



DRAFT

**BOARD MEETING MINUTES
November 19-20, 2015**

The Mission Inn
3649 Mission Inn Avenue
The Galleria Room
Riverside, CA 92501

Thursday, November 19th

Members Present

Christina Wong, Chair, LCSW Member
Deborah Brown, Vice Chair, Public Member
Dr. Scott Bowling, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Betty Connolly, LEP Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Dr. Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

Members Absent

Samara Ashley, Public Member

Guests

See sign-in sheet

FULL BOARD OPEN SESSION

Christina Wong, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was established.

Administrative Law Judge Debra D. Nye-Perkins presided over the hearings.

The petitions were not heard in the order listed on the agenda.

1 **I. Petition for Modification of Probation for Karina Scott, IMF 83413**

2 This item was taken out-of-order was presented as the third petition.

3
4 Judge Nye-Perkins opened the hearing at 10:46 a.m. Deputy Attorney General Lauro
5 Paredes presented the facts of the case on behalf of the Board of Behavioral
6 Sciences. Karina Scott was not represented by an attorney.

7
8 Mr. Paredes presented the background of Ms. Scott's probation. Ms. Scott was sworn
9 in. Ms. Scott presented her request to modify probation. Mr. Paredes and Board
10 Members posed questions to Ms. Scott; and closing statements were heard.

11
12 Judge Nye-Perkins closed the hearing at 12:01 p.m. The Board took a lunch break at
13 12:01 p.m. and reconvened at 1:19 p.m.

14
15 **II. Petition for Reinstatement of Registration for Rosalind Bibbens, ASW 16942**

16 This item was taken out-of-order was presented as the first petition.

17
18 Judge Nye-Perkins opened the hearing at 8:45 a.m. Deputy Attorney General Lauro
19 Paredes presented the facts of the case on behalf of the Board of Behavioral
20 Sciences. Rosalind Bibbens was not represented by an attorney.

21
22 Mr. Paredes presented the background of Ms. Bibbens' revocation. Ms. Bibbens was
23 sworn in. She presented her request for reinstatement of registration and information
24 to support the request. Mr. Paredes and Board Members posed questions to Ms.
25 Bibbens; and closing statements were heard.

26
27 Judge Nye-Perkins closed the hearing at 9:43 a.m. The Board took a break at 9:43
28 a.m. and reconvened at 9:54 a.m.

29
30 **III. Petition for Reinstatement of License for Eileen Kelly, LMFT 30191**

31 This item was taken out-of-order was presented as the second petition.

32
33 Judge Nye-Perkins opened the hearing at 9:54 a.m. Deputy Attorney General
34 Paredes presented the facts of the case on behalf of the Board of Behavioral
35 Sciences. Eileen Kelly was not represented by an attorney.

36
37 Mr. Paredes presented the background of Ms. Kelly's revocation. Ms. Kelly was
38 sworn in. She presented her request for reinstatement of license and information to
39 support the request. Mr. Paredes and Board Members posed questions to Ms. Kelly;
40 and closing statements were heard.

41
42 Judge Nye-Perkins closed the hearing at 10:35 a.m. The Board took a break at 10:35
43 a.m. and reconvened at 10:46 a.m.

44

1 **IV. Public Comment for Items not on the Agenda**

2 There were no public comments.

3

4 **V. Suggestions for Future Agenda Items**

5 There were no suggestions.

6

7 The Board moved into closed session at 1:19 p.m.

8

9

10 **FULL BOARD CLOSED SESSION**

10

11

12 **VI. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in**
13 **Closed Session for Discussion and to Take Action on Disciplinary Matters**

14

15 **VII. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in**
16 **Closed Session to Discuss the Method to Evaluate the Performance of the**
17 **Board's Executive Officer.**

18

19

20

20 **FULL BOARD OPEN SESSION**

21

22 **VIII. Adjournment**

23 The Board adjourned at 4:00 p.m.

24

1 Friday, November 20th

2
3
4 **Members Present**

5 Christina Wong, Chair, LCSW Member
6 Deborah Brown, Vice Chair, Public Member
7 Samara Ashley, Public Member
8 Dr. Scott Bowling, Public Member
9 Dr. Leah Brew, LPCC Member
10 Dr. Peter Chiu, Public Member
11 Betty Connolly, LEP Member
12 Patricia Lock-Dawson, Public Member
13 Renee Lonner, LCSW Member
14 Karen Pines, LMFT Member
15 Dr. Christine Wietlisbach, Public Member

4 **Staff Present**

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Rosanne Helms, Legislative Analyst
Christy Berger, Regulatory Analyst
Dianne Dobbs, Legal Counsel
Christina Kitamura, Administrative Analyst

16
17 **Members Absent**

18 none

17 **Guests**

18 *See sign-in sheet*

19
20
21 **FULL BOARD OPEN SESSION**

22
23
24 Christina Wong called the meeting to order at 8:43 a.m. Christina Kitamura called roll.
25 A quorum was established.

26
27 **IX. Introductions**

28 Board Members, Board staff and attendees introduced themselves.

29
30 Ms. Wong announced that item XVII.c. was removed from the agenda and will not be
31 discussed.

32
33 **X. Approval of the August 27-28, 2015 Board Meeting Minutes**

34 Ms. Kitamura noted spelling errors and made corrections accordingly.

35
36 ***Dr. Peter Chiu moved to accept the August 27-28, 2015 Board Meeting minutes.***
37 ***Dr. Christine Wietlisbach seconded. The Board voted unanimously to pass the***
38 ***motion.***

39
40 Board vote:

41 Betty Connolly - aye
42 Patricia Lock-Dawson - aye
43 Dr. Christine Wietlisbach - aye
44 Renee Lonner - aye
45 Deborah Brown - aye
46 Christina Wong - aye

- 1 Dr. Leah Brew - aye
- 2 Samara Ashley - aye
- 3 Sarita Kohli - aye
- 4 Dr. Peter Chiu - aye
- 5 Dr. Scott Bowling – aye
- 6 Karen Pines - aye
- 7

8 **XI. Chair Report**

- 9 • Ms. Wong and BBS staff attended the NASW conference in October.
- 10 • Ms. Wong and Kim Madsen attended training related to the Supreme Court
- 11 decision in the case of North Carolina State Board of Dental Examiners vs. the
- 12 Federal Trade Commission.
- 13 • The Executive Officer evaluation has been submitted to the Department of
- 14 Consumer Affairs (DCA).
- 15

16 Ms. Wong acknowledged the Board of Behavioral Sciences' (Board) 70th Anniversary.

17

18 The Board Members acknowledged staff who served 5 years, 10 years, and 15 years

19 at the Board.

