawford presented the background of Ms. Devine's probation.

Ms. Devine 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 11:35 a.m.

VIII. Laura J. Tomlinson, LCSW 28337, Petition for Early Termination of Probation

The hearing was opened at 8:42 a.m. Laura Tomlinson was represented by counsel (Lindsey Johnson). Ms. Crawford presented the background of Ms. Tomlinson's probation. Ms. Johnson gave opening remarks.

Ms. Tomlinson was sworn in and examined by her counsel. Ms. Tomlinson presented her request for early termination of probation and information to support the request and was cross-examined by Ms. Crawford and Board members. Ms. Johnson provided closing argument. The record was closed at 10:02 a.m.

CLOSED SESSION

IX. 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.

The Board met in closed session at 5:17 p.m.

The Board recessed following the conclusion of the Closed Session at 6:16 p.m. until Friday, November 6, 2020 at 8:30 a.m.

DATE November 6, 2020

MEETING PLATFORM Zoom Video Conference and Phone Conference

Pursuant to the provisions of Governor Gavin Newsom's Executive Order N-25-20, dated March 12, 2020, neither a public location nor teleconference locations are provided.

TIME 8:30 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Ross Erlich, Public Member
Susan Friedman, Public Member (*arrived 8:57 a.m.*)
Dr. Diana Herweck, LPCC Member
Christopher Jones, LEP Member
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Wendy Strack, Public Member (*left at 12:17 p.m.*)

Members Absent: Crystal Anthony, LCSW Member
Deborah Brown, Public Member
Jonathan Maddox, LMFT Member

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

Other Attendees: Jerilee Mallari, Classification and Recruitment Manager
Public participation via Zoom video conference/phone conference

OPEN SESSION

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

Meeting called to order at 8:35 a.m. Roll was called, and a quorum was established.

Disposti: Introduced new Board member, Dr. Diana Herweck, LPCC Member.

XI. Executive Officer Recruitment and Selection Process

a. Presentation by the Department of Consumer Affairs’ Office of Human Resources Regarding the Selection Process of an Executive Officer

Jerilee Mallari, Department of Consumer Affairs’ (DCA) Office of Human Resources, Classification and Recruitment Manager: Presented the executive officer (EO) selection process.

Two members will participate in the selection process. The Board Chair will appoint those members to a search committee.

Recruitment announcement advertised for 30 days on California Human Resources (CalHR) platform but may be advertised externally.

Applicants will be interviewed during a closed session board meeting, and the Board must vote for a chosen applicant.

b. Discussion and Possible Appointment of an Executive Officer Search Committee

Ranasinghe: Recommended Disposti to serve on the search committee.

Disposti: Appointed Wong and himself to the search committee.

c. Review and Possible Amendments to Executive Officer Duty Statement

Ms. Mallari: Reviewed the Executive Officer Duty Statement and proposed edits.

MOTION: Move to accept edits for the Executive Officer Duty Statement.

Ranasinghe moved. Wong seconded. Motion carried: 8 yea, 0 nay, 1 abstention.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Deborah Brown				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman			x		
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox				x	
Kelly Ranasinghe	x				

John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

d. Review and Approval of the Executive Officer Recruitment Announcement

Board members requested announcement to be advertised outside of CalHR platform, such as on association sites. Search committee will make selections.

MOTION: Approve the recruitment announcement as written with the addition of discussed amendments regarding policy-making experience in diversity to which then the search committee will have the final authorization to approve any non-substantive technical changes to reflect the Board’s desires; approve a 6-page limit for the Statement of Qualifications; approve announcement posting on CalHR website; direct authorization to the search committee to repost and choose where to post externally, including the Capital Morning Report, etc.

Wong moved. Sovec seconded. The motion carried: 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Deborah Brown				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox				x	
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

The Board moved to closed session at 9:20 a.m.

CLOSED SESSION

- XII. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in Closed Session to Discuss the Executive Officer Recruitment and Selection Process, the Possible Appointment of an Acting Executive Officer or Interim Executive Officer.**

OPEN SESSION

The Board returned to open session at 10:05 a.m.

