

## **BOARD MEETING MINUTES November 2-4, 2016**

Marriott Riverside at the Convention Center  
3400 Market Street  
Orange Crest Room  
Riverside, CA 92501

### **Wednesday, November 2<sup>nd</sup>**

#### **Members Present**

Deborah Brown, Chair, Public Member  
Patricia Lock-Dawson, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Betty Connolly, LEP Member  
Massimiliano "Max" Disposti, Public Member  
Renee Lonner, LCSW Member  
Karen Pines, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

#### **Members Absent**

Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member  
Sarita Kohli, LMFT Member

#### **Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Angelique Scott, Legal Counsel  
Christina Kitamura, Administrative Analyst

#### **Guests**

*See sign-in sheet*

## **FULL BOARD OPEN SESSION**

Deborah Brown, 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.

Ms. Brown announced that agenda items III and IV will be heard out of order; they will be heard in the order of IV and III. The minutes are written in the order of the agenda.

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

### **I. Petition for Modification of Probation for Bonnie Friedman, LCSW 24172**

Judge Nye-Perkins opened the hearing at 8:42 a.m. Deputy Attorney General Lauro Paredes presented the facts of the case on behalf of the Board of Behavioral Sciences (Board). Ms. Friedman represented herself.

Mr. Paredes presented the background of Ms. Friedman's probation. Ms. Friedman was sworn in. Ms. Friedman presented her request for modification of probation and information to support the request. Ms. Friedman answered questions posed by Mr. Paredes and Board Members.

Judge Nye-Perkins closed the record at 9:35 a.m. The Board took a break at 9:35 a.m. and reconvened at 9:46 a.m.

### **II. Petition for Reinstatement of License for Errol Frazier, LMFT 8289**

Judge Nye-Perkins opened the hearing at 9:46 a.m. Deputy Attorney General Paredes presented the facts of the case on behalf of the Board. Mr. Frazier represented himself.

Mr. Paredes presented the background of Mr. Frazier's license revocation. Mr. Frazier was sworn in. Mr. Frazier presented his request to reinstate his license and information to support the request. Mr. Frazier answered questions posed by Mr. Paredes and Board Members.

Judge Nye-Perkins closed the record at 10:26 a.m. The Board took a break at 10:26 a.m. and reconvened at 10:34 a.m.

### **III. Petition for Reinstatement of License for Melissa Jones, LMFT 40105**

Judge Nye-Perkins opened the hearing at 11:43 a.m. Deputy Attorney General Paredes presented the facts of the case on behalf of the Board. Ms. Jones represented herself.

Mr. Paredes presented the background of Ms. Jones' license revocation. Ms. Jones was sworn in. She presented her request to reinstate her license and information to support the request. Ms. Jones answered questions posed by Mr. Paredes and Board Members.

Judge Nye-Perkins closed the record at 12:17 p.m.

### **IV. Petition for Reinstatement of Registration for Katya Mills, IMF 51698**

Judge Nye-Perkins opened the hearing at 10:34 a.m. Deputy Attorney General Paredes presented the facts of the case on behalf of the Board. Ms. Mills represented herself.

Mr. Paredes presented the background of Ms. Mills' registration revocation. Ms. Mills was sworn in. She presented her request to reinstate her registration and information to support the request. Ms. Mills answered questions posed by Mr. Paredes and Board Members.

Judge Nye-Perkins closed the record at 11:34 a.m. The Board took a break at 11:35 p.m. and reconvened at 11:43 a.m. to hear agenda item III.

**V. Public Comment for Items not on the Agenda**

No public comments were presented.

**VI. Suggestions for Future Agenda Items**

No suggestions were presented.

The Board took a break at 12:18 p.m. and reconvened 1:31 p.m. The Board entered into closed session at 1:33 p.m.

**FULL BOARD CLOSED SESSION**

- VII. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions, and Any Other Matters. The Board will also, Pursuant to Section (a)(1) of the Government Code, meet in Closed Session to Evaluate the Performance of the Executive Officer.**

**FULL BOARD RECONVENE TO OPEN SESSION**

**VIII. Adjournment**

The Board adjourned at 4:46 p.m.

**Thursday, November 3<sup>rd</sup>**

**Members Present**

Deborah Brown, Chair, Public Member  
Patricia Lock-Dawson, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Betty Connolly, LEP Member  
Massimiliano "Max" Disposti, Public Member  
Renee Lonner, LCSW Member  
Karen Pines, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member  
Sarita Kohli, LMFT Member

**Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Angelique Scott, Legal Counsel  
Christina Kitamura, Administrative Analyst

**Guests**

*See sign-in sheet*

**FULL BOARD OPEN SESSION**

Deborah Brown, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:48 a.m. Christina Kitamura called roll, and a quorum was established.

Administrative Law Judge Vallera Johnson presided over the hearings.