20

21 **XII. Executive Officer's Report**

22 **a. Budget Report**

23

24 2015/2016 Budget:

25 The Board's budget for 2015/2016 is \$9,039,000. As of August 31, 2015, the

26 Board has spent \$2,285,909, reflecting 25% of the total budget. As of September

27 2015, the Board had collected over \$2.4 million in total revenue.

28

29 Board Fund Condition

30 The Board's Fund Condition report reflects a \$2.4 million loan repayment from the

31 2002 loan to the General Fund. This will provide the Board with 6.1 months in

32 reserve for 2015/2016. Projections for the 2016/2017 budget indicate a scheduled

33 repayment of \$6.3 million dollars, which will provide 11.7 months in reserve. By

34 law, the Board may only have 24 months in reserve.

35

36 General Fund Loans

37 Since 2002/2003 the Board has made a total of three loans to the General Fund

38 for a total of \$12.4 million dollars. The Board has received loan repayments

39 totaling \$2.4 million.

40

41 The Board is scheduled to receive \$2.4 million in 2015/2016, and \$6.3 million in

42 2016/2017, for a total repayment of \$11.1 million. The remaining \$1.2 million

43 dollars will be determined at a later date.

44

1 2014/2015 Budget Update

2 After meeting with the Department of Consumer Affairs (DCA) budget office and
3 reviewing the final budget figures, the Board reverted about \$538,000. A review of
4 the Board's budget revealed some line items have appropriations that the Board
5 does not expend; for example, Out-of-State Travel, and C&P Services External.
6 The appropriations in these line items are based on previous budget expenditures.
7 However, the Board has not had an external contract or has been permitted to
8 travel out-of-state for several years. So these appropriations contribute to the
9 Board's reversion figures.

10
11 After January 1, 2016, Board staff will meet with the DCA budget office to review a
12 five-year expenditure history to realign the budget appropriations to the Board's
13 expenditures.

14
15 **b. Operations Report**

16
17 Licensing Program

18 There was a considerable increase in Marriage and Family Therapist (MFT) Intern
19 and Licensed Professional Clinical Counselor (LPCC) Intern applications. There
20 was a slight decrease in all other applications except MFT Examinations. The
21 increase in intern registrant volumes is primarily due to graduation.

22
23 A total of 917 initial licenses were issued in the first quarter. The total population of
24 licensees and registrants is nearly 104,000.

25
26 Examination Program

27 A total of 3,113 examinations were administered in the first quarter. Twelve (12)
28 examination development workshops were conducted in the first quarter. The first
29 quarter pass rates for fiscal year 15/16 will be posted soon on the Board's website.

30
31 Administration Program

32 The Board received 7,343 applications in the first quarter. DCA central cashiering
33 unit received and processed 9,236 renewal applications. The Board's cashiering
34 unit processed 1,157 renewal applications. Online renewals increased with 3,950
35 individuals renewing their licenses or registrations online. Nearly 27% of the total
36 renewals were renewed online.

37
38 Enforcement Program

39 The Enforcement staff received 310 consumer complaints and 304 criminal
40 convictions in the first quarter. A total of 497 cases were closed this quarter, and
41 44 cases were referred to the Attorney General's office for formal discipline.
42 Twenty-five (25) Accusations and 9 Statement of Issues were filed this quarter.
43 The current average for Formal Discipline is 738 days. The performance goal is
44 540 days.

1 Outreach Events

2 Board staff participated at the following events:

- 3 • MFT Consortium Meeting, July 15, 2015, Teleconference
- 4 • MFT Consortium Meeting, August 15, 2015, Teleconference
- 5 • National Association of Social Workers (NASW) Annual Conference, October 9,
- 6 2015, South San Francisco Center
- 7 • AAMFT Educator Forum, October 9, 2015, Pepperdine University-Irvine
- 8 • AAMFT Educator Forum, October 23, 2015, JFK University-Berkeley
- 9 • ASWB Annual Meeting of the Delegate Assembly, November 5-7, 2015, Ft.
- 10 Lauderdale, Florida
- 11 • California Association of Marriage and Family Therapists (CAMFT) Fall
- 12 Symposium, November 14-15, 2015 Orange County

13
14 **c. Personnel Update**

15
16 New Hires

17 Carl Peralta accepted a Management Services Technician (MST) position in

18 Licensing.

19
20 The Board made a conditional offer of employment to Kimberly Covington to fill the

21 Seasonal Clerk position.

22
23 Departures

24 Heather Ito (seasonal clerk), Alicia Day (cashier), and Marilyn Schilling

25 (receptionist).

26
27 Vacancies

28 One Office Technician (OT) in Licensing, one MST in Licensing, two OT's in

29 Cashiering, and one OT in Administration,

30
31 **d. Year End Summary**

32
33 The Board celebrates its 70th year providing regulatory oversight. The Board has

34 56 staff members and 12 Board Members.

35
36 Licensing and Registrant Statistics

37 The total number of licensees and registrants at the end of 2014/2015 was

38 101,455. Application volumes increased by 8% since 2013/2014.

39
40 License Program

41 As a result of the additional staff hired in 2014/2015 for the Licensing Program, an

42 increased number of examination applications were approved. Further, the

43 additional staff has allowed the Board to return to reasonable processing times.

44

1 Administration Program

2 The administration program includes the cashiering unit and office support staff.
3 Over 49,000 renewal applications were received and processed by board staff and
4 DCA's Central Cashiering Unit. Approximately 70% of the renewal applications
5 were processed by DCA's Central Cashiering Unit, and 17% was processed by the
6 Board's cashiering unit. Application volumes increased by 32%.

7
8 Examination Program

9 Two versions of each examination were developed. The Board worked with the
10 Office of Professional Examination Resources (OPES) and approximately 300
11 subject matter experts. The Board conducted 41 examination development
12 workshops.