XIII. Board Chair Report

a. Possible Announcement of Appointment of an Acting Executive Officer or Interim Executive Officer

Disposti: Announced the appointment of an Interim Executive Officer effective January 1, 2021. Steve Sodergren was appointed.

b. Possible Announcement of Executive Officer Search Committee Members

Disposti: Announced the members of the Executive Officer Search Committee: Max Disposti and Christina Wong.

c. Recognition of Board Staff Years of Service

Disposti: Presented a Resolution to Kim Madsen for her service to the Board of Behavioral Sciences.

Staff recognized for their service to BBS:

- 5 years: Carl Peralta, Kimberly Covington, Margaret See, Yee Lee, Marlon McManus
- 20 years: Christina Kitamura

XIV. Public Comment for Items Not on the Agenda

Caitlyn Conley, advocacy chair for the Council of Social Work Education (CSWE): CSWE has concerns that the social work education at the master's level is moving away from clinical and becoming more of a general practice and focusing on more mezzo and macro-level social work. CSWE would like to know "what the Board's role is in informing the CSWE on social work education, and if

the Board has a role in advocating for clinical skills in master’s level social work, how can we advocate to improve the clinical education for master’s level social workers?”

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT): Awarded Kim Madsen with a plaque in recognition of her work with CAMFT.

Jen Alley, CAMFT: In 2021, CAMFT will sponsor legislation to centralize the MFT scope of practice language into the body of CAMFT’s scope. The goal is to have CAMFT’s scope in one place. There will be no changes or expansion to the scope of practice. CAMFT is still finalizing the language and will discuss it with the Board at a future meeting.

Many stakeholders, Board members and staff expressed well wishes to Kim Madsen.

XV. Suggestions for Future Agenda Items

None

XVI. Consent Calendar

- a. Possible Approval of the July 30, 2020 Board Meeting Minutes
- b. Possible Approval of the August 13-14, 2020 Board Meeting Minutes
- c. Possible Approval of the September 11, 2020 Board Meeting Minutes
- d. Possible Approval of the October 8, 2020 Board Meeting Minutes

MOTION: Approve the Board meeting minutes as written: July 30, 2020, August 13-14, 2020, September 11, 2020, October 8, 2020.

Strack moved. Erlich seconded. The motion carried: 9 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Deborah Brown				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox				x	
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

XVII. Examination Presentation by Pearson Vue

Tom Magallanes, Executive Director, presented to the Board. Christine Nelson, Program Manager, also presented. Items presented: Overview, solution overview, COVID-19 protocols, and operational statistics.

Solution overview

- Test development & test publishing
- BBS submits candidate eligibility records
- Examination scheduling
- Testing center network administration
- Results reporting and information services

Mr. Magallanes responded to questions regarding proctoring exams. Pearson VUE has ability to conduct online proctoring of exams. However, there are risks with high stake exams, specifically security and content becoming compromised. Pearson VUE cannot control the home environment and cannot ensure that candidates are not bringing any sort of electronic devices. Other components that are considered: a chaotic home environment, bandwidth issues. Pearson VUE will continue conversations with Board staff regarding online proctoring.

Mr. Magallanes addressed concerns regarding safety at test centers and enforcement of COVID-19 protocols. Pearson VUE is in direct contact with Centers for Disease Control and Prevention and are following its guidelines. Test takers are not permitted in a test center without a mask. Each test site is at about 50% reduced capacity to ensure social distancing; however, each site is different based on size and number of work spaces.

Sodergren addressed concerns regarding scheduling exams. Board staff is closely monitoring the availability of exam sites. Currently, test sites are booking up through February. Exams administered for this quarter is at normal capacity compared to last year, which is about 4,000 exams.

Exam eligibilities are being extended due to the waivers.

Mr. Magallanes addressed concerns regarding accommodations. Each of their test sites have an accommodation room. Additional test sites are currently being built with two accommodation rooms. There has been a spike since COVID-19 where the demand for accommodations testing has soared and has caused greater capacity challenges. Pearson VUE is trying to work through this. The demand for testing and for accommodations during COVID-19 is challenging.

XVIII. Examination Presentation by the Department of Consumer Affairs' Office of Professional Examination Services

Dr. Tracy Montez, Chief of Division of Programs and Policy Review gave a presentation on examination validation and the process of developing the Board's examinations. This presentation is typically provided when new members join the Board.

Dr. Montez spoke on DCA's position on online and remote testing. DCA is discouraging its boards from doing online remote proctoring because a candidate may have a camera in the room. DCA has not figured out how to prevent the recording of exams. The security protocols are not high enough yet for DCA's high-stake exams. DCA must also consider candidate security and data transmission of confidential candidate information. Online proctoring of exams may be possible in the future.

