



Board of Behavioral Sciences



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Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

POLICY AND ADVOCACY COMMITTEE MINUTES

A recorded webcast of this meeting is available at:

DATE July 21, 2023

TIME 12:00 p.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
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel
Kristy Schieldge, Legal Counsel

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

1. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Policy and Advocacy Committee (Committee) called the meeting to order at 12:00 p.m. Roll was called, and a quorum was established.

2. Introductions

Committee members introduced themselves.

3. Consent Calendar

- a. Discussion and Possible Approval of July 29, 2022 Committee Meeting Minutes**
- b. Discussion and Possible Approval of October 14, 2022 Committee Meeting Minutes**
- c. Discussion and Possible Approval of January 13, 2023 Committee Meeting Minutes**

Amendments were noted on July 29, 2022 minutes.

Motion: Approve the July 29, 2022 Committee meeting minutes as amended, and approve the October 14, 2022 and January 13, 2023 Committee meeting minutes.

M/S: Strack/Sovec

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

4. Discussion and Possible Recommendation Regarding Clarifying Supervision Requirements (Business and Professions Code (BPC) §§4980.43.2, 4980.43.4, 4996.23.1, 4996.23.3, 4999.46.2, 4999.46.4)

Definition of Direct Supervisor Contact (BPC §§4980.43.2(b), 4996.23.1(b), 4999.46.2(b))

The proposal before the Committee limits the number of “persons receiving supervision for providing clinical mental health services” instead of limiting the number of “supervisees.”

The proposal also clarifies who may attend a supervision session. It states that licensed clinical mental health professionals may sit in on supervision as observers without counting against the total allowable number of people being supervised. It also states that persons who do not provide clinical services are not permitted in a supervision session.

Public Comment

Rebecca Gonzales, National Association of Social Workers, California Chapter (NASW-CA): Expressed concern about allowing student interns within the allowable limit because that takes seats away from those who want to gain hours, and it contributes to a lower level of clinical oversight for MSW student interns. MSW student interns require a different oversight. Additionally, if MSW students can be counted in groups, it could dissuade agencies from taking MSW student interns as they may need more supervision than an MFT student.

Ben Caldwell: Referred to proposed language in Attachment A, subdivision (b)(2) “persons who provide non-clinical services”; recommended amending the language to state “persons who do not provide clinical services” because some supervisors also provide non-clinical services. The proposed language, as currently written, would exclude those supervisors.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT): CAMFT is not taking a position on the proposed language or the outcome, but instead is looking forward to a clear definition.

Laura DeSantis: Asked for the definition of an “observer” and asked if the language should define it. Concerned that the observer could participate or provide feedback, detracting from the eight-person group.

Committee/Staff Discussion

Sovec: Asked for the definition of an observer, what their role is in the group, whether the observer is non-participatory.

Disposti: Agrees with Sovec regarding the observer and their role. Group should consist of the supervisor and supervisees.

Discussion continued around the number of supervisees in a group, the supervisee experience in the group, and the observer. It was suggested to remove the language regarding the observer and allowing agencies to have control over the observer.

Motion: Remove BPC §4980.43.2(b)(2) from Attachment A and bring the proposal to the Board for further discussion.

M/S: Sovec/Disposti

Public Comment

Gonzales, NASW-CA: Would like to emphasize her comment that was made earlier in the conversation and would like to explore that further.

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

Limitation on Number of Supervisees per Supervisor (BPC §§4980.43.4((c), 4996.23.3(c), 4999.46.4(c))

The proposal before the Committee does the following:

- Clarifies that supervisors of supervisees in non-exempt settings are limited to a total of six supervisees.
- Clarifies that the supervisees include not only registered associates, but also anyone who is gaining supervised experience toward licensure with the Board in a non-exempt setting, including MFT trainees and 90-day rule applicants. It would not include PCC trainees, social work interns, supervisees working in exempt settings and other mental health professionals receiving supervision who are not pursuing licensure with the Board.

Alternative language was also provided if the Board wished to include all possible supervisee types in the six supervisee per supervisor limit.

Public Comment

Gonzales, NASW-CA: It is very confusing to have two different numbers. Suggested looking at the total number of clients for whom a clinical supervisor is providing clinical oversight. Issues concerning numbers: quality assurance from a consumer perspective, adequate access and oversight for the supervisor, and a workload issue for the supervisor. Suggested creating ranges.

Atkins, CAMFT: CAMFT supports following the original intent of the law and wants clarification of the law.

Motion: Bring this discussion to the Board for consideration.

M/S: Disposti/Strack

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

Additional Item for Discussion: Eight Supervisees per Group

Supervisors and supervisees sometimes are confused because the law limits a supervisor in a non-exempt setting to six individual or triadic supervisees. However, the law also allows group supervision to include up to eight supervisees. The Committee was asked if they wanted to consider changing the number of allowed supervisees.

Discussion

Sovec: Does not want to increase the number, but instead consider the actual number of hours for the supervisor's commitment.