13
14 In 2014/2015 the Board, with the assistance of OPES, conducted a Licensed
15 Educational Psychologist (LEP) Occupational Analysis. The Occupational
16 Analysis, which is conducted every five to seven years, surveys California
17 practitioners about their work and work setting. The results of the Occupational
18 Analysis serve as the foundation for the licensure examination.

19
20 Examination activity increased in FY 2014/2015 by 43%.

21
22 Enforcement Program

23 The Board's enforcement staff receives and investigates all complaints of alleged
24 licensee or registrant misconduct, criminal arrests and convictions. Investigations
25 that confirm a violation of the Board's statutes and regulations are subject to
26 disciplinary action. Disciplinary action ranges from the issuance of a citation and
27 fine to revocation of the license or registration. All proposed decisions and
28 stipulations require the Board Members' approval before the decision becomes
29 effective.

30
31 In 2014/2015 the receipt of Subsequent Arrest Notifications increased by 53%
32 since 2013/20104. Accusation and Statement of Issues filings increased by 37%
33 and 71% respectively.

34
35 Probation Monitoring Program

36 In 2014/2015, 43 new probationers were added to the Board's probation program.
37 Twenty (20) probationers successfully completed their probation. As of the end of
38 June 2015, the Board has a total of 149 probationers.

39
40 The Board filed 3 accusations to revoke probation for issues of non-compliance.

41
42 Probationers that demonstrate sustained compliance with their probation terms
43 and conditions may petition the Board to modify their current terms or to end their
44 probation early. Sixteen (16) probationers requested modification or termination of
45 their probation. The Board granted ten probationers their request and denied six.

1 Legislative Activity

2 The Board sponsored two bills, submitted language for technical amendments for
3 the annual omnibus bill, identified ten bills impacting board licensees, and
4 introduced or implemented three regulation packages.

5
6 Outreach Efforts

7 The Board increased its outreach activity by attending several professional
8 association events and meetings. Board staff either participated in these events
9 via telephone or in person. Board staff attended a total of 12 professional
10 association events and 15 meetings.

11
12 2014/2015 Accomplishments

- 13 • Resumed publication of the Board newsletter.
- 14 • Request for examination staff was approved and included in the Governor's
15 2015/2016 budget.
- 16 • Introduced legislation to eliminate the various categories for supervised
17 work experience and create two categories – clinical and non-clinical
18 experience.
- 19 • Developed 3 examination restructure video tutorials to provide information
20 to examination candidates. These tutorials were posted to the Board's
21 website in October 2015.
- 22 • Licensees and registrants may renew their license/registration and update
23 their address of record online through BreEZe.
- 24 • Collaborated with the DCA BreEZe team to design the changes to BreEZe
25 necessary to fully implement the examination restructure.
- 26 • Twenty-six Strategic Plan objectives out of thirty have been completed.
- 27 • Conducted training for Enforcement Subject Matter Experts in July 2015.
- 28 • All staff attended customer service training.

29
30 **e. Sunset Report Update**

31
32 The Board's Sunset Report is complete and is currently with DCA's Print Services
33 for publication. The report will be submitted to the Senate Committee on Business,
34 Professions, and Economic Development and the Assembly Committee on
35 Business and Professions no later than December 1, 2015. The report will be
36 available on the Board's website after December 1, 2015.

37
38 **XIII. Strategic Plan Update**

39 Steve Sodergren provided an update on the Strategic Plan, stating that 26 out of 30
40 goals have either been accomplished or currently are in process. There are 4 goals
41 that have not been initiated:

- 42 • Licensing
 - 43 ○ 1.5: Investigate the use of technology for record keeping and therapeutic
44 services and its effects on patient safety and confidentiality and establish best
45 practices for licensees.

- 1 • Examinations
- 2 ○ 2.3: Create a process for evaluating the performance of Subject Matter Experts
- 3 assisting with exam development.
- 4 • Legislation and Regulation
- 5 ○ 4.5: Review regulatory parameters for exempt settings and modify, if
- 6 necessary, to ensure adequate public protection.
- 7 • Organizational Effectiveness
- 8 ○ 5.4: Implement an internal training and education program for all Board staff to
- 9 enhance skills and abilities for professional development.

10

11 **XIV. Supervision Committee Update**

12 The Supervision Committee (Committee) held its meeting in October 2015. Ms.

13 Madsen presented ideas discussed at the Committee meetings.

14

15 Informal Decisions - Supervisor Qualifications

- 16 • Initial Supervisor Training
- 17 ○ Increase the length to 15 hours for LMFT and LPCC for consistency with
- 18 current LCSW requirements.
- 19 ○ Limit the age of the training course
- 20 ▪ CE course – taken within the 2 years prior to commencing supervision. If
- 21 between 2 and 5 years old, take a 6-hour course.
- 22 ▪ Graduate level course – taken within the 4 years prior to commencing
- 23 supervision. If older, take a 6-hour course.
- 24 • Ongoing Supervisor Training
- 25 ○ 6 hours every 2 years for LCSW for consistency with current LMFT and LPCC
- 26 requirements.
- 27 ○ The 6 hours can be gained through “Continuing Professional Development
- 28 (CPD)” which will require specific documentation and may include:
- 29 ▪ Completing coursework directly pertaining to supervision
- 30 ▪ Teaching a qualifying supervision course
- 31 ▪ Authoring research pertaining to supervision that has been published
- 32 professionally (in a peer reviewed journal or in a published textbook)
- 33 ▪ Receiving mentoring of supervision
- 34 ▪ Attending professional supervisor peer groups
- 35 • Accept a supervisor certification from a professional association in lieu of certain
- 36 BBS requirements.
- 37 • Involve BBS at the initiation of supervision rather than retrospectively and institute
- 38 the following:
- 39 ○ Require supervisors to self-certify to the Board that they meet all qualifications
- 40 within a specified time frame.
- 41 ○ Require supervisors to provide supervisees with the following:

- 1 ▪ A signed disclosure that includes information about how to submit a
- 2 complaint about a supervisor
- 3 ▪ Proof of completion of the supervision training course
- 4 ○ Require the Board to perform random audits of supervisor qualifications.
- 5 ○ Publish a list of BBS-registered supervisors.
- 6 • Time licensed in another state should be able to count towards 2 years of licensure
- 7 required for all supervisor/license types.
- 8 • The requirement that a supervisor practice psychotherapy (or supervise individuals
- 9 who practice psychotherapy) for 2 out of the past 5 years should not be changed.
- 10 However, language requiring competency in the areas of clinical practice and
- 11 techniques being supervised should be added.

