

Policy and Advocacy Committee Minutes

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

DATE October 19, 2018

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

TIME 9:00 a.m.

ATTENDEES

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

Members Absent: Dr. Christine Wietlisbach, Public Member

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

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

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

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

Ms. Wong welcomed Jonathan Maddox to the Committee.

1 **II. Approval of Committee Meeting Minutes**

2 **a. August 24, 2018**

3 This item was tabled.

4

5 **b. April 21, 2017**

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

8

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

9

10

11 **III.**

12 **Discussion and Possible Recommendation Regarding Proposed Technical and**
13 **Non-Substantive Amendments to Business and Professions Code Sections**
14 **4980.36, 4980.37, 4980.395, 4980.41, 4980.43.1, 4980.43.4, 4980.50, 4980.57,**
15 **4980.81, 4989.22, 4990.26, 4992.1, 4996.2, 4996.20, 4996.22, 4996.23.3, 4999.12,**
16 **4999.30, 4999.32, 4999.33, 4999.46.1, 4999.46.4, 4999.52**

16

17

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

20

21

- 21 1. Amend BPC §4980.36 – Law and Ethics Topics

22

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

24

25

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

26

27

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

28

29

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

30

31

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

32

33

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

34

35

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

36

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40

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43

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

3
4 Recommendation: Amend the acceptable service locations to the locations the
5 employer “permits business to be conducted.” This amendment will match
6 language proposed in upcoming regulations recently approved by the Exempt
7 Setting Committee.

- 8
9 6. Amend BPC Sections 4980.50, 4989.22, 4992.1, and 4999.52 – Pending
10 Complaints or Investigations and Examinations

11
12 Recommendation: Delete obsolete references to withholding exam results and
13 obsolete 2016 effective dates. Add a provision allowing the Board to deny exam
14 admission or refuse to issue a license if a petition to revoke probation has been
15 filed.

- 16
17 7. Delete BPC §4980.395 – Aging & Long-Term Care Requirement: Applicants
18 Beginning Graduate Study Prior to January 1, 2004

19
20 Recommendation: Delete BPC §4980.395 as it is obsolete.

- 21
22 8. Delete BPC §4980.57; Amend BPC §§ 4980.41, 4996.2, and 4996.22 – Spousal
23 and Partner Abuse Assessment Coursework Requirement

24
25 Recommendation: Streamline the spousal and partner abuse assessment
26 coursework requirements in BPC §§4980.57 and 4980.41 for LMFTs, and 4996.2
27 and 4996.22 for LCSWs, so that the 7-hour requirement must be completed pre-
28 licensure.

- 29
30 9. Amend BPC §4990.30 – Petition for Reinstatement of a Registration

31
32 Recommendation: Amend §4990.30(b)(1) and (3) to note that if a registrant
33 applying for reinstatement under the allowed timeframes is ineligible for
34 reinstatement due to the registration number being older than six years, then he or
35 she may apply for a subsequent registration number.

36
37 **MOTION:** To direct staff to make any discussed changes, and any non-substantive
38 changes, and submit to the Board for consideration as a legislative proposal. Maddox
39 moved; Wong seconded. Motion carried; 3 yea, 0 nay.

40

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

41

1 **IV. Discussion and Possible Recommendation Regarding Licensed Educational**
2 **Psychologists Supervising Associates Gaining Experience Hours in School**
3 **Settings**
4

5 Ms. Helms provided an overview of the background and recommendation regarding
6 Licensed Educational Psychologists (LEP) supervising associates gaining experience
7 hours in school settings.
8

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

- 13
- In what specific settings should LEPs be allowed to supervise?
 - Should there be a limit on the number of supervised experience hours gained under an LEP? If so, what is a reasonable limit?
- 14
15
16

17 Ms. Connolly: Supports the proposal allowing LEPs to provide supervision and
18 believes that that the hours should be capped. Educationally-Related Mental Health
19 Services (ERMHS) provided in schools are unique and specific. Often times,
20 licensees who have not practiced in schools under the requirements of ERMHS are
21 coming with a very different approach. LEPs have the expertise in understanding
22 disabilities, special education laws and parameters.
23