**IX. Petition for Early Termination of Probation for Gimone Bryant, ASW 36074**

This petition hearing has been removed from the agenda.

**X. Petition for Early Termination of Probation for Theresa Fenander, LCSW 25391**

This petition hearing has been removed from the agenda.

**XI. Petition for Early Termination of Probation for Feroozan Jami, IMF 69435**

This petition hearing has been removed from the agenda.

**XII. Petition for Early Termination of Probation for Rami Merhi, IMF 76810**

Judge Johnson opened the hearing at 8:50 a.m. Deputy Attorney General Lauro Paredes presented the facts of the case on behalf of the Board. Mr. Merhi represented himself.

Mr. Paredes presented the background of Mr. Merhi's probation. Mr. Merhi provided an opening statement. Mr. Merhi was sworn in, and he presented his request to terminate his probation and information to support the request. Mr. Merhi answered questions posed by Mr. Paredes and Board Members.

Judge Johnson closed the record at 9:57 a.m. The Board took a break at 9:57 a.m. and reconvened at 10:12 a.m.

**XIII. Public Comment for Items not on the Agenda**

There were no public comments.

**XIV. Suggestions for Future Agenda Items**

There were no suggestions for future agenda items.

The Board entered into closed session at 10:13 a.m.

**FULL BOARD CLOSED SESSION**

**XV. Pursuant to Section 11126(c)(3) of the Government Code, the Board will meet in Closed Session for discussion and to take action on disciplinary matters, including the above Petitions**

**FULL BOARD RECONVENE TO OPEN SESSION**

The Board reconvened to open session at 1:27 p.m.

**XVI. Adjournment**

The Board adjourned at 1:28 p.m.

**Friday, November 4<sup>th</sup>**

**Members Present**

Deborah Brown, Chair, Public Member  
Patricia Lock-Dawson, Vice Chair, Public Member – arrived at 9:52 a.m.  
Dr. Leah Brew, LPCC Member  
Dr. Peter Chiu, Public Member  
Betty Connolly, LEP Member  
Massimiliano “Max” Disposti, Public Member  
Renee Lonner, LCSW Member  
Karen Pines, LMFT Member – arrived 8:44 a.m.; left at 9:47 a.m., returned at 1:11 p.m.  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member  
Sarita Kohli, LMFT Member

**Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Angelique Scott, Legal Counsel  
Rosanne Helms, Legislative Analyst  
Christy Berger, Regulatory Analyst  
Christina Kitamura, Administrative Analyst

**Guests**

*See sign-in sheet*

**FULL BOARD OPEN SESSION**

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

Deborah Brown called the meeting to order at 8:36 a.m. Christina Kitamura called roll. A quorum was established.

**XVIII. Introductions**

Board Members, Board staff, and public attendees introduced themselves.

**XIX. Consent Calendar**

***Christina Wong moved to remove the following items from the agenda: XIX.b, XXIII.f., and XXIV. Dr. Peter Chiu seconded. The Board voted to pass the motion.***

**a. Approval of the May 12-13, 2016 Board Meeting Minutes**

***Dr. Peter Chiu moved to approve the May 12-13, 2016 Board Meeting minutes. Renee Lonner seconded. The Board voted to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Leah Brew – yes  
Max Disposti – yes

**b. Approval of the August 18-19, 2016 Board Meeting Minutes**

This item was removed from the agenda.

**XX. Chair Report**

**a. Announcement of the Exempt Setting Committee Members**

Ms. Brown announced the members appointed to the Exempt Setting Committee.

**b. Board Member Activities**

Ms. Brown announced she and Ms. Madsen attended DCA's Annual Update on travel and Budget and in November Christina Wong, Renee Lonner, Kim Madsen, and Steve Sodergren will be representing the Board at the annual ASWB meeting in San Diego.

**XXI. Executive Officer's Report**

**a. Budget Report**

Ms. Madsen reported that the FY 2016/17 budget is at \$12,679,000. Revenue and expenses figures are from August 31, 2016. Expenses through that time total about 12% of the budget (\$1,500,000) with personnel costs taking up the majority of expenses. The Board has collected a little over \$2,000,000 in revenue. Current fund condition, as of April 2016 is an 11.6 month reserve. We have also received a \$6,300,000 General Fund loan repayment. To date we have received \$10,900,000 back in General Fund Loan repayments which leaves an outstanding balance of \$1,400,000. Exam expenses have increased significantly to \$1,800,000 to address the increase in law and ethics exam applications we are receiving due to the Exam restructure.

**b. Operations Report**

Application volumes increased in the fourth quarter. The increase is attributed to new applications for registration as an intern/associate due to graduation, as well as the ongoing and increasing number of Law and Ethics Examination applications. Ms. Madsen pointed out that intern applications increased by 40% and LEP applications dropped by approximately 74%. Ms. Madsen also pointed out that all applications are processed within 60 days with most being processed in 30 days or less. The Board issued 1,067 initial licenses in the fourth quarter. As of October 1, 2016, the Board has over 107,000 licensees and registrants.