12
13 Other Informal Decisions

- 14 • Allow Triadic supervision in place of Individual supervision.
- 15 • Offsite supervision laws should be consistent across license types.
- 16 • Offsite supervision laws should encompass offsite supervisors who are employed
- 17 or contracted by the employer (as opposed to only addressing volunteers).

18
19 Remaining Areas to Address

20 The remaining areas that the committee needs to address are as follows:

- 21 • Supervision Requirements including supervision definitions, amount and type of
- 22 weekly supervisor contact, supervision formats, videoconferencing, etc.
- 23 • Supervisor Responsibilities including the Supervisor Responsibility Statement
- 24 • Employment/Employers including registrant/trainee employment, supervisor
- 25 employment, offsite supervision, temp agency employers, etc.
- 26 • Other issues, such as the 6-year limit on age of experience hours, 6-year limit on
- 27 working in a private practice, paying for supervision, death of a supervisor,
- 28 supervisor unprofessional conduct and supervisors who are on probation.

29
30 The next Committee meeting is scheduled on February 5, 2016 in Southern California.

31
32 **XV. Examination Restructure Update**

33 Mr. Sodergren presented the Examination Restructure update.

34
35 Outreach

36 The Board has posted three instructional videos on its Examination News webpage:

- 37 1. A Registrant Guide to the BBS Examination: 1500 views
- 38 2. A Non-Registrant Guide to the BBS Examination Restructure: 331 views
- 39 3. Passing Score Requirements for Subsequent Registrants: 663 views

40

1 Staff continues to develop new instructional materials that will be either mailed to
2 individual applicants or posted to the Board's website.

3
4 Forms Creation

5 Staff is reviewing the current forms and amending them in order to increase clarity in
6 the application process. Staff will be seeking legal review of forms in November and
7 December.

8
9 BreEZe System Changes

10 The changes that are required to the Breeze system will not be implemented until after
11 January 1, 2016. In order to ensure a smooth transition, staff is working on
12 implementing, as well as training on, temporary business processes that will allow the
13 continued entry and processing of examination applications in the Breeze system.
14 Many of the processes that are currently automated will be manual for a short period
15 until the changes to the system are implemented.

16
17 Transition Activities

18 In the month of December there will be a testing blackout period for LMFT and LCSW
19 exam applicants. During this period LMFTs and LCSWs will be unable to schedule or
20 test.

21
22 *The Board took a break at 10:14 a.m. and reconvened at 10:35 a.m.*

23
24 **XVI. Discussion and Possible Action Regarding Additional Examination Time for**
25 **English as a Second Language Applicants**

26 The Board does not currently offer any type of special accommodations for exam
27 candidates who speak English as a Second language (ESL). From 2000 until July
28 2011, the Board granted extra time to candidates who requested an ESL
29 accommodation. However, because ESL is not identified as a disability under the
30 Americans with Disabilities Act (ADA), this accommodation was eliminated.

31
32 Board staff proposed regulatory language that does both of the following, per the
33 Board's request:

- 34
- 35 • Specifies criteria to be used when considering whether to grant additional
 - 36 examination time for ESL applicants; and
 - 37 • Allows the Board discretion in making a decision.
- 38 The language proposes three scenarios under which the Board may consider granting
39 an applicant time-and-a-half on an examination:

- 40
- 41 1. TOEFL-iBT Score. The applicant must provide a score of 85 or below on the Test
42 of English as a Foreign Language - Internet Based Test (TOEFL-iBT). The score
43 must have been obtained within the two years prior to application.
 - 44 2. Documentation from the Qualifying Master's Degree Program that it had Granted
45 Additional Examination Time or Other Allowance due to English as a Second

1 Language. If the qualifying Master’s degree program had granted the applicant
2 additional examination time or another allowance, then the Board may grant the
3 additional examination time. Documentation of the allowance from the school must
4 be satisfactory to the Board.

- 5
6 3. Documentation of a Foreign Qualifying Master’s Degree that was Presented
7 Primarily in a Language Other than English. If the qualifying Master’s degree
8 program was from an educational institution outside the U.S., and if coursework
9 was presented primarily in a language other than English, then the Board may
10 grant the additional examination time. Documentation provided must be
11 satisfactory to the Board.
12

13 At its August 2015 meeting, the Board directed staff to make amendments replacing
14 the term “accommodation.”

15
16 Dr. Peter Chiu expressed that he supports the proposal; however, it is not the best
17 proposal. Dr. Chiu stated that this is equating language deficiencies with slow
18 reading, and there are many native speakers who are slow readers. He expressed
19 that all candidates who request the accommodation, should be granted extra time to
20 take the test whether the candidate is a native speaker or not.
21

22 Dr. Leah Brew responded that the candidates seem to have more than adequate
23 amount of time, and the issue is not that the candidates are running out of time.
24

25 Ms. Madsen responded that slow reading could possibly be accommodated through
26 the ADA.
27

28 Dr. Christine Wietlisbach expressed that the proposal is not ideal, but she agrees with
29 Dr. Chiu’s opinion.
30

31 ***Dr. Leah Brew moved to direct staff to make any discussed changes, and any***
32 ***non-substantive changes, and to pursue as a regulatory proposal. Dr. Peter***
33 ***Chiu seconded.***
34

35 Board vote:

36 Betty Connolly - aye
37 Patricia Lock-Dawson - aye
38 Dr. Christine Wietlisbach - aye
39 Renee Lonner - aye
40 Deborah Brown - aye
41 Christina Wong - aye
42 Dr. Leah Brew - aye
43 Samara Ashley - aye
44 Sarita Kohli - aye
45 Dr. Peter Chiu - aye
46 Dr. Scott Bowling – aye

1 Karen Pines - aye

2
3 **XVII. Policy and Advocacy Committee Report**

4 **a. Discussion and Possible Action Regarding Defining Out-of-State Education**
5 **for LMFT and LPCC Applicants**

6
7 For LMFT and LPCC applicants, the Business and Professions Code (BPC) states
8 that the Board shall accept education gained while residing outside of California if it
9 is substantially equivalent. This means that out-of-state education requirements
10 are triggered based on the residence of the applicant while obtaining his or her
11 degree.