24 After some discussion, Ms. Connolly and Ms. Madsen determined that it would be
25 appropriate to cap hours at 1,440.
26

27 Mr. Maddox: Does not support LEPs supervising AMFTs or APCCs because the
28 scope of practice is drastically different. Most school districts contract with the county
29 to provide ERMHS. Associates from the county agencies that provide these services
30 have a clinical supervisor that provides supervision and ensures that the associate can
31 function within the scope of their practice. It is not necessary for associates to become
32 competent in learning disabilities and the learning process. They must be able to
33 address mental health disabilities that are impacting a student's ability to make use of
34 their educational setting, which requires a different scope of supervision.
35

36 Mr. Maddox: Concerned about the potential long-term impact regarding the
37 associate's understanding and functioning in their scope of practice and in preparation
38 for licensure.
39

40 Mr. Maddox: Recognized that there is a benefit to having "broad-based multi-
41 disciplinary work" and suggested that language be constructed to state that the LEP
42 provide "consultation" to support the needs of associates that are working in school
43 settings, but not call it "supervision."
44

45 Ms. Madsen: Believes that the schools are no longer receiving community mental
46 health contracting. This could be surveyed to determine if the service is available and
47 bring it back for further discussion. If it is not available, this proposal would bridge the
48 gap.
49

1 Ms. Madsen: Suggested looking at “weeks of supervision” as well as “hours of
2 supervision” under each specific license type.
3

4 Mr. Maddox: San Francisco county has ERMHS services but is interested in what
5 other counties are doing.
6

7 Ms. Wong: Shares Mr. Maddox’s concerns. In Butte county, ERMHS services are
8 provided in the school setting by the county. Board staff could do a more research.
9 LEPs can approach mental health in the “hybrid” setting. Likes the idea of having
10 different supervisors from different disciplines and can see the advantage.
11

12 Ms. Connolly: Several of BBS licensees allow for supervision across licenses. That
13 provides an interesting and quality perspective.
14

15 Ms. Connolly: Many school districts contract with counties to provide ERMHS
16 services, which is an option. Many districts use their LEPs to provide that service.
17 LEPs are one of the primary providers of mental health services in the school setting.
18 LEPs can provide quality supervision.
19

20 Ms. Connolly: One of the challenges that schools face when hiring MFTs or social
21 workers, is that they lack an understanding of what ERMHS is and what it is not.
22 There is a difference when working in a school than in a therapeutic session.
23

24 Mr. Maddox: Expressed concerned about how supervision regarding Medi-Cal
25 standards and documentation will be supported in this setting.
26

27 Mr. Maddox: Suggested that this proposal be discussed at the Board level.
28

29 Ms. Wong: In response to Medi-Cal concerns, it comes back to the quality of
30 supervision.
31

32 Heidi Holmblad, California Association of School Psychologists (CASP): Medi-Cal will
33 be changing rapidly next year. LEPs are going to be able to bill for Medi-Cal;
34 therefore, CASP wants LEPs to supervise.
35

36 Ms. Holmblad: Currently, associates in the school setting must be supervised by two
37 different people; they must be supervised by someone with a PPS credential. The
38 goal is to reduce the number of supervisors that are working with the associates at the
39 same time. LEPs are licensed and have the PPS credential; therefore, they would be
40 best for this. There needs to be a discussion about AB 114, which mandated schools
41 to provide ERMHS.
42

43 Ms. Holmblad: Currently, very few counties contract with schools to provide ERMHS
44 because it is difficult to get the money back from the counties to do that. This won’t be
45 the case in the future. CASP agreed to take part in a discussion with the full Board.
46

47 No action taken. This item will move forward to the Board for further discussion.
48

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

3
4 Christy Berger provided an overview of the recommendation regarding registrant
5 employment by temporary staffing agencies.
6

