

## POLICY AND ADVOCACY COMMITTEE MINUTES

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A recorded webcast of this meeting is available at  
<https://www.youtube.com/watch?v=IfV5xX52FWs>

**DATE** October 11, 2024

**TIME** 10:00 a.m.

### LOCATIONS

**Primary Location** Department of Consumer Affairs  
1625 North Market Blvd., #S-102  
Sacramento, CA 95834

**Alternative Platform** WebEx Video/Phone Conference

### ATTENDEES

#### Members Present at Remote Locations

Christopher Jones, Chair, LEP Member (*arrived at 10:37 a.m.*)  
Wendy Strack, Public Member  
Abigail Ortega, LCSW Member  
John Sovec, LMFT Member

#### Staff Present at Primary Location

Steve Sodergren, Executive Officer  
Rosanne Helms, Legislative Manager  
Christy Berger, Regulatory Manager  
Christina Kitamura, Administrative Analyst  
Syreeta Risso, Special Projects and Research Analyst  
Kristy Schieldge, Legal Counsel  
Sabina Knight, Legal Counsel

#### Staff Present at Remote Locations

Marlon McManus, Assistant Executive Officer

#### Other Attendees

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

1 **1. Call to Order and Establishment of Quorum**

2  
3 Wendy Strack, Vice Chair of the Policy & Advocacy Committee (Committee),  
4 called the meeting to order at 10:02 a.m. Roll was called, and a quorum was  
5 established.

6  
7 **2. Introductions**

8  
9 Committee members introduced themselves during role call; staff and public  
10 attendees introduced themselves.

11  
12 **3. Consent Calendar: Discussion and Possible Approval of August 9, 2024**  
13 **Committee Meeting Minutes**

14  
15 This item was tabled.

16  
17 **4. Discussion and Possible Recommendation Regarding Proposed**  
18 **Amendments to the Business and Professions Code: Amend BPC**  
19 **§4999.46.2 Regarding Supervision for Professional Clinical Counselor**  
20 **Trainees; Amend BPC §§4980.43.3, 4996.23.2, and 4999.46.3 Regarding W-2**  
21 **Forms for Supervised Experience Claimed; Amend BPC §§4982, 4989.54,**  
22 **and 4992.3 Regarding Unprofessional Conduct Provisions for Telehealth;**  
23 **and Amend BPC §4980.38 Regarding Degree Program Certification of**  
24 **Meeting Licensure Requirements**

25  
26 Additional amendments were proposed to include in the upcoming omnibus or  
27 sunset bill:

28  
29 **1) Amend Business and Professions Code (BPC) §4999.46.2: Supervision**  
30 **for Professional Clinical Counselor Trainees (Both Versions)**

31  
32 BPC §4999.46.2(a)(2): For experience gained after January 1, 2009, no more  
33 than six hours of supervision, whether individual, triadic, or group, shall be  
34 credited during any single week.

35  
36 Recommendation: Delete the above sentence in BPC §4999.46.2(a)(2).

37  
38 **2) Amend BPC §§4980.43.3, 4996.23.2, and 4999.46.3: W-2 Forms for**  
39 **Supervised Experience Claimed**

40  
41 BPC §§ 4980.43.3(a)(1), 4996.23.2(a)(1), and 4999.46.3(a)(1) require  
42 associates applying for LMFT, LCSW, and LPCC licensure to provide the  
43 Board with copies of their W-2 tax forms for each year of experience claimed  
44 upon application for licensure.

1           Recommendation: Add clarifying language to each of the listed sections  
2 stating if the W-2 is not available for experience gained during the tax year  
3 that has not yet ended, the associate needs to provide a copy of the most  
4 recent pay stub.

5  
6       **3) Amend BPC §§ 4982, 4989.54, and 4992.3: Unprofessional Conduct**  
7       **Provisions for Telehealth.**

8  
9           BPC §§4982, 4989.54, 4992.3, and 4999.90 contain a provision making it  
10 unprofessional conduct to violate BPC §2290.5, which is the section of law  
11 that outlines the requirements for the provision of health care services via  
12 telehealth. However, each section uses different language to state that  
13 violating BPC §2290.5 is unprofessional conduct.

14  
15           Recommendation: Amend BPC §§4982(z), 4989.54(d), and 4992.3(aa) to  
16 reflect the same language used in LPCC statute (BPC §4999.90(ac)).

17  
18       **4) Amend BPC §4980.38: Degree Program Certification of Meeting**  
19       **Registration and Licensure Requirements.**

20  
21           BPC §4980.36 contains the current degree requirements for AMFT  
22 registration and LMFT licensure. BPC §4980.37 contains the requirements  
23 for older degrees for AMFT registration and LMFT licensure that were begun  
24 before August 1, 2012 and completed before December 31, 2018.