12
13 Problem: In-State Applicants Cannot Remediate Coursework

14 There is an increase in the number of applicants who reside in California,
15 completing online degree programs from schools that are not based in California.
16 If an applicant who resides in California attends an out-of-state school which has
17 not designed its program to lead to California licensure, he or she is treated as an
18 in-state applicant and is not allowed to remediate missing coursework, because the
19 education was gained while residing in California.

20
21 This issue affects the LMFT and LPCC license types.

22
23 At its August 2015 meeting, the Policy and Advocacy Committee (Committee)
24 directed staff to amend the language pertaining to education gained while residing
25 outside of California to education gained from an out-of-state school.

26
27 At its October 2015 meeting, the Committee recommended that the board sponsor
28 legislation to make the proposed change.

29
30 ***Dr. Leah Brew moved to direct staff to make any discussed changes, and any***
31 ***non-substantive changes, and submit to the Legislature as a bill proposal.***
32 ***Renee Lonner seconded. The Board voted unanimously to pass the motion.***

33
34 Board vote:

35 Betty Connolly - aye
36 Patricia Lock-Dawson - aye
37 Dr. Christine Wietlisbach - aye
38 Renee Lonner - aye
39 Deborah Brown - aye
40 Christina Wong - aye
41 Dr. Leah Brew – aye
42 Samara Ashley - aye
43 Sarita Kohli - aye
44 Dr. Peter Chiu - aye
45 Dr. Scott Bowling – aye
46 Karen Pines - aye

1 **b. Discussion and Possible Action Regarding Licensed Professional Clinical**
2 **Counselor Degree Content**
3

4 To qualify for an LPCC license, the BPC requires the applicant’s degree program
5 must meet the following criteria:

- 6 • Be counseling or psychotherapy in content;
- 7 • Contain supervised practicum; and
- 8 • Contain coursework in the core content areas.

9
10 The Board is receiving LPCC applications from applicants who have degrees that
11 may not be intended to lead to licensure as a clinical counselor. Typically, these
12 degrees are from out-of-state.

13
14 The law only requires the degree to be “counseling or psychotherapy in content.”
15 It is possible for a degree to have some counseling or psychotherapy content but
16 not be intended to prepare the student for licensure as a professional clinical
17 counselor.

18
19 At its August 2015 meeting, the Committee directed staff to look into tightening the
20 practicum requirement to ensure it requires clinical experience. The Committee
21 also asked staff to draft language defining degree titles that are and are not
22 acceptable, using the Texas Administrative Code section as a model.

23
24 However, at its October 2015 meeting, the Committee concluded that a degree
25 should be evaluated based on its content, not its title. It also concluded that
26 degree requirements need updating to ensure that degrees have a foundation
27 centered on the practice of clinical counseling.

28
29 The Committee recommended that two core content areas be designated as not
30 eligible for remediation, for both in-state and out-of-state degrees: assessment
31 and diagnostic process. Any other core content areas remain eligible for
32 remediation as allowed by current law.

33
34 The Committee proposes the following amendments:

- 35 • Prohibits remediation of two core content areas. These are the core content
36 areas that cover the topics of assessment and diagnosis. Remediation of these
37 areas is prohibited for both in-state and out-of-state applicants.
- 38 • Tightens in-state practicum requirements to ensure clinical experience.
39 Amended to specify that direct client contact is required, and to no longer allow
40 any equivalencies to in-state supervised practicum/field study experience.
- 41 • Amends practicum requirements for out-of-state applicants. Amended to
42 specify that the 280 hours of face-to-face experience must now be “supervised
43 clinical experience counseling individuals, families, or groups” instead of just
44 experience doing “face-to-face counseling.”

1 ***Samara Ashley moved to direct staff to make any discussed changes, as well***
2 ***as any non-substantive changes to the proposed language, and submit to***
3 ***the Legislature for consideration as a bill proposal. Karen Pines seconded.***
4 ***The Board voted unanimously to pass the motion.***

5
6 Board vote:

7 Betty Connolly - aye
8 Patricia Lock-Dawson - aye
9 Dr. Christine Wietlisbach - aye
10 Renee Lonner - aye
11 Deborah Brown - aye
12 Christina Wong - aye
13 Dr. Leah Brew – aye
14 Samara Ashley - aye
15 Sarita Kohli - aye
16 Dr. Peter Chiu - aye
17 Dr. Scott Bowling – aye
18 Karen Pines - aye
19

20 **c. Discussion and Possible Action Regarding Possession of a Controlled**
21 **Substance as a Basis for Discipline**

22
23 This item was removed.
24

25 **d. Discussion and Possible Action to Change Marriage and Family Therapist**
26 **Intern Title to Associate Marriage and Family Therapist**

27 At the August 2015 Board meeting, Dr. Ben Caldwell of the American Association
28 for Marriage and Family Therapy – California Division (AAMFT-CA) presented a
29 proposal to change the “Marriage and Family Therapist Intern” title to “Associate
30 Marriage and Family Therapist.”
31

32 Dr. Caldwell presented the following arguments as reasons the title “associate”
33 may be more appropriate than “intern” for registrants:

- 34
- 35 • The intern title is more socially understood as referring to someone who is still
in school.
 - 36 • Because of the socially accepted connotations, some employers are more likely
37 to exploit MFT interns by offering them little or no pay for their work.
 - 38 • Consumers often discount the credibility of MFT interns based on their title.
 - 39 • Some other states and professions are moving away from the use of the intern
40 title for post-graduates.
- 41

42 The Board directed staff to bring this issue to the Policy and Advocacy Committee
43 for further discussion.
44

1 Titles in Other States - LMFT Applicants

2 Staff researched and presented the findings as follows:

- 3
- 4 • Few states still use the “intern” title; many more use the “associate” title.
 - 5 • Some states do not register post-degree graduates who are gaining experience hours toward licensure.
 - 6 • Other titles utilized for post-degree applicants include:
 - 7 ○ Tennessee: Certified Marriage and Family Therapist
 - 8 ○ Virginia: Resident in Marriage and Family Therapy
 - 9 ○ Washington DC: Unlicensed Marriage and Family Therapist
 - 10 ○ West Virginia: Provisionally Licensed Marriage and Family Therapist
 - 11 ○ Wisconsin: Training Licensed Marriage and Family Therapist
 - 12 ○ Wyoming: Provisional Marriage and Family Therapist
- 13