The Board administered 8,807 examinations in the fourth quarter. Nine examination development workshops were conducted from April to June.

The Board received over 12,000 applications in the fourth quarter, a 16% increase since last quarter. This figure does not include renewal applications. Online renewal activity increased by 36% since last quarter.

The Enforcement staff received 285 consumer complaints and 358 criminal convictions in the fourth quarter. 550 cases were closed and 42 cases were referred to the Attorney General's office for formal discipline. 30 Accusations and 3 Statement of Issues were filed this quarter. The number of final citations for the fourth quarter is 43. The average number of days to complete Formal Discipline was 765 days.

In January 2016, the Board resumed auditing licensees for compliance with the continuing education requirements. From July to December, a total of 88 licensees were randomly selected for the audit. A total of 22 licensees failed the audit. The top three reasons for failing the audit are as follows:

- Failed to take the required 6-hour Law and Ethic course;
- Missing first time requirements;
- Continuing Education course was taken from an unapproved provider.

The Board attended seven outreach events. Most of these events were MFT Consortium events where the Board explained topics like the exam restructure and the new telehealth requirements. Staff attended the NASW event in Burbank. The Fall/Summer Newsletter was published in October. The Board's executive management team met with the DCA Internet team in October to begin the process of redesigning our website. The date for beginning strategic planning will coincide with the August Board meeting.

Ms. Wong asked what was causing delays for people who have passed the Law and Ethics Examination to register for the second exam. Ms. Madsen replied that despite the Board's efforts to alert registrants to the new requirements many remained unaware. Ms. Madsen further reported that the Board only has one person processing the applications and that applications were being processed in two weeks or less. In addition, some records did not convert properly from the old system to the new system which has caused some delays. Ms. Madsen also reported that the delays that we had in the past are not occurring anymore.

Ms. Wong asked if Board staff could begin reporting on exam passing rates. Mr. Sodergren replied that in the future Board staff will provide an Exam report in the meeting materials that includes items like passage rates. Mr. Sodergren reported the following exam passage rates for January 2016 to June 2016:

- LMFT Law and Ethics: 80%
- LMFT Clinical: 83%
- LCSW Law and Ethics: 83%
- ASWB Exam: 87%
- LEP Exam: 45%
- LPCC Law and Ethics: 83%
- NBCC: 92%



**c. Personnel Report**

Ms. Madsen reported that the following individuals joined the BBS team:

- Office Technician – Alicia Day
- Office Assistant – Portia Hillman
- Office Technician - Shelly Maniaci
- Office Assistant - Michelle Dias
- Management Services Technician – Amanda Ayala
- Office Technician - Kimberly Covington

Departures

Lynne Stiles retired from the Board effective November 1, 2016.

Vacancies

The Board currently has four vacancies:

- Office Technician - Enforcement Unit
- Management Services Technician – Examination Unit
- Staff Services Analyst –Examination Unit
- Staff Services Analyst – Criminal Conviction & Probation Unit / Enforcement

Ms. Madsen also mentioned that a glitch was found in our phone system that was dropping calls when no one was able to pick up the phone. This issue has since been resolved and callers can now leave a message in these situations. Ms. Madsen also mentioned that The Board also has an exam unit email box that is being checked on a daily basis. Ms. Madsen also reported that the Board is working to develop a phone queue system that will better serve callers.

Dean Porter commented that the OSHPD loan repayment program did not include LPCCs and asked if Ms. Madsen could ask to have LPCCs included. Ms. Madsen replied that she would ask OSHPD about this. Ms. Porter also asked what the LPCC Law and Ethics passing score be included in the exam report. Ms. Madsen replied that it would be included. Ms. Porter also asked if she knew how many LMFT Designation Letters went out. Ms. Madsen replied that she would guess about 200-300. Ms. Porter asked when the Designation would appear on the website. Mr. Sodergren replied that she would report back later on this.

**d. Strategic Plan Update**

The Board will begin working on the next Strategic Plan during the summer of 2017. Ms. Madsen reported that the completed tasks of the Strategic Plan are highlighted.