25  
26           Applicants with older degrees qualifying under BPC §4980.37 must complete  
27 additional coursework before sitting for the licensing exams. These courses  
28 are alcoholism and other chemical substance dependency, and spousal or  
29 partner abuse assessment, detection, and intervention.

30  
31           Prior to 2014, those two courses must have been completed within the  
32 qualifying master's degree program. If they were not, the courses could not  
33 be remediated, and the degree was considered non-qualifying. To address  
34 this, the Board sponsored AB 428, which allowed these two courses to be  
35 remediated outside of the degree program.

36  
37           However, BPC §4980.38, which requires degree programs to certify that their  
38 degree meets the requirements for licensure, still requires schools with  
39 degrees that qualified under BPC §4980.37 (pre-2012 degrees) to certify that  
40 the two courses listed in in BPC §4980.41(a)(4) and (5) are contained in their  
41 qualifying degree.

42  
43           Recommendation: Strike the requirement in BPC §4980.38(b)(2) that a  
44 qualifying degree program certify that it meets the requirements in BPC  
45 §4980.41(a)(4) and (5), as those two courses are permitted to be remediated  
46 outside of the qualifying degree program.

1 Motion: Direct staff to make any discussed changes and any non-substantive  
2 changes, and to bring to the Board for consideration as a legislative proposal.

3  
4 M/S: Sovec/Ortega

5  
6 Public Comments

7 Shanti Ezrine, California Association of Marriage and Family Therapists  
8 (CAMFT), and Selena Liu Raphael stated they had no concerns regarding the  
9 proposed amendments.

10  
11 Motion carried: 3 yea, 0 nay, 1 absent

Member	Vote
Christopher Jones	Absent
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

12  
13 **5. Discussion and Possible Recommendation Regarding Licensing**  
14 **Requirements for the “90-day Rule” (BPC §§4980.43(b), 4996.23(b), and**  
15 **4999.46(b))**

16  
17 The 90-day rule has raised concerns due to gaps in regulatory oversight, as it  
18 allows new graduates to begin practicing and gaining clinical experience without  
19 a registration number, leaving them outside the Board's direct jurisdiction.  
20 Although the Board typically processes applications within 40 days, delays can  
21 occur due to deficiencies in an application, which applicants have up to one year  
22 to resolve. During this period, these individuals are practicing without an official  
23 registration number, limiting the Board's ability to monitor or regulate them. This  
24 lack of oversight poses a potential risk to consumer protection, as the Board has  
25 limited authority to address complaints or issues involving these practitioners  
26 before their registration is approved.

27  
28 The debate over the 90-day rule centers on balancing consumer protection,  
29 workforce development, and the needs of professionals in training. Stakeholders  
30 have voiced concerns about eliminating the rule, as it enables new graduates to  
31 start accruing supervised hours immediately, helping to address the demand for  
32 mental health practitioners. In addition, many graduates would still be working in  
33 exempt settings, and there are no rules surrounding supervisors/supervision in  
34 those settings, nor for fingerprinting. This would result in reduced consumer  
35 protection in those settings. By following the rules for gaining hours of  
36 experience, they will have a qualified supervisor and will follow the rules for  
37 supervision. Although Live Scan background checks have been implemented,  
38 concerns persist about the Board's limited ability to oversee and regulate  
39 practitioners during this period

1           History

2           2013: BBS staff conducted a one-year study to track individuals within the 90-  
3           day period and determine if there were any significant abuses or concerns from  
4           the enforcement unit. One concern was that an applicant with a criminal  
5           background could be practicing until BBS denies their application or approves it,  
6           which in these cases, could take longer than a year.

7  
8           Furthermore, applicants who apply within the 90-day rule can still practice while  
9           they are addressing deficiencies in their applications until their applications  
10          expire or until BBS approves it.

11  
12          2018: AB 93 was introduced, which proposed to do away with the 90-day rule.  
13          The professional associations did not advocate for AB 93. The solution to AB 93  
14          was to require Live Scan fingerprinting of individuals applying under the 90-day  
15          rule through their employers.

16  
17          Discussion

18          The following questions were asked:

- 19           • What were the concerns in 2018, if nothing significant was found in the  
20           study? Answer: Lack of oversight over this population of practitioners and  
21           not knowing who is practicing.
- 22           • What are the percentages of deficiencies? Answer: About 20%
- 23           • If BBS implements a registration for trainees, will this slow the registration  
24           process? Answer: Sodergren believes it will benefit the registration  
25           process.
- 26           • To begin registering trainees, would it require statute and regulation?  
27           Answer: Yes
- 28           • Would the cost for trainees be included as part of the registration packet?  
29           Answer: The idea would be to make it as least burdensome as possible  
30           on the trainee.