14 Staff looked at the statutes for a sample of high-population states to determine the title given to those gaining experience hours, if any:

- 15
- 16 • Texas: Uses the term “Licensed Marriage and Family Therapist Associate.”
 - 17 • Colorado: Registers “Marriage and Family Therapist Candidates.”
 - 18 • Massachusetts: Does not register those still gaining experience.
 - 19 • New York: New York issues a limited permit.
- 20

21 Titles in Other States - LPCC Applicants

22 Staff researched and presented the findings as follows:

- 23
- 24 • States use a wider variety of terms for pre-licensed LPCCs than they do for pre-licensed LMFTs. They include the following:
 - 25 ○ Colorado: Licensed Professional Clinical Counselor Candidate
 - 26 ○ Florida: Provisional Mental Health Counselor
 - 27 ○ Maine: Conditional Licensed Clinical Professional Counselor
 - 28 ○ Ohio: Professional Counselor/Clinical Resident
 - 29 ○ Michigan: Limited Licensed Professional Counselor
 - 30 ○ Counselor-in-Training (Missouri)
 - 31 ○ Licensed Graduate Professional Counselor (Maryland)
 - 32 • 12 states use “Associate” in their pre-licensed title, while 7 states use “Intern.”
- 33

34 Staff looked at the statute of the same sample of larger states to determine the title given to those gaining experience hours, if any:

- 35
- 36 • Texas: Uses the term “LPC Intern.”
 - 37 • Colorado: Uses the title “Licensed Professional Counselor Candidate.”
 - 38 • Massachusetts: Does not register those still gaining experience.
 - 39 • New York: New York issues a limited permit.
- 40
- 41
- 42

1 If the Board were to move forward with the title change, the proposed language
2 would state that in any statute or regulation, the “intern” and “associate” titles are
3 equivalent.
4

5 At its October 2015 meeting, the Committee recommended that the Board sponsor
6 legislation to make the proposed amendments.
7

8 Ms. Lock-Dawson expressed preference for the term “provisional.” Dr. Bowling
9 agreed with the preference.
10

11 Ms. Lonner responded that “provisional” is more confusing; her preference is
12 “associate.” Ms. Kohli agreed with Ms. Lonner’s opinion regarding the confusion
13 with the term “provisional.”
14

15 Dr. Brew expressed a preference for “associate”; the Board already uses the term
16 for Associate Clinical Social Workers.
17

18 Angele Kahn, AAMFT-CA, explained that the law already is in place that requires
19 the interns to state that they are practicing under supervision, and the supervisor’s
20 name and license number.
21

22 Ms. Kahn also explained that term “provisional” is problematic in the profession
23 because it is a term used in diagnosing.
24

25 Mary Read, CSU Fullerton, stated that the term “associate” is already established
26 in California. The term “intern” is interpreted as “not yet graduated.”
27

28 ***Dr. Peter Chiu moved to direct staff to make any discussed changes, as well***
29 ***as any non-substantive changes to the proposed language, and submit to***
30 ***the Legislature as a bill proposal. Dr. Leah Brew seconded. The Board***
31 ***voted unanimously to pass the motion.***
32

33 Board vote:

34 Betty Connolly - aye
35 Patricia Lock-Dawson - aye
36 Dr. Christine Wietlisbach - aye
37 Renee Lonner - aye
38 Deborah Brown - aye
39 Christina Wong - aye
40 Dr. Leah Brew – aye
41 Samara Ashley - aye
42 Sarita Kohli - aye
43 Dr. Peter Chiu - aye
44 Dr. Scott Bowling – aye
45 Karen Pines - aye
46

1 *The Board took a break at 11:57 a.m. and reconvened at 1:18 p.m. Dr. Bowling*
2 *did not return to the meeting. A quorum remained.*

3
4 **XVIII. Discussion and Possible Action for Proposed Omnibus Bill**

5 Board staff has determined that several sections of the BPC pertaining to the Board of
6 Behavioral Sciences require amendments. These amendments are as follows:

- 7
8 1. Delete several sections of the BPC - Expired Examination Restructure Provisions
9 and Out-of-State Applicant Provisions. The BPC sections are no longer operative.
10
11 2. Amend several sections of the BPC - Experience Gained as an Independent
12 Contractor. Recommendation: Amend the law to clarify that interns, trainees, and
13 associates may not be employed as independent contractors, and that they may
14 not gain any experience hours for work performed as an independent contractor,
15 reported on an IRS Form 1099, or both.
16
17 3. Amend a section in the BPC - Associate Clinical Social Worker Reference.
18 Recommendation: Replace the term “associate social worker” with the term
19 “associate clinical social worker.”
20
21 4. Amend a section in the BPC - LCSW Applicants: School Accreditation and Exam
22 Eligibility. Recommendation: Amend the BPC section to prohibit registrants from
23 taking the clinical exam until the school has achieved accreditation.
24
25 5. Amend several sections of the BPC - Program Certification Requirement for LPCC
26 Applicants. Recommendation: Add a subsection in BPC §4999.40 requiring LPCC
27 applicants to provide a program certification to the Board, and change references
28 to §4999.40 in other BPC sections.
29
30 6. Delete BPC §4999.54, Amend BPC §4999.52, §4999.120 - Expired LPCC
31 Grandparenting Provision. Recommendation: Delete BPC §4999.54, as it is no
32 longer necessary. Amend BPC §§4999.52 and 4999.120 to remove references to
33 BPC §4999.54.
34

35 At its October 2015 meeting, the Committee recommended minor changes to the
36 amendments proposed in Item 2. It requested further research of the specific names
37 of the 1099 form referenced in Item 2. Staff was then directed to submit this language
38 to the Board for consideration.
39

40 ***Dr. Leah Brew moved to direct staff to make any discussed changes, and any***
41 ***non-substantive changes, and submit to the Board for consideration as a bill***
42 ***proposal. Patricia Lock-Dawson seconded. The Board voted unanimously to***
43 ***pass the motion.***
44