XIX. Executive Officer Report

a. Budget Report

2020/2021 Budget

The Board's budget for fiscal year (FY) 2020/2021 was \$12,470,000. The Board has expended \$1,531,311 (12%) of its budget.

Fund Condition

The Board's fund condition for FY 2020/2021 currently reflects a negative balance. However, the fund condition does not include the Board's recent fee increase.

b. Operations Report

BOARD STATISTICS: 1st Quarter of FY 2020/2021

Licensing Program Applications

- Licensing applications received increased by 47%
- 56% increase in initial registration, mostly due to graduation season
- 38% increase in subsequent registration applications, mostly due to graduation season

Licensing Population

- 1,739 initial licenses were issued
- 122,211 licensees and registrants as of August 8, 2020 (1% gain) from the previous quarter

Renewal Activity

Renewal activity increased by 13%.

Administrative Applications

Administrative application volumes increased by 28%.

Examination Program

- 4,806 examinations were administered, a 75% increase from the previous quarter.
- 9 examination development workshops were conducted from July 1st to September 30th.

The Impact of COVID-19

Because the continued impact of COVID-19 remains an issue, the Board is estimating that complications with scheduling of exams could continue into 2021. Although exam administrations have increased, candidates have expressed concern that they are not able to find exam availability until next year. The Board continues to consult with Pearson VUE, ASWB and NBCC to ensure the availability of exams

The Board encourages candidates to broaden their location or time choices when scheduling an exam if they would like to take the exam sooner. Since exam availability may fluctuate daily because of cancelation and reschedules, the candidates are encouraged to frequently check Pearson VUE online scheduling site for additional availability. Candidates may have to select a less preferred time or location than if they need to take the exam sooner. The most availability for exams occurs midweek during the day.

There have been concerns about candidates who are immune-compromised or believe that they have other reasons why they need to take the exam in a private room. This is an option but to exercise this option, candidates must go through the special accommodations process. Availability is limited as each site has only one private room.

On October 12, 2020, the following waivers enacted pursuant to Governor's Executive Order N-39-20 were extended:

- A twenty-month extension of examination eligibility for exam, Board exam candidates that failed the clinical examination (for LMFT, LCSW, or LPCC applicants) or the written examination (for LEP applicants), and whose one-year eligibility to re-take the examination expired between March 31, 2020 and November 30, 2020. The extension is from the date of the initial eligibility or from the last attempted exam date.
- The waiving of the requirement that associates must pass the California law and ethics examination before a subsequent registration number is issued. The waiver applies to all associates who are in their last year of renewal, if that renewal expires between March 31, 2020 and October 31, 2020.

- The waiving of the requirement that associates must participate in the California law and ethics exam in order to renew their associate registration. The waiver applies to all associates that have a registration that expires between March 31 and October 31, 2020.

Enforcement Program

- 494 consumer complaints received
- 368 criminal conviction notifications received
- 636 cases closed
- 32 cases referred to the Attorney General's (AG) office for formal discipline
- 117 cases pending at the AG's office as of September 30th
- 9 accusations and 4 Statement of Issues filed
- 3 final citations issued
- 32 final disciplinary orders
- 487 average number of days to complete Formal Discipline. Performance measure is 540 days.
- 373 average number of days a case is with the AG's office
- 31 average number of days to complete all Board investigations

Continuing Education Audits

Audits are suspended due to the current continuing education waiver.

Outreach Activity

Board staff engaged in 9 outreach events via telephone or video conference: association meetings, MFT consortium meetings, and a license portability presentation.

COMMUNICATION REPORT: 1st Quarter of FY 2020/2021

There was a substantial increase in inquiries during the 1st quarter. The number of inquiries has increased due to affects that COVID has had on the Board's examination program. The Board has continued with Facebook Fridays and has updated the website by centralizing the Frequently Asked Questions (FAQs).

Facebook (FB)

- Number of "likes" is 10,402 as of September 30th
- 11,594 followers as of September 30th

Twitter

The average number of views per month this quarter:

- 1033 in July
- 1146 in August
- 1223 in September

DCA Call Center

The call center received 7,096 calls for BBS, a 20% increase from last quarter.

c. Personnel Report

New Employees/Promotions

Staff Services Manager – Registration, Examination and Cashiering Unit
Cynthi Burnett promoted to this position effective September 1, 2020.