31  
32          Public Comments

33          Shanti Ezrine, CAMFT: CAMFT does not support removal of the 90-day rule for  
34          the following reasons: 1. Significant negative impacts on continuity of care.  
35          2. Delays in processing applications can occur, and would lead to long wait times  
36          and losing out on clinical hours that those associations or those post-graduates  
37          would otherwise have gained working in exempt settings between graduation and  
38          the time that their registration is approved. 3. The Department of Healthcare  
39          Services provided their notice that allows Medi-Cal behavioral health delivery  
40          systems to utilize post-graduate candidates, who submitted their application for  
41          associate registration under the 90-day rule, to provide services to Medi-Cal  
42          beneficiaries.

43  
44          Sara Carrasco, William Jessup University: Supports the 90-day rule. Also  
45          supports trainee registration.

1 Selena Liu Raphael, California Alliance of Child and Family Services: Does not  
2 support removal of the 90-day rule. Advocated for continuity of care and  
3 eliminating barriers to licensure.  
4

5 Cathy Atkins, CAMFT: Emphasized the importance of ensuring that no harm is  
6 done to providers and patients.  
7

8 Dr. Ben Caldwell: It is not clear whether there is a problem to be solved, and the  
9 study suggested that there were no significant concerns with the current 90-day  
10 rule. The current Live Scan requirement ensures public protection. Also noted  
11 that universities may have concerns with the notion of registering trainees. If  
12 there is any possibility of a trainee application being deficient, that will impact  
13 universities and timeliness of degree completion, which in turn affects  
14 accreditation status.  
15

16 Dr. Nicholas Boyd: Disagreed that there are no issues with the Board not having  
17 oversight of those practicing in the field without a license or registration. The  
18 number of trainees or the status of trainees practicing in the field is unknown.  
19 There are over 50 universities in the state, and hundreds, potentially thousands  
20 of those practicing just from California institutions; and an unknown number of  
21 out-of-state trainees. Urges the committee to consider what the impact is, given  
22 that there is no mechanism to report issues with consumer protection.  
23

24 Chiaki Nomoto: Supports trainee registration.  
25

26 Natasha Wright: The 90-day rule provides a way for graduates to continue  
27 working. There can be long delays in getting the associate number, and it can  
28 impact the ability to obtain and maintain employment. If the 90-day rule is  
29 repealed, there should be another system in place that provides a way to  
30 continue working.  
31

32 Staff was directed to conduct more research on potential registration for trainees.  
33

## 34 **6. Update on Board-Sponsored and Board-Monitored Legislation**

### 35 **Board-Sponsored Legislation**

36 SB 1024 (Ochoa Bogh) Healing Arts: Board of Behavioral Sciences:  
37 Licensees and Registrants  
38

39 Status: Signed by the Governor and becomes effective January 1, 2025  
40

41 SB 1526 (Senate Business, Professions and Economic Development  
42 Committee) Consumer Affairs (Omnibus Bill Proposal)  
43

44 Status: Signed by the Governor  
45

1 **Board-Supported Legislation**

2  
3 SB 26 (Umberg) Mental Health Professions: CARE Scholarship Program

4 Status: Vetoed by the Governor.

5  
6 SB 1067 (Smallwood-Cuevas) Healing Arts: Expedited Licensure Process:  
7 Medically Underserved Area or Population

8 Status: Vetoed by the Governor.

9  
10 **Board-Monitored Legislation**

11  
12 AB 2270 (Maienschein) Healing Arts: Continuing Education: Menopausal  
13 Mental or Physical Health

14 Status: Signed by the Governor.

15  
16 AB 2581 (Maienschein) Healing Arts: Continuing Education: Maternal Mental  
17 Health

18 Status: Signed by the Governor.

19  
20 **Public Comment**

21 Elyse Springer: More legislation concerning maternal mental health screening is  
22 coming. The new bill is AB 1936, which builds on a prior maternal mental health  
23 screening bill (AB 2193) that required screening during pregnancy.

24  
25 **7. Update on Board Rulemaking Proposals**

26  
27 **Disciplinary Guidelines**

28 Status: Submitted to DCA Office of Legal Affairs to Begin Initial Review Process;  
29 Additional Changes Approved by the Board at September 2024 Meeting

30  
31 **Unprofessional Conduct**

32 Status: Public Comment Period for Modified Text Ended June 25, 2024;  
33 Approved by Administrative Law for Approval

34  
35 **Telehealth**

36 Status: Submitted to DCA Office of Legal Affairs for Initial Review Process

37  
38 **Continuing Education**

39 Status: Submitted to DCA Office of Legal Affairs for Initial Review Process

40  
41 **Advertising**

42 Status: Approved by the Board at its meeting in September 2024

1 **8. Suggestions for Future Agenda items**

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None

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5 **9. Public Comment for Items not on the Agenda**

6

7 Cathy Atkins, CAMFT expressed thanks to the Board staff and recognized its  
8 efforts while working with stakeholders/associations.

9

10 **10. Adjournment**

11

12 The Committee adjourned at 11:09 a.m.