Ortega: Would like to hear from the supervisors about the limit of 6 supervisees – whether it is too little, too much, or sufficient.

Public Comment

Gonzales, NASW-CA: Increasing the number to eight would overburden the supervisor and then it would be difficult finding people who are willing to become supervisors. On the other hand, limiting the number to six makes it harder for people gaining hours to find supervisors.

Caldwell: Agrees with Gonzales. Asked if there is any data on supervision-related complaints since changing the number from three to six, or an increase in supervision-related problems.

Sodergren responded that staff has not looked into that data.

No action was taken on this piece.

5. Discussion and Possible Recommendation Regarding Required Display of License or Registration (BPC §§4980.31, 4980.44, 4989.48, 4996.7, 4996.8, and 4999.70; California Code of Regulations Title 16 (16CCR), §§1811 and 1815.5)

At its previous meeting, the Committee directed staff to draft language updating the license or registration display language to provide other options for providing the client with the license or registration number, type, and expiration date each time services are provided, if physical display of the license or registration certificate is not possible due to services being provided via telehealth.

The proposed language was provided. Staff also recommended an additional amendment to delete BPC §4996.8, which placed an additional requirement on LCSWs that is not consistent with the other three practice acts.

Staff also suggests that this discussion be continued, because it ties in with a larger discussion regarding information that must be provided to a client when providing mental health services and information that must be provided to clients via advertising.

Public Comment

Caldwell: Likes the proposed language and the flexibility it offers.

Gonzales, NASW-CA: Concurred with Caldwell and approves the deletion of the BPC §4996.8.

Laura DeSantis: Has concerns and feels that this is cumbersome. If the intent is for the client to have knowledge of the licensee's number so they can file a complaint, then it should be addressed in informed consent laws where it should be required that every associate and licensee give their license numbers at the beginning.

Atkins, CAMFT: CAMFT is fine with the proposed language. Given the Board's mandate of consumer protection, CAMFT does not feel that this is overly cumbersome, especially given the verbal inclusion.

Committee/Staff Discussion

Kristy Schieldge: Suggested updating the term "written text" to "in writing" (BPC §§4980.31(c), 4989.48(c), 4996.7(f), and 4999.70(c)).

Sovec: Asked if there is a way to have more flexibility, such as on initial contact or during intake and on each renewal period, instead of presenting the information for each session.

Ortega: Appreciates the different methods to communicate this information, but the information should be stated more than just on an intake. Suggests requiring

the information on the intake and then periodically communicate the information to the client.

Public Comment

Gonzales, NASW-CA: Doesn't have a problem with the proposed language, but Sovec's comments are reasonable.

Caldwell: The language is fine; doesn't feel that the requirements are cumbersome in the telehealth environment. For consumer protection, providing that information on intake is beneficial. The information can be provided at each session or readily available at the beginning of each session.

Committee/Staff Discussion

The Committee and staff continued to discuss the intake piece.

Motion: Direct staff to look into amending the required notice to clients in lieu of the proposed language in Attachment A and bring it back to the Committee for further review.

M/S: Dispost/Strack

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

6. Discussion and Possible Recommendation Regarding Changes to Licensed Educational Psychologist Regulations: Experience Equivalent to Three (3) Years Full-Time Experience as Credentialed School Psychologist (16CCR §1856)

This item was tabled.

7. Discussion and Possible Recommendation Regarding Changes to Enforcement Regulations: Unprofessional Conduct, Amount of Fines (16CCR §§1845, 1858, 1881, 1886.30 and 1886.40)

Proposed revisions were brought to the Committee at the January 2023 meeting as part of an agenda item that also proposed to amend the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines". This is now a

separate proposal, and there have been some changes to the language since the January 2023 meeting.

Proposed Changes

- Amendments to 16 CCR §§ 1845 (LMFT), 1858 (LEP), and 1881 (LCSW) (Unprofessional Conduct)
- Amendments to 16 CCR §§ 1886.30 and 1886.40 and (Citation Factors; Amount of Fines: Confidentiality of Medical Information Act)

Motion: Recommend to the Board to approve the text and direct staff to make any non-substantive change to the proposed language and provide the language to the Board for consideration as a regulation proposal at the next Board meeting.

M/S: Disposti/Sovec

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

8. Discussion and Possible Recommendation Regarding Changes to Enforcement Regulations: Unprofessional Conduct, Amount of Fines, Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Title 16, CCR Sections 1823, 1845, 1858, 1881, 1886.40 and 1888 and Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Rev. December 2020))

The proposed revisions to the “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines” were presented to the Committee. Listed are the items that have changed significantly since the January 2023 meeting.