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

10
11 The proposed language does not refer to the temporary staffing agency or the
12 contracting agency as the "employer" because this may vary. Current law requires a
13 trainee or associate to perform services only at the places permitted by the employer.
14 The temporary agency is often the supervisee's employer. However, because the
15 contracting agency is responsible for clinical services, the contracting agency should
16 determine where the supervisee is permitted to perform services. The proposed
17 language specifies that the contracting agency shall determine where the supervisee
18 may perform services.
19

20 Current law requires a written oversight agreement when the supervisor and
21 supervisee have different employers and is signed by the supervisee's employer and
22 his/her supervisor. The proposed language specifies that the written agreement shall
23 be between the contracting agency and the supervisor. In addition, it clarifies that no
24 written agreement shall be required when the supervisor is an employee of the
25 contracting agency.
26

27 The language clarifies that any trainee, associate or applicant for licensure placed by a
28 temporary agency must either be a W-2 employee or volunteer.
29

30 **MOTION:** To direct staff to make any discussed changes, and any non-substantive
31 changes, and recommend to the Board as regulatory proposal. Wong moved;
32 Connolly seconded. The motion carried; 3 yea, 0 nay.
33

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

34
35
36 **VI. Discussion and Possible Recommendations Regarding Practice Setting**
37 **Definitions**

38
39 Ms. Berger provided an overview of the recommendation regarding practice setting
40 definitions.
41

42 Proposed Language: Exempt Settings
43

44 The Exempt Setting Committee developed language that would require
45 unlicensed/unregistered therapists working in an exempt setting to provide consumers

1 with a printed disclosure, prior to initiating psychotherapy, containing information about
2 how to file a complaint about the therapist with the agency.

3
4 In addition, the Exempt Setting Committee developed language that would require all
5 settings in which psychotherapy is performed to provide written information to
6 consumers about where to file a complaint with the Board about a licensed or
7 registered psychotherapist.

8
9 The Exempt Setting Committee and stakeholders expressed concerns regarding
10 consumer protection and expressed an interest in educating the public regarding
11 services sought from exempt settings.

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

13
14 The Exempt Setting Committee developed language that would separately define
15 “Private Practice” (including professional corporations, which is already assumed
16 under the law as a private practice) and “Other For-Profit” settings. The Exempt
17 Setting Committee considered including “other for-profit” settings within the private
18 practice definition. However, the decision was made to define them separately
19 because it would subject these types of companies to all of the laws pertaining to
20 private practices.

21 Military Members Issued a Renewal Waiver Prohibited from Working in Private 22 Practice

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

25
26
27 The Committee agreed that it should be allowed.

28 Private Practice Restriction on Fictitious Business Names

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

31
32
33 Ms. Madsen: If staff is not paying attention to the business name now, and BBS
34 has not received any complaints regarding fictitious or misleading business names,
35 then the answer is no.

36
37 The Committee agreed.

38 LEPs in Private Practice

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

42
43
44 Suggestion: Amend the unprofessional conduct provision to include “his or her
45 private practice or place of employment” instead of creating a separate private
46 practice definition.

47 Unregistered Individuals May Not Work in Private Practice

48 It is appropriate to continue allowing students to be placed in “other for-profit”
49 settings?
50

1 The Committee agreed that it is appropriate.

2
3 Is it appropriate to continue allowing applicants pending associate registration to
4 provide clinical services in “other for-profit” settings?

5
6 The Committee agreed that it is appropriate.

7
8 Supervisor Employment/Practice Requirements in Private Practice

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

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

14
15 The Committee agreed that there is adequate oversight.

16
17 Reimbursement of Expenses via 1099 Prohibited in Private Practice

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

20
21 The Committee agreed that it should be allowed.

22
23 Maximum Number of Supervisees in Private Practice

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

26
27 The Committee agreed that it should be permitted. The Committee also suggested
28 allowing supervisors in private practice settings be permitted to supervise up to
29 four associates.

30
31 Private Practice Prohibited After 6-Year Registration Runs Out

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

34
35 The Committee agreed that it is acceptable.

36
37 LPCC Community Mental Health Setting Experience

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

41
42 The Committee believes that “other for-profit” settings are likely to offer
43 psychopharmacological interventions in conjunction with psychotherapy. The
44 Committee agrees that is should not be excluded.