Staff Services Manager – Licensing Unit

Cassandra Kearney promoted to this position effective September 1, 2020.

Vacancies

Currently, there are 8 vacancies:

- Enforcement Analyst (2 positions)
- Staff Services Analyst – Registration, Examination & Cashiering
- Management Services Technician (MST) – Licensing
- MST – Registration, Examination & Cashiering
- Office Technician (OT) – Discipline & Probation/Enforcement: Lisa Santolin accepted this position effective November 2, 2020.
- OT – Administration

d. Strategic Plan Update

The Strategic Plan Update was provided for review.

The Board's Sunset Hearing will be held on November 18th.

XX. Policy and Advocacy Committee Recommendations

- a. **Recommendation #1: Support. Proposed Technical Amendments to Business and Professions Code Sections 2290.5, 4980.01, 4980.32, 4980.40, 4980.43.3, 4980.46, 4980.54, 4982, 4983, 4984.7, 4987.5, 4989.17, 4989.20, 4989.24, 4989.32, 4989.34, 4989.36, 4989.38, 4989.40, 4989.54, 4989.66, 4989.68, 4990.30, 4992.3, 4996.2, 4996.3, 4996.12, 4996.14, 4996.17.2, 4996.18, 4996.22, 4996.75, 4998, 4998.2, 4999.22, 4999.42, 4999.46.1, 4999.51, 4999.71, 4999.76, 4999.80, 4999.86, 4999.90, 4999.104, 4999.120, 4999.123. Add Business and Professions Code Sections 4989.47, 4990.07, 4990.27, 4996.61, 4996.62. Repeal Business and Professions Code Section 4999.122. Amend Health and Safety Code Section 1374.72. Amend Insurance Code Section 10144.5**

NEW AMENDMENTS

Not yet approved by the Board.

1. Amend BPC §2290.5 – Associates and Telehealth

Recommendation: Include associate clinical social workers and associate professional clinical counselors in the definition of health care providers who may provide services via telehealth in BPC §2290.5.

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

Wong moved. Disposti seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Deborah Brown				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox				x	
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Christina Wong	x				

2. Amend BPC §§4980.46 and 4998.2; Add BPC §4989.47 – Fictitious Business Names

Recommendation: Amend BPC §4980.46 (for LMFTs) and §4998.2 (for LCSWs) to use the word “that” instead of “which”, for consistency with other similar statutes pertaining to the use of fictitious business names. Add a fictitious business name statute for LEPs (§4989.47).

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

Wong moved. Sovec seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

3. Amend BPC §§4984.7, 4989.32, 4989.68, 4996.3, and 4999.120 – Clarification of Frequency of Renewal Fees

Recommendation: Amend BPC §§4984.7, 4989.32, 4989.68, 4996.3, and 4999.120 to clarify that associate registrations are renewed annually, and licenses are renewed every two years, as needed.

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

Wong moved. Erlich seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

4. Add BPC §4990.07 – Email Address Requirement for Applicants, Registrants, and Licensees

Recommendation: Add BPC §4990.07 to the Board’s general administrative code sections, requiring that all applicants, registrants, and licensees who have an email address provide it to the board by July 1, 2022. The language also prohibits the Board from disclosing the email address to the public.

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

Disposti moved. Jones seconded. The motion carried: 6 yea, 1 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman				X	
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec		X			
Wendy Strack				X	
Christina Wong	X				

5. Add BPC §4990.27 – Law Waivers During State of Emergency

Recommendation: Staff previously asked the Policy and Advocacy Committee (Committee) to consider adding BPC §4990.27 to the Board’s licensing law, allowing the Board the ability to waive statutes or regulations during a state of emergency if the Board believes the waiver will aid public protection or patient care. At its October 2020, the Committee agreed that the Board should consider this.

However, as the COVID-19 State of Emergency and resulting DCA waiver process is still ongoing and evolving, it may be premature for the Board to pursue its own waiver process.

The Board did not take action on this item.

6. Amend BPC §4996.3(a)(3) – Correction of Maximum Fee Amount

Recommendation: Correct the error in BPC §4996.3(a)(3) to have the maximum LCSW application fee set at \$500 instead of \$400.