45 Board vote:

46 Betty Connolly - aye

1 Patricia Lock-Dawson - aye
2 Dr. Christine Wietlisbach - aye
3 Renee Lonner - aye
4 Deborah Brown - aye
5 Christina Wong - aye
6 Dr. Leah Brew – aye
7 Samara Ashley - aye
8 Sarita Kohli - aye
9 Dr. Peter Chiu - aye
10 Dr. Scott Bowling – aye
11 Karen Pines - aye
12

13 **XIX. Discussion and Possible Action Regarding Acceptable School, College, or**
14 **University Accreditation Entities**

15 Current LMFT licensing law requires the qualifying degree be obtained from a school,
16 college or university that is approved by the state Bureau for Private Postsecondary
17 Education, or accredited by either the Commission on Accreditation for Marriage and
18 Family Therapy Education (COAMFTE) or by a regional accrediting agency that is
19 recognized by the United States Department of Education (USDE).
20

21 LPCC licensing law also requires the qualifying degree be obtained from an accredited
22 or approved school. It defines “accredited” as a school, college, or university that is
23 accredited by the Western Association of Schools and Colleges, or its equivalent
24 regional accrediting association.
25

26 Currently, the statute references a regional accrediting agency recognized by the
27 USDE as acceptable. However, the USDE does not recognize a specific category of
28 regional-only accrediting agencies. Instead, the USDE recognizes two categories of
29 accreditation: Regional and National Institutional Accrediting Agencies and
30 Specialized Accrediting Agencies.
31

32 Staff recommends that the Board consider accepting a degree from a program
33 accredited by a “regional or national institutional accrediting agency” that is recognized
34 by the USDE, rather than simply referring to a USDE-recognized regional accrediting
35 entity. This amendment would make Board’s statute consistent with the categories
36 that USDE recognizes.
37

38 The amendment would need to be made in several sections of the BPC. Board staff
39 also recommends deleting BPC section 4980.40.5. This section was put in place in
40 2009 when the Bureau for Private Postsecondary Education (BPPE) had been
41 sunsetted. The BPPE is no longer sunsetted.
42

43 At its October 2015 meeting, the Committee recommended that the Board sponsor
44 legislation to make the proposed changes.
45

1 ***Renee Lonner moved to direct staff to make any discussed changes, as well as***
2 ***any non-substantive changes to the proposed language, and submit to the***
3 ***Legislature as a bill proposal. Sarita Kohli seconded. The Board voted***
4 ***unanimously to pass the motion.***

5
6 Board vote:

7 Betty Connolly - aye
8 Patricia Lock-Dawson - aye
9 Dr. Christine Wietlisbach - aye
10 Renee Lonner - aye
11 Deborah Brown - aye
12 Christina Wong - aye
13 Dr. Leah Brew – aye
14 Samara Ashley - aye
15 Sarita Kohli - aye
16 Dr. Peter Chiu - aye
17 Dr. Scott Bowling – aye
18 Karen Pines - aye
19

20 **XX. Status of Board-Sponsored Legislation and Other Legislation Affecting the**
21 **Board**

22 Board-Sponsored Legislation

- 23 • SB 531 Board of Behavioral Sciences: Enforcement Process – This bill was signed
24 by the Governor and takes effect on January 1, 2016.
- 25 • SB 620 Board of Behavioral Sciences: Licensure Requirements - This bill was
26 signed by the Governor and takes effect on January 1, 2016.
- 27 • SB 800 Omnibus Bill - This bill was signed by the Governor and takes effect on
28 January 1, 2016.
29

30 Board-Supported Legislation

- 31 • AB 250: Telehealth: Marriage and Family Therapist Interns and Trainees - This bill
32 was signed by the Governor and becomes effective January 1, 2016.
- 33 • AB 1140: California Victim Compensation and Government Claims Board - The
34 Board's requested language was amended into the bill. This bill was signed by the
35 Governor and takes effect on January 1, 2016.
36

37 Legislation that the Board is Monitoring

- 38 • AB 85: Open Meetings. The Governor vetoed this bill.
- 39 • AB1279: Music Therapy. The Governor vetoed this bill.
40

1 **XXI. Status of Board Rulemaking Proposals**

2 Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse

3 These regulations were approved by the Secretary of State and took effect October 1,
4 2015.

5
6 Implementation of SB 704 (Examination Restructure)
7 This proposal is under review by the Office of Administrative Law and the Department
8 of Finance, and is expected to take effect January 1, 2016.

9
10 Requirements for Licensed Professional Clinical Counselors to Treat Couples or
11 Families

12 This proposal is now under review by the Office of Administrative Law and the
13 Department of Finance, and is expected to take effect January 1, 2016.

14
15 Requirements for Licensed Professional Clinical Counselors to Treat Couples or
16 Families

17 This proposal is under review by DCA.

18

19 **XXII. Discussion and Possible Action Regarding the Request from the American**
20 **Association of State Counseling Boards and the American Counseling**
21 **Association to Adopt the Consensus Licensure Title and Scope of Practice for**
22 **Professional Counseling**

23
24 First Request: Letter From the American Association of State Counseling Boards and
25 the American Counseling Association

26 In June 2015, the Board received a letter from the American Association of State
27 Counseling Boards (AASCB) and the American Counseling Association (ACA),
28 requesting that the Board consider adoption of the consensus licensure title and scope
29 of practice for professional counseling.

30
31 The licensure title and scope of practice was developed through the Building Blocks to
32 Portability Project of *20/20: A Vision for the Future of Counseling (20/20)*. 20/20 was
33 created to develop a strategic plan for the growth and sustainability of the counseling
34 profession. This group is comprised of 31 counseling organizations and is co-
35 sponsored by the AASCB and the ACA.

36
37 The Building Blocks to Portability project identified three issues for discussion in order
38 to promote licensure portability and advancement of a uniform and consistent identity
39 for the counseling professions.

- 40
- 41 • Development of a consensus licensure title to recommend to all state licensing boards.
 - 42 • Development of a consensus scope of practice to recommend to all state licensing boards.
- 43

- 1 • Development of consensus of education requirements to recommend to all state
2 licensing boards.

3
4 Twenty-nine of the thirty-one organizations participating in 20/20 voted. One
5 organization abstained and one organization did not vote. Twenty-eight organizations
6 voted to endorse the licensure title *Licensed Professional Counselor*. The American
7 Mental Health Counselors Association voted not to endorse this licensure title.