45
46 Proposed Language Re: LCSW Students

47 For degree programs leading to LCSW licensure, current law reads somewhat
48 differently than for LMFT and LPCC law. BPC section 4996.15 generally allows
49 students to be placed in exempt settings or “in a recognized training program.” The

1 reference to “recognized training program” may be obsolete. This phrase is proposed
2 to be deleted as it could give the impression that other types of settings, including
3 private practice, are acceptable.
4

5 Staff will work on changes to the language and bring proposed language to the
6 Committee at its next meeting.
7

8 Janlee Wong, National Association of Social Workers California Chapter (NASW-CA),
9 referred to Attachment C where it defines “licensed mental health professionals.” The
10 definition included “registered associates.” He suggested working on the language so
11 that it is clear that registered associates are not licensed.
12

13 **MOTION:** To direct staff to make any discussed changes, and any non-substantive
14 changes, and submit attachments A, C, and E to the Board for consideration as a
15 legislative proposal, and to continue to work on the draft language. Connolly moved;
16 Wong seconded. Motion carried; 3 yea, 0 nay.
17

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

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19
20 **VII. Status on Board-Sponsored, Board-Supported, and Board-Monitored Legislation**
21

22 Rosanne Helms provided a brief update on legislation.
23

24 AB 93: Healing Arts: Marriage and Family Therapists: Clinical Social Workers:
25 Professional Clinical Counselors: Required Experience and Supervision
26 Signed by the Governor.
27

28 AB 456: Healing Arts: Associate Clinical Social Workers
29 Signed by the Governor.
30

31 AB 1436: Board of Behavioral Sciences: Licensees: Suicide Prevention Training
32 Signed by the Governor.
33

34 AB 2296: Licensed Professional Clinical Counselors: Licensed Clinical Social Workers
35 Signed by the Governor.
36

37 AB 2138: Licensing Boards: Denial of Application: Revocation or Suspension of
38 Licensure: Criminal Conviction
39 Signed by the Governor.
40

41 This becomes effective July 1, 2020 and makes significant amendments to the Board's
42 enforcement process, including limits on when a board can deny a license based on
43 convictions or other acts. DCA boards will be working with the department on
44 regulations.
45

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

3
4 SB 906: Medi-Cal: Mental Health Services: Peer Support Specialist Certification
5 Vetoed by the Governor.
6

7
8 **VIII. Status of Board Rulemaking Proposals**
9

10 Ms. Berger provided a brief update on regulations.

11
12 Enforcement Process

13 The proposal was approved by the Board at its meeting in February 2017. The initial
14 review process by Department of Consumer Affairs (DCA) began in July 2017. The
15 proposal is currently being reviewed by Business, Consumer Services and Housing
16 Agency (Agency).
17

18 Contact Information; Application Requirements; Incapacitated Supervisors

19 The proposal was approved by the Board at its meeting in March 2017 and began the
20 DCA initial review process in August 2017. DCA provided some feedback; however,
21 staff had to put a hold on the proposal due to actions that came out of the License
22 Portability Committee, which will change application requirements.
23

24 Examination Rescoring; Application Abandonment; APCC Subsequent Registration
25 Fee

26 The proposal was approved by the Board at its meeting in November 2017 and began
27 the DCA initial review process in April 2018. The proposal is currently at Agency.
28 Staff recently received feedback and will respond to Agency.
29

30
31 **IX. Public Comment for Items Not on the Agenda**
32

33 None
34
35

36 **X. Suggestions for Future Agenda Items**
37

38 None
39
40

41 **XI. Adjournment**
42

43 The Committee adjourned at 12:47 p.m.



Board of Behavioral Sciences



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Governor Edmund G. Brown Jr.
State of California
Business, Consumer Services and Housing Agency
Department of Consumer Affairs

SIGN-IN

Policy and Advocacy Committee Meeting

October 19, 2018

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

Signing is voluntary, and all persons may attend the meeting regardless of whether a person signs.

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