**XXII. Approval of the April 15, 2016 Policy and Advocacy Committee Meeting Minutes**

***Renee Lonner moved to approve the April 15, 2016 Policy and Advocacy Committee Meeting Minutes. Christina Wong seconded. The Committee voted to pass the motion.***

Committee vote:

- Renee Lonner – yes
- Dr. Christine Wietlisbach – yes
- Christina Wong – yes

Deborah Brown – yes

### XXIII. Policy and Advocacy Committee Recommendations

#### a. Discussion and Possible Action Regarding Proposed Supervision Language Amendments for Licensed Marriage and Family Therapist

Ms. Helms reported that The Board's Supervision Committee met 11 times beginning in April 2014, and ending in August 2016. The Committee's work initially resulted in the 2015 legislation which streamlined the experience categories required for licensure. This document represents the remainder of the Committee's work, and pertains mainly to qualifications of supervisors, supervisor responsibilities, types of supervision provided, and employment. Blue strikeout/underline indicates text that has simply been moved from one location to another. Red or Green strikeout/underline indicates new language, which ranges from minor changes in wording to more significant changes. Text shown in Red are amendments made by the Supervision Committee. Text shown in Green are amendments made after the last Policy and Advocacy Committee meeting. Ms. Helms reported that the language for the respective license types is pretty similar but that there are unique aspects to each license type. Ms. Madsen stated that the Board will vote on the language for each license type individually.

The titles and definitions of "Intern" and "Applicant" have been amended.

First, the "intern" title has been changed to "associate" to comply with the title change that becomes effective on January 1, 2018. The definition of "Associate" (formerly "Intern") now includes either someone who is registered with the Board, or someone who applies for registration as an associate within 90 days of the degree award date.

The definition of "Applicant" was renamed "Applicant for licensure." The definition was amended to mean an unlicensed person who has completed the required education and required hours of supervised experience for licensure.

BPC Section 4980.43 has been divided into smaller sections, with each new section focused on a specific topic of supervision.

1. Current law requires a supervisor to have been licensed in California for at least two (2) years. The amendments allow a licensee to supervise only if he or she has been actively licensed in California or held an equivalent license in any other state for at least two (2) of the past five (5) years immediately prior to commencing any supervision.

In order to supervise a registrant, current regulations require a supervisor to have practiced psychotherapy or provided direct clinical supervision for two (2) of the past five (5) years.

However, the wording of this law is inconsistent across the Board's license types, and in some cases it is unclear if supervision of LPCC trainees or master's level social work students counts as qualifying supervisory experience. An amendment would clarify that supervision of LPCC trainees or social work students is acceptable as experience to qualify as a supervisor, and makes the language consistent for each of the Board's license types.

This language has also been added to both statute and regulation for clarity.

The definition of “supervision” has been revised to include responsibility for, and control of, the quality of services being provided. Some significant additions to the definition are as follows:

- A statement that consultation or peer discussion is not supervision and does not qualify as supervised experience. This is consistent with what is already in LCSW and LPCC law.
- A statement about providing regular feedback to the supervisee.
- An amendment to require the supervisor to monitor for and address clinical dynamics, such as, but not limited to, countertransference, intrapsychic, interpersonal, or trauma related issues that may affect the supervisory or the practitioner-patient relationship.
- An amendment stating that the supervisor should review progress notes, process notes, and other treatment records as he or she deems appropriate, and also an amendment stating the supervisor should engage in direct observation or review of audio or video recordings, with client written consent, as the supervisor deems appropriate.

Current LMFT statute states that MFT trainees and associates may only gain experience as an employee or a volunteer, and that experience shall not be gained as an independent contractor (BPC §4980.43(c)).

However, LMFT regulations differ slightly, stating that associates and trainees may only perform services as employees or volunteers, and not as independent contractors (16 CCR 1833(d)(3)).

The Supervision Committee discussed clarifying the language to state that no trainees, associates, or applicants for licensure are allowed to perform services or gain experience within the defined scope of practice of the profession, as an independent contractor.

*Applicants for licensure occasionally submit a “1099” tax form, which typically indicates the individual was an independent contractor. However, the applicant may truly have been a volunteer, but received reimbursement of expenses (such as travel) which resulted in the employer issuing a 1099.*

Current law allows those who receive a maximum of \$500 per month as reimbursement of expenses, to be considered as an employee and not an independent contractor. Applicants must demonstrate that the payments were for reimbursement of expenses actually incurred. The Supervision Committee decided that the specific dollar amount should be removed from the law.

In addition, staff is increasingly aware of individuals who are awarded a stipend or educational loan repayment as an incentive for working in an underserved region, or from a program designed to encourage demographically underrepresented groups to enter the profession. An exception for stipends and loan repayments is also proposed to be added.

Angelique Scott commented that the language in subsection (h) the terms stipend and educational loan repayment, and student loan repayment are used interchangeably and that the terms should be made consistent.

The American Counseling Association's Ethical Code requires supervisors to establish and communicate to supervisees procedures for contacting either the supervisor, or an alternate on-call supervisor, in a crisis. The Supervision Committee decided to adopt this requirement for all supervisors.

Currently, trainees and associates must receive one hour of direct supervisor contact per week per work setting. Supervisees must obtain additional supervision once they perform a specified amount of client contact in each setting.