Proposed Changes

I. UNIFORM STANDARDS

1. Amendments to CCR §1888 and Uniform Standards: Violations Involving Abuse of Drugs or Alcohol; Quarterly Report Form

2. Introduction to Uniform Standards / Disciplinary Guidelines Document and Introduction to Penalty Guidelines
3. Uniform Standards

II. PENALTY GUIDELINES

1. All Terms and Conditions

Optional Terms and Conditions of Probation

2. Psychological/Psychiatric Evaluation
3. Psychotherapy
4. Clinical Diagnostic Evaluation
5. Supervised Practice

Public Comment/Discussion

Caldwell: The prohibition of an evaluator, a supervisor, a therapist from having been subject of a disciplinary action against their license – this runs counter to the efforts to rehabilitate those who go through a disciplinary process, fulfill all the requirements of that process, and then come into good standing. This suggests that the individual never fully regains the ability to do the things that they could have done previously.

Schildge: For public protection, we want to look for people that do not have a record of violating the law. The goal is to “protect the public and enforce the laws written. What discipline shows is that there has been a failure to understand that. We want to make sure that people who are going to be monitoring those for the protection of the public essentially for the Board in a probationary environment are understanding of that. The best way to ensure that is to make sure they don’t have a record of discipline.”

Caldwell: For somebody who may have had a minor disciplinary issue 20 years ago, for example, the language is saying that the Board will never fully trust that person to be the eyes and ears on its behalf. This goes against the intention of the probation process.

Schildge: The purpose of regulation is to have bright line rules that are easy to implement and enforced for the protection of the public. All the boards in the department use this standard to eliminate people from consideration – the boards do not want to take the risk and place the burden on staff of evaluating every person’s violation. It’s a safer option to have those without a record of discipline to evaluate someone’s safety and competency and ethics regarding rehabilitation.

Gonzales, NASW-CA: Agrees with Caldwell, and with AB 2138 we have 70 years as a standard of time and would be in favor of that solution.

Schildge: AB 2138 applies to applicants, not licensees, to start the process of becoming licensed.

Sovec: Feels strongly about the no disciplinary requirement as well but would like the full Board input.

6. Education Pertaining to the Violation
7. Attend Recovery Support Program
8. Rehabilitation Program
9. Abstain from I Drugs and Alcohol / Submit to Drug and Alcohol Testing

Discussion

Sovec: For Recovery Support Program, some of the required information may be unattainable. It is impossible to provide contact information or phone numbers for the program. A screenshot of the meeting directory could be attainable.

After a lengthy discussion, staff suggested changing the requirement for contact information to “contact information, if available.”

Public Comment/Discussion

Caldwell: Penalty Guidelines number 9, replacing the phrase “controlled substances” with “drugs or alcohol” will have unintended consequences. Currently, the language would prohibit someone who is on probation for a substance related violation from using over-the-counter medication or other products that contain caffeine, for example. Suggested using the term “controlled substances” or other language prohibiting abuse and not possession or consumption.

Schildge: DCA is bound by the Uniform Standards, and the Board cannot deviate from those standards per the Attorney General’s Office.

Standard Terms and Conditions of Probation

10. Obey all Laws
11. File Quarterly Reports
12. Failure to Practice/Tolling
13. Notification to Employer
14. License Surrender
15. Cost Recovery

IV. BOARD POLICIES AND GUIDELINES

16. Stipulated Settlements
17. Recommended Language for License Surrenders

- 18. Recommended Language for Revocation of License
- 19. Reinstatement / Reduction of Penalty Hearings

Motion: Remove the requirement of contact information from the Recovery Support Program term.

M/S: Sovec/Disposti

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

Motion: Approve the text with the amendments discussed, authorize staff to make non-substantive changes to the proposed language, and bring the proposal to the Board for consideration as a regulation proposal at its next meeting.

M/S: Disposti/Strack

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

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

The Board is pursuing of the following legislative proposals this year:

AB 232 Temporary Practice Allowances: This bill is in the Senate Appropriations Committee.

SB 887 Consumer Affairs (Omnibus Bill Proposal): This bill is in the Assembly Business and Professions Committee.

Board-Supported Legislation:

SB 11 California State University: Mental Health Counseling: This bill is in the Assembly Health Committee.

SB 372 Department of Consumer Affairs: Licensee and Registrant Records: Name and Gender Changes: This bill is in the Assembly Appropriations Committee.

SB 373 Board of Behavioral Sciences, Board of Psychology, and Medical Board of California: Licensees' and Registrants' Addresses: This bill is in the Assembly Appropriations Committee.

Board-Monitored Legislation

SB 766 Social Workers: This is a 2-year bill.

10. Update on Board Rulemaking Proposals

Nothing to report.

11. Suggestions for Future Agenda Items

Caldwell: 1) Required supervision for those who are graduated from their programs (they are no longer trainees), but not yet associates or applicants. How much supervision do they need? Are supervisors obligated to continue providing the same level of supervision that they were providing to a trainee? 2) What form(s) of signatures is the Board accepting? It would be helpful for the Board to provide clarity and to formally make the policy official.

12. Public Comment for Items not on the Agenda

None

13. Adjournment

The Committee adjourned at 3:22 p.m.