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

Wong moved. Ranasinghe seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

7. Add BPC §§4996.61 and 4996.62; Amend BPC §§4989.38 and 4989.40 – Renewal of Suspended License and Reinstatement of Revoked License

Recommendation: Add the two sections to LCSW law regarding renewal of a suspended license, and reinstatement of a revoked license, so that this process is clear for LCSWs and consistent with the Board’s LMFT and LPCC license types. Amend the two sections in LEP law so that the wording is consistent with corresponding sections for the Board’s other license types.

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

Sovec moved. Disposti seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

8. Amend HSC §1374.72 and IC §10144.5 – Definition of a “Health Care Provider” in SB 855

Recommendation: Staff recommends pursuing an amendment to the definition of a “health care provider” as follows to address the Board’s concerns:

Delete professional clinical counselor trainees from the definition (they cannot count pre-degree hours, and therefore are not necessarily under the supervision of a licensed professional.)

Continue to include marriage and family therapist trainees in the definition but clarify that they are performing activities and services as part of their supervised course of study as set out in BPC §4980.42.

Jen Alley, CAMFT: CAMFT is ok with the change to the MFT trainee.

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

Wong moved. Disposti seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

FEE RELATED AMENDMENTS

Clean-up previously approved by the Board to run in last year’s fee increase bill

1. Amend BPC §4980.54, 4989.34, 4996.22, 4999.76 – Authority to Charge Continuing Education Provider Fees

Recommendation: Remove obsolete language allowing the Board to charge continuing education provider fees.

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

Disposti moved. Wong seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

2. Amend BPC §§4989.36, 4989.40, 4999.104 – Renewal of Expired License and Reinstatement of License: Accumulated Fees

Recommendation: Amend LEP and LPCC statutes to clarify that charging accrued renewal or delinquency fees is not permitted.

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

Sovec moved. Jones seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

3. Repeal BPC §4999.122 – Licensed Professional Clinical Counseling Program Startup Funds

Recommendation: Delete BPC §4999.122 as it is obsolete.

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

Wong moved. Erlich seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

AMENDMENTS APPROVED BY THE BOARD IN 2019-2020

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

Recommendation: Staff recommends striking the list of professions in BPC §§4987.5, 4998, and 4999.123, as they are already listed in the Corporations Code. These sections already state that the shareholders, officers, directors, or professional employees must be in compliance with the Moscone-Knox Act.

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

Wong moved. Friedman seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

2. Amend BPC §4980.43.3 - Renumbering

Recommendation: Renumber the contents of subdivision (c) in order to correct the error.

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

Sovec moved. Friedman seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

3. Amend BPC §§4980.43.2, 4996.23.1, 4999.46.2 – Definition of “One Hour of Direct Supervisor Contact”

Recommendation: Defer this item to the Telehealth Committee.

The Board did take action on this item.

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

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

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

Wong moved. Jones seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

5. Amend BPC §§4980.01, 4980.32, 4989.17, 4996.14, 4996.75, 4999.22 and 4999.71 – Timing of Providing the Notice to Clients About Filing a Complaint

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

Wong moved. Disposti seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

6. Amend BPC §4990.30 – Petitions for Reinstatement or Modification of Penalty

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

Wong moved. Erlich seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				x	
Deborah Brown				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox				x	
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Christina Wong	x				

7. **Amend BPC §4996.22 – Acceptable LCSW Continuing Education Providers**
8. **Amend BPC §4999.46.1 – Delete Duplicative Definition of Supervision**
9. **Amend BPC §§4983, 4989.66, 4996.12, and 4999.86 – Fines for Licensing Act Violations**
10. **Amend BPC §4996.17.2 – Correct Numbering Reference**

MOTION for items 7-10: Direct staff to make any discussed changes and any non-substantive changes and pursue as a legislative proposal.

Wong moved. Sovec seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

AMENDMENTS MADE FOR CONSISTENCY WITH AB 2138

Previously approved by the Board in 2019-2020

1. Amend BPC §§4980.40, 4989.20, 4996.2, 4996.18, 4999.42, 4999.51 – Qualifications for Licensure or Registration
2. Amend BPC §§4980.40, 4989.24, 4996.2, 4999.42, 4999.51 – Reference to Penal Code Section 290
3. Amend BPC §§4982, 4989.54, 4992.3, 4999.90 – Unprofessional Conduct Provisions
4. Amend BPC Section 4999.80 – References to Statutes Governing License Denials, Suspensions, or Revocations

MOTION for items 1-4: Direct staff to make any discussed changes and any non-substantive changes and pursue as a legislative proposal.