8
9 Twenty-seven of the twenty-nine organizations voted to endorse the *Scope of*
10 *Practice*. The American Rehabilitation Counseling Association and the National
11 Rehabilitation Counseling Association both voted not to endorse the suggested *Scope*
12 *of Practice*.

13 14 Second Request From the American Association of State Counseling Boards

15 In August 2015, the Board received a letter from AASCB suggesting a proposal that
16 defines criteria for out-of-state licensees that will be accepted for licensure. The
17 AASCB explained that licensure portability is a “huge dilemma” for state licensing
18 boards and licensed counselors in the United States.

19
20 AASCB identified the following criteria for licensure that are required by all state
21 licensing boards:

- 22 • A Master’s degree in counseling and in some cases, a related degree.
23 • The Master’s degree must be from an accredited university, and/or in some cases,
24 an accredited program.
25 • The majority of the states require a 60-hour graduate degree.
26 • An examination that tests knowledge, such as the National Counselor Examination
27 for Licensure and Certification (NCE) or the National Clinical Mental Health
28 Counselor Examination (NCMHCE).
29 • Average number of experience hours required is around 3000.

30
31 For those in graduate programs or new graduates, AASCB acknowledges it is the
32 graduate’s responsibility to ensure state licensure requirements are met. However,
33 AASCB expressed concern for the professional counselor who is already licensed in
34 one or several jurisdictions; has successfully worked in a practice setting for a number
35 of years; and who may or may not have fulfilled all of the current state requirements.
36 This concern resulted in the following proposal for the Board’s consideration:

37
38 *“A fully-licensed counselor, who is licensed at the highest level of licensure*
39 *available in his or her state, and who is in good standing with his or her*
40 *licensure board, with no disciplinary record, and who has been in active*
41 *practice for a minimum of five years post-receipt of licensure, and who has*
42 *taken and passed the NCE or the NCMHCE, shall be eligible for licensure in a*
43 *state to which he or she is establishing residence. The state to which the*
44 *licensed counselor is moving may require a jurisprudence examination based*
45 *on the rules and statutes of said state. An applicant who meets these criteria*

1 *will be accepted for licensure without further review of education, supervision,*
2 *and experiential hours.”*

3
4 AASCB noted recent proposals from other entities established a two-year
5 requirement. AASCB strongly supports the five-year proposal.
6

7 Board Efforts to Improve Licensure Portability

8 In 2013 the Board established the Out-of-State Education Review Committee to
9 develop recommendations to improve license portability without compromising
10 consumer protection.
11

12 As a result of the Committee’s work, the Board sponsored AB 2213, which makes
13 changes to the practicum requirements for out-of-state applicants and allows them to
14 remediate certain coursework through continuing education, instead of requiring all
15 coursework to be from a graduate program. The bill also allows certain coursework to
16 be remediated while registered as an intern.
17

18 Beginning January 1, 2016, the Board will be using two licensure examinations for
19 licensure in California. Specifically, LPCCs are required to take and pass the
20 NCMHCE and LCSWs are required to take and pass the ASWB Clinical examination.
21

22 Prior to the determination to use these examinations in California, the Board reviewed
23 the NCE and the NCMHCE, and the process to develop both examinations. Another
24 component of the review was to determine if the examinations tested for clinical
25 competency. The review of these examinations determined that the NCMHCE had a
26 higher clinical content than the NCE; and it was determined, therefore, that the
27 NCMHCE was appropriate to use as a licensure examination.
28

29 *Dr. Peter Chiu and Sarita Kohli left the meeting. A quorum remained.*
30

31 Ms. Kahn, AAMFT-CA, stated that the language proposed is encompassing all of the
32 disciplines; AAMFT-CA does not support this proposal.
33

34 ***Dr. Leah Brew moved to not adopt the recommended changes and to direct staff***
35 ***to draft a letter to ACA and AASCB. Dr. Christina Wietlisbach seconded. The***
36 ***Board voted unanimously to pass the motion.***
37

38 Board vote:

39 Betty Connolly - aye
40 Patricia Lock-Dawson - aye
41 Dr. Christine Wietlisbach - aye
42 Renee Lonner - aye
43 Deborah Brown - aye
44 Christina Wong - aye
45 Dr. Leah Brew – aye
46 Samara Ashley - aye

1 Dr. Scott Bowling – aye
2 Karen Pines - aye
3

4 **XXIII. Presentation Regarding North Carolina State Board of Dental Examiners v.**
5 **Federal Trade Commission Supreme Court Decision**

6 *This item was taken out of order, and heard immediately following agenda item XVIII.*
7

8 Dianne Dobbs presented information regarding the North Carolina State Board of
9 Dental Examiners v. Federal Trade Commission (FTC) Supreme Court Decision,
10 which addressed whether a state professional licensing board with licensing members
11 can be held liable for antitrust law.
12

13 In September 2015, the California Attorney General issued an opinion, which
14 addressed impacts of the case. In October, the FTC staff recommended guidance on
15 this topic, as well.
16

17 Ms. Dobbs provided Board members information about the antitrust law, provided an
18 overview of the case, reviewed the California Attorney General's opinion, and
19 discussed the standards that apply to the Board as a result of this case.
20

21 Ms. Dobbs urged the Board to always ensure that the decisions it makes are for the
22 primary interest of consumer protection, articulate the public policy reasons for those
23 decisions, and conduct an analysis of the pro-competitive and anti-competitive
24 aspects of the decisions, and articulate those in its records.
25

26 **XXIV. 2016 Meeting Dates**

27 The Association of Social Work Boards (ASWB) will be holding their annual delegate
28 meeting in San Diego on November 17-19, 2016. This meeting occurs at the same
29 time as the November Board meeting.

30 Ms. Madsen suggested alternative meeting dates for the Board meeting scheduled in
31 November: November 3-4 or December 1-2. The Board agreed to reschedule the
32 Board meeting to November 3-4, 2016.
33

34 **XXV. Public Comment for Items not on the Agenda**

35 There were no public comments.
36

37 **XXVI. Suggestions for Future Agenda Items**

38 There were no suggestions.
39

40 **XXVII. Adjournment**

41 The meeting adjourned at 3:12 p.m.