The amendment changes "client contact" to "direct clinical counseling" as the basis for which the amount of supervision is determined. References to "direct counseling" in Sections 4980.03(f) and 4980.43(a)(8) have been amended to instead reference "direct clinical counseling" for consistency.

Currently, the statute does not specifically define how much direct supervisor contact an associate MFT or PCC needs once he or she is finished gaining experience hours needed to count toward licensure. (An associate gaining experience hours must obtain at least one hour of direct supervisor contact in each week, plus one additional hour in that week if more than 10 hours of direct client contact is gained, in order for the hours to count.)

At a previous meeting, the Committee recommended that the amount of supervision should be specified even if experience hours are no longer being counted. This amendment requires associates and applicants who have finished gaining experience hours to obtain at least one hour of supervision per week for each setting in which direct clinical counseling is performed. Supervision for nonclinical practice would be at the supervisor's discretion.

These revisions provide a specific definition of "one hour of direct supervisor contact." Triadic supervision (one supervisor meeting with two supervisees) is now included in this definition.

Current regulations require 52 of the 104 supervised weeks to have included one hour per week of individual supervision.

Staff believes this requirement is significant and it is more appropriately stated in statute rather than regulations. The requirement has also been amended to allow this 52 weeks of supervision to either be individual or triadic.

Current statute allows group supervision to consist of up to eight (8) supervisees. An amendment states that the supervisor must ensure that the amount of supervision is appropriate for each supervisee. (Note - A minor wording change was made on page 128 at the request of the Policy and Advocacy Committee).

BPC Section 4980.43.3 contains language allowing an associate working in an exempt setting to obtain supervision via videoconferencing. The Committee asked to add a statement requiring the videoconferencing be HIPAA compliant.

In the past, the Board has expressed a preference to refrain from mentioning HIPAA directly in statute, as its name could possibly change over time. Therefore, staff has added a statement that “The supervisor shall be responsible for ensuring compliance with state and federal laws relating to confidentiality of patient health information.”

Current statute limits the number of registrants a marriage and family corporation may employ. However, the use of the word “employ” is intended to include both employees and volunteers. Since volunteers are not actually “employed,” the language has been revised to more accurately account for this.

Additionally, the language regarding limits on number of registrants working for marriage and family corporations has been separated into subsections for clarity purposes.

Currently, a supervisor only needs to sign a written agreement with the supervisee’s employer if the supervisor is a volunteer (volunteer supervisors are not allowed in private practice settings). The purpose of the agreement is to document that the employer agrees to provide the supervisor with access to records and will not interfere with the supervisor’s legal and ethical responsibilities.

An amendment was made to require a written agreement when the setting is a non-private practice and the supervisor is not employed by the applicant’s employer or is a volunteer.

Amendments were made to this section based on feedback from stakeholders at the Policy and Advocacy Committee meeting. Previously, the proposed language required the written agreement to contain an acknowledgement by the employer that the employer is aware the supervisor will need to provide clinical direction to the supervisee in order to ensure compliance with the standards of practice of the profession.

Stakeholders were concerned about the statement that the supervisor would “need to provide clinical direction” to the supervisee. They noted that some registrants, especially ASWs, work in CPS settings or mental health clinic settings. They had concerns that these settings would be hesitant about agreeing with the above statement, and may decide to limit registrant work in their settings. After discussion, the Committee and stakeholders decided on language in the agreement that the supervisor will provide “clinical perspectives” to the supervisee, and the employer would agree not to interfere.

Dr. Brew expressed some concern as a supervisor sometimes must make actual directives like that the supervisee must call CPS and as a supervisor if something goes wrong she is liable. Ms. Madsen commented that the Board had testimony from a stakeholder who had a very specific concern so we wordsmithed it to get to this language. The language change was to get some flexibility so that the agency couldn’t interfere with the clinical direction.

Rebecca Gonzalez, NASW CA, asked if this language had to do with confidentiality. Christy Berger, BBS, replied that the supervisor doesn’t always have control over the clinical direction, and that as long as the supervisor documents that the proper direction was given, like in the CPS example, the supervisor should not be held liable.

Christina Wong commented that the stakeholder’s concern was primarily that oftentimes agencies hire an outside supervisor, so the challenge is that when the supervisor gives clinical direction it may interfere with the court process. Dr. Brew said she’s also thinking

of Agencies where the directors have access to people with personality disorders where she can see it going wrong in both directions where maybe the supervisor doesn't know the law regarding the agency but where the agency might not know the laws going on with the supervisor, and ultimately you want to do what's in the best interest of the client. Certain agencies might not be able to find good supervisors because that gives the agencies precedence over the supervisor. The other piece around documentation is will the supervisor still have access to the clinical notes that are being kept by the supervisee? Ms. Berger replied that this is provided for in a different section.