Sovec moved. Wong seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

- b. Recommendation #2: 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 was formed to:

1. Examine mental health services provided in exempt settings to determine if consumers are receiving services consistent with the standard of care, and
2. Examine different types of practice settings that offer mental health services to determine if setting definitions need to be refined.

Clarifying Practice Setting Definitions

The proposal provides specific definitions of the various types of practice settings:

- 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:
 - Specifies that a trainee may provide services in a non-exempt setting as long as it is not a private practice or a professional corporation, and the trainee is under the jurisdiction and supervision of their school.
 - 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, if they are in compliance with the laws pertaining to the 90-day rule.
- It allows supervision of all individuals to be done via videoconferencing in an exempt setting.
- 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.

Helms: An amendment is required to change the term “associate” to “supervisee” in section 4999.46.2(e).

This item was merged with item XXI for further discussion and action.

XXI. Discussion and Possible Action Regarding the Supervision of Associate Clinical Social Workers Within an Organization with Multiple Site Settings

Kaiser frequently employs associate clinical social workers (ASWs) who are gaining experience toward licensure. According to their 2020 Northern California HMO Provider Manual, Kaiser is split into three employing entities:

- **Kaiser Foundation Health Plan, Inc. (KFHP):** KFHP is a California nonprofit, public benefit corporation that is licensed as a health care service plan. KFHP offers HMO plans. KFHP contracts with Kaiser Foundation Hospitals and The Permanente Medical Group to provide or arrange for the provision of medical services.

- **Kaiser Foundation Hospitals (KFH):** KFH is a California nonprofit public benefit corporation that owns and operates community hospitals and outpatient facilities. KFH provides and arranges for hospital and other facility services.
- **The Permanente Medical Group, Inc. (TPMG):** TPMG is a professional corporation of physicians in KPNC that provides and arranges for professional medical services.

ASWs working for The Permanente Medical Group (professional corporation) arm of Kaiser believe it is unfair that they have limits on their required supervision for gaining experience hours toward LCSW licensure that other ASWs working under the Kaiser nonprofit corporations (exempt settings) do not have.

Under Current LCSW Law

- For those ASWs working at its professional corporation, their supervisor must be employed full-time at the same site as them and perform professional services there. There is a limit of three supervisees per supervisor.
- For those ASWs working at Kaiser’s nonprofit corporations, the above limitations do not apply – they are considered to be working in an exempt setting.

Under the Proposed Law

- For those ASWs working at its professional corporation, Kaiser would be able to contract or arrange with outside supervisors for their associates. Those supervisors would not need to be employed full-time at the same site as their associates. However, the supervisors would be required to see clients at the same site as each associate they supervise. There is a limit of six supervisees per supervisor.
- For those ASWs working at Kaiser’s nonprofit corporations, the above limits do not apply – they are considered to be working in an exempt setting.

Board Staff Suggestions

- a. Delete allowance from the bill. (*“An entity that is licensed or certified by a government regulatory agency to provide health care services shall not be considered a private practice setting.”*)
- b. Leave the allowance in the bill.
- c. Not run the bill and hold for another year for further discussion.

Wong: Suggested to move forward with the bill proposal and continue to work with Kaiser.

Disposti: Reiterated concerns of other Board members to ensure that the Board is not carving out exceptions for specific entities.

MOTION: Direct staff to make the discussed change of the term “associate” to “supervisee” in BPC §4999.46.2(e) and to make any non-substantive changes and pursue as a legislative proposal.

Wong moved. Disposti seconded. The motion carried: 8 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony				X	
Deborah Brown				X	
Max Disposti	X				
Ross Erlich	X				
Susan Friedman	X				
Dr. Diana Herweck	X				
Christopher Jones	X				
Jonathan Maddox				X	
Kelly Ranasinghe	X				
John Sovec	X				
Wendy Strack				X	
Christina Wong	X				

XXII. Discussion and Possible Action Regarding License Portability for Licensed Educational Psychologists

Background on License Portability

The Board recently successfully implemented license portability legislation for its LMFT, LCSW, and LPCC applicants. SB 679 became effective on January 1, 2020 and established “licensure by credential” process for LMFT, LCSW, and LPCC applicants who are licensed in another state if they met specified criteria.