Ms. Helms noted that on page 137, it says that the agreement must contain an acknowledgement that the supervisor is aware of the licensing requirements and agrees not to interfere with the supervisors legal and ethical requirements.

Ms. Lonner noted that she shares Dr. Brews' concerns and that clinical perspectives sounds more like consultation than supervision.

Rebecca Gonzalez, NASW, added that it might be good to have language that says the supervisor's instructions much be in the best interest of the client.

Mr. Disposti said he shares some of the concerns but said there is a kind of dual relationship between the agency and the supervisor and that these kinds of requirements are very difficult to write, and for this reason there will always be some interpretation issues.

Mike Griffon, CAMFT, noted that he can see some concern over the original language, that it might be too controlling and that clinical perspectives is a little vague but how about clinical input and recommendations as a stronger option.

Ms. Lonner suggested possibly using the phrase clinical direction with knowledge of and compliance with standard practice.

Ms. Scott noted that the original amendment, providing clinical perspectives and or direction and or guidance and that subsection (a) (3) indicates that the employer cannot impede in the licensing requirements.

Ms. Helms asked to clarify the amendments. Ms. Scott suggested the following language "is aware of the licensing requirements that must be met by the supervisee and the employer and agrees not to interfere with the supervisor's legal and ethical obligations or standards of practice of the profession to ensure compliance with those requirements."

Dr. Brew commented that this language seems to protect the supervisor but not the agency.

Ms. Scott asked if the intent was to protect the employer or more to ensure that the licensee is not in any way impeded in his legal requirements and to make sure that the employer is not interfering with the supervisor's legal requirement.

Ms. Brew replied that the original intent was to ensure the employer didn't interfere.

Ms. Scott asked if a supervisor needs to know licensing laws.

Dr. Brew replied that it's not so much licensing laws that they're concerned with but instead that agencies sometimes have to follow separate laws. Dr. Brew gave the example of whether it was the agency's job to make a CPS report or the licensee's job.

Ms. Scott asked if our concern was about agency rules and laws if we're just regulating the profession. Dr. Brew replied that sometimes the law is not in the best interests of the client.

Ms. Connolly added that they don't want to close a door to working in agencies, and if agencies have concerns about their ability to work within these policies they may not be as willing to take our people.

Dr. Brew replied that she thinks this may be more of a social work issue and asked if someone could identify the specific concern.

Ms. Wong gave the example of a domestic violence perspective you have the parents from a child welfare point of view are the abuser but from the clinical point of view maybe it's about the parent/child relationship. So the law requires one thing that may not be exactly what is clinically called for. So the ASW needs to abide by the reporting law but on the same hand needs to do what is clinically necessary for the family. From the perspective of the clinical supervisor it becomes a question of how you deal with the family issue, but the ASW has two responsibilities the legal requirements, and also how to treat the family. Ms. Wong further pointed out that in this case we are talking about the volunteer supervisor and not necessarily the agency supervisor.

Mr. Disposti said as a provider he sees a conflict between the jurisdictions of supervisor and agency.

Rebecca Gonzalez, NASW commented that guidance seems like a less ambiguous term.

Ms. Madsen asked if Ms. Helms had some suggested language. Ms. Helms replied that guidance seemed like a good middle ground term.

Dr. Brew said she just wants to protect supervisors. Ms. Madsen replied that if the Board received a complaint like that and the supervisor had it well documented that that's the direction and guidance that they gave but that they were overruled by the employer, "I can't see how I would find them in violation."

Ms. Helms specified that for 3 (i) (ii) (iii), we'll leave one and two the same and in three we're going to strike perspective and replace it with guidance.

This section currently states that the following two items are unprofessional conduct:

4982(r) Any conduct in the supervision of any registered intern, associate clinical social worker, or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.

4982 (u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.

At prior committee meetings, staff was recommending deleting subsection 4982(r), because the two subsections appear duplicative. However, after further discussion with

the Board's enforcement unit, this deletion is no longer recommended. The enforcement unit believes that subsection 4982(r) is useful in cases of supervisor violations, while 4982(u) is more useful for supervisee violations.

In addition, unprofessional conduct language related to discipline is inconsistent between LMFT, LCSW, and LPCC statute. For consistency, the language in 4982(u) will be amended into the LCSW and LPCC unprofessional conduct provisions as well.

Many of the provisions in regulation section 1833 are either already in statute, or they became obsolete with the passage of SB 620 (Chapter 262, Statutes of 2015), which streamlined many of the supervised experience category requirements for licensure. These unnecessary subsections were deleted. Other subsections were moved to statute, if staff believed that location was more appropriate. The remaining provisions of section 1833 discuss specific forms that supervisors or supervisees are required to complete.

It is sometimes necessary for supervisees to temporarily have a substitute supervisor. This situation may happen with or without warning. The Supervision Committee has recommended language that would clarify the specific requirements and necessary documentation for a temporary substitute supervisor, based on how long the substitute will be filling in.

This section requires Board licensed supervisors commencing supervision for the first time in California, beginning January 1, 2019, to complete a 15-hour supervision course covering specified topic areas. This is consistent with a similar requirement already in place for LCSW supervisors. Age limits for the course are specified, and the course can be counted as continuing education if taken from an accepted provider. Any supervisor who has not supervised in two (2) of the last five (5) years, must re-take a six (6)-hour course.

This new section also specifies that supervisors must complete six (6) hours of continuing professional development in each subsequent renewal period while supervising. This can consist of a supervision course, or other professional development activities such as teaching, research, or supervision mentoring. All of these activities must be documented.

The option to count research published professionally toward the continuing professional development requirement was recently amended. The language now states the following: "This may include, but is not limited to, quantitative or qualitative research, literature reviews, peer reviewed journals or books, monographs, newsletters, or other industry or academic published work deemed equivalent by the board. It shall not include personal opinion papers, editorials, or blogs."

An exception to the initial and ongoing training requirements is proposed for a supervisor who holds a supervision certification from one of four specified entities. The Board also has discretion to accept certification from another entity if it believes its requirements are equivalent or greater. Such a certification exempts the supervisor from the 15-hour coursework and 6-hour professional development requirements, and it allows them to waive the requirement that they must have been licensed and either supervising or practicing psychotherapy for two (2) of the past five (5) years prior to commencing any supervision.



The proposed language is specifically worded so that it only applies to supervisors who are also Board licensees. Supervisors who are licensed psychologists or psychiatrists would not need to complete the supervision training and coursework, consistent with current law.

Jeffrey Liebert, AAMFT CA mentioned that there's earlier regulatory language that suggests that consultation does not qualify as supervision for associates and we are now saying that it does qualify as supervision for supervisors. Ms. Berger replied that it's considered continuing professional development and that it's not tied in with supervision per se.

Ms. Brew commented that one of the issues is that there are supervision groups going on now that are a group of supervisors that talk about their experiences with supervision and give each other mentoring and feedback and being able to include that as professional development is often more useful than that same CEU course.

Current LCSW regulations require a supervisor to complete an annual assessment of the strengths and limitations of the registrant and to provide the registrant with a copy. The Committee decided that an annual assessment should also be required for LMFT and LPCC applicants.

LCSW and LPCC regulations require the supervisor and the supervisee to develop a supervisory plan that describes the goals and objectives of supervision. The registrant is required to submit the signed plan when applying for licensure. The Committee decided to require a supervisory plan for LMFT applicants as well. This form will be merged with the Supervision Agreement as discussed in item #23 below.

Currently, all supervisors must sign a "Supervisor Responsibility Statement" whereby the supervisor signs under penalty of perjury that he or she meets the requirements to become a supervisor, and understands his or her specific responsibilities as set forth in law.

The Committee has proposed that a "Supervision Agreement" would replace both the "Supervisor Responsibility Statement" and incorporate the "Supervisory Plan" described in #22 above. The "Supervision Agreement" would be completed by both the supervisor and supervisee, and signed under penalty of perjury. It would include information about the supervisor's qualifications, an acknowledgement of supervisor and supervisee responsibilities, and a description of collaboratively developed goals and objectives of supervision. The original would be retained by the supervisee and submitted to the Board upon application for licensure.

The "Weekly Log" form is for the purpose of tracking completed supervised experience. The form is currently incorporated by reference into the actual regulation, which means that a regulation change process is necessary in order to change the text of the form. To avoid this hurdle, staff has proposed language that would instead specify the required content of the weekly log, rather than including the actual form in the regulation.

Staff became aware that current law does not explicitly specify that supervisors must sign off on experience hours at the completion of supervision. The proposed regulations now clarify this requirement.

The Board has no record of the licensees who are currently supervising trainees and associates. This information is only known once an applicant for licensure submits verification of completed supervised experience. This also means that registrants seeking supervision do not have any straightforward way to search for a supervisor.

To address these issues, and in light of the benefits detailed below, the Committee proposed requiring all supervisors to perform a self-assessment of qualifications, which would confirm that the licensee meets all requirements to be a supervisor. The self-assessment would be submitted to the Board for review within 60 days of commencing supervision. For supervisors who are BBS licensees, a “supervisor” notation would be added to the licensee’s public online record (the Board is unable to add a notation to Psychologist and Psychiatrist records).

The Committee’s goal in creating the self-assessment process was to create a framework that increases accountability without creating a significant impact on current or future supervisors.

Some of the benefits to this new process for supervisors are:

- Supervisees will have more assurance that his or her supervisor meets all requirements.
- Supervisors will have more awareness of (and better adherence to) requirements, which better protects the supervisee.
- Supervisors will be searchable online through Breeze, which would assist individuals in finding a supervisor.
- The Board will have the ability to target communications directly to supervisors.

The supervisor’s listing with the Board would be initiated by submission of the “Supervisor Self-Assessment” report signed under penalty of perjury. This report would indicate the supervisor’s specific qualifications, and will require the supervisor to acknowledge certain responsibilities set forth in law.

Implementation of this framework would create a significant new workload that cannot be absorbed by existing staff. In addition, there would be a fiscal impact to the Board for new positions and Breeze changes.

The effective date of this requirement would be delayed to January 1, 2020 to allow time for the Breeze system to be modified so that supervisors who are BBS licensees will be searchable. New supervisors would be required to submit the “Supervisor Self-Assessment Report” within 60 days of commencing any supervision. The deadline date for existing supervisors is proposed to be December 31, 2020.

This extended deadline is necessary so that this new workload will be manageable. The Board currently has over 68,000 licensees with an active, inactive or expired license. The California Association of Marriage and Family Therapist’s 2015 demographic survey indicates that about 30% of licensees are also clinical supervisors.

Ms. Scott recommended that 1833.1 (f) requirements for supervisors where it says preexisting supervisors be clarified as to what preexisting means. Ms. Madsen asked if we could just take out preexisting. The new language would read “individuals acting as supervisors prior to January 1, 2020 shall submit a self-assessment report to the Board by December 31, 2020. Ms. Wong asked if for people acting as supervisors on and off

be included. Ms. Madsen replied that if you are a supervisor prior to the effective date you have until December 31, 2020 to submit the self-assessment.

The proposed regulations establish timelines to complete specified activities as follows:

- The “Supervisor Self-Assessment” must be completed and submitted to the Board within 60 days of a new supervisor commencing any supervision. The effective date would be January 1, 2020. For existing supervisors, the report must be submitted by December 31, 2020.
- The “Supervision Agreement” would be implemented upon approval of the proposed regulations, and must be completed within 60 days of commencing supervision with any individual supervisee.
- The initial 15-hour supervision training course must be completed by new supervisors within one of the following time frames:
  - Within two (2) years prior to commencing supervision OR
  - Within four (4) years prior to commencing supervision if taken from a graduate program at an accredited or approved school OR
  - Within 60 days after commencing supervision.

A section has been added to allow the Board to audit a supervisor’s records to verify they meet the supervisor qualifications specified in statute and regulations. It requires supervisors to maintain records of completion of the required supervisor qualifications for seven (7) years after the completion of supervision, (consistent with statute regarding record retention) and to make these records available to the Board for an audit upon request.

The Board would likely audit a supervisor during a continuing education audit or if a complaint was received. The “Supervisor Self-Assessment” would be used in such audits.

Section 1886 of the Board’s regulations already provides authority to issue citations and fines to licensees for violations of its statutes and regulations. Supervisors found to be in violation would be subject to citation and fine.

Ms. Helms mentioned that there was one more item that came up after the materials were printed that has to do with trainees and private practice. The law specifies who can own a private practice. This language seemed to be causing some confusion, so the language was struck out. The original intent was to strike the language for consistency. Staff believes that the definition of a private practice needs to be discussed in the Exempt Settings Committee. Staff recommends keeping this language at this time.

Carla Rather, CAMFT Pre-license Committee, stated that she believes the intent of item number five was to ensure that a supervisor would be responsible for monitoring not only counter-transference issues related to a supervisee but also his or her own counter-transference issues.

Dr. Brew replied original intent was to monitor the supervisees, not the supervisor but that is a good point as the supervisor should be monitoring his or her own.

Ms. Rather replied that she wanted to bring this up because she thinks it's important for a supervisor to be responsible for monitoring not just the supervisee's stuff but also her or her own relative to both the supervisee relationship as well as clinical issues with the supervisee.

Dr. Brew replied that it seemed inclusive to her ad that yes it could be made more explicit but that it's not excluding it either. Ms. Rather replied that she agrees, but asked if it was possible to make it a little more explicit.

Ms. Wong asked if this was a part of the supervisor responsibility because this section is really about supervision with the supervisee. Dr., Connolly asked how it was not covered where it says issues that may affect the supervisory relationship or the practice patient relationship.

Dr. Brew replied not only in that because it says clinical dynamics which means only related to the client. Dr. Brew suggested maybe taking clinical out could help.

Ms. Madsen replied that that maybe instead of supervisory it could read supervision. Dr. Brew replied that clinical dynamic still seems to imply that we're talking about client work, but that it could read clinical and supervision dynamics.

Ms. Lonner asked if in another place supervisor qualifications because that may be a more appropriate location for this change and that is should also go in supervisor responsibilities.

Ms. Rather asked if it was explicit in the responsibilities statement because