LEPs and License Portability

SB 679 did not establish a license portability, or “licensure by credential” option for LEPs, because only one other state issues an LEP license (Massachusetts).

Licensure as an LEP in Massachusetts requires a master’s or doctoral degree in school psychology, including 60 graduate credits and 1,200 practicum hours, current certification as a school psychologist, at least two full-time years post-master’s degree experience in school psychological services, at least 60 hours of post-master’s degree supervised clinical experience, and passage of the National School Psychology Examination.

Applicants for LEP licensure in California are required to complete the following:

1. A master's degree in psychology, educational psychology, school psychology, counseling and guidance, or a degree deemed equivalent by the board.
2. Completion of 60 semester hours of postgraduate work in pupil personnel services.
3. Two years of full-time, or the equivalent to full-time, experience as a credentialed school psychologist in the public schools.
4. One of the following:
 - a. One year of supervised professional experience in an accredited school psychology program.
 - b. One year of full-time, or the equivalent to fulltime, experience as a credentialed school psychologist in the public schools obtained under the direction of a licensed educational psychologist or a licensed psychologist.
5. Passage of an examination specified by the Board.

If the Board were to receive an application for LEP licensure from someone with a similar license in another state, it would compare the applicant's education and experience with the California LEP licensure requirements.

Because there is not a common standard for LEP licensure in many other states, it appears that the LEP license type does not lend itself to license portability as well as the Board's other three license types. In addition, accepting a national exam in lieu of the Board's written exam for LEPs could be problematic, because the Board's exam tests applicants on their knowledge specifically about California law and ethics.

Recent Related Legislation

A bill proposal last year, AB 3045 would have required DCA boards to issue a license to an honorably discharged military member or the spouse of an active duty military member if they met the specified requirements.

The Board took an "oppose unless amended" position on AB 3045, requesting that its license types be removed from the bill due to omissions of key licensing requirements necessary to public protection, and due to the fact that the Board had already carefully established a license portability pathway for its LMFT, LCSW, and LPCC license types.

Although AB 3045 died, staff believes that future legislative efforts for portability are a possibility.

Staff was directed to bring this item to the Policy and Advocacy Committee in February for further discussion.

XXIII. Update on Board-Sponsored, Board-Supported, and Board-Monitored Legislation

The following bills were signed by the Governor:

AB 3330: Department of Consumer Affairs: Boards: Licensees: Regulatory Fees

This bill increases the licensing, registration, and examination fees charged by the Board.

AB 465: Mental Health Workers: Supervision

This bill requires a licensed mental health professional to supervise any program where mental health professionals respond to emergency calls related to mental health crises in collaboration with, or in place of, law enforcement.

AB 1145: Child Abuse: Reportable Conduct

This is a two-year bill that would specify that voluntary acts of sodomy, oral copulation, and sexual penetration are not considered acts of sexual assault that must be reported by a mandated reporter as child abuse if there are no indicators of abuse, unless it is between a person age 21 or older and a minor under age 16.

AB 2112: Suicide Prevention

This bill authorizes the establishment of the Office of Suicide Prevention within the State Department of Public Health.

AB 2113: Refugees, Asylees, and Immigrants: Professional Licensing

This bill would require the Board to expedite the initial licensure process for certain refugee, asylee, and immigrant applicants.

SB 803: Mental Health Services: Peer Support Specialist Certification

This bill would require the Department of Health Care Services to establish statewide requirements for counties to use in developing certification programs for the certification of peer support specialists.

SB 1474 (Senate Committee on Business, Professions, and Economic Development): Business and Professions

This bill would extend the Board's sunset date for one year, until January 1, 2022. It also makes changes to other practice acts regulated by the state.

XXIV. Update on Board Rulemaking Proposals

Substantial Relationship & Rehabilitation Criteria (AB 2138 Regulations)

Status: Submitted to OAL for final approval

Enforcement Process

Status: On Hold

This regulation package remains on hold pending passage of the AB 2138 regulations.

Supervision-Related Requirements

Status: DCA Final Review Process

Continuing Education and Additional Training Requirements

Status: DCA Initial Review Process

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

Status: Preparation for Initial Review Process

XXV. Adjournment

The Board adjourned at 5:07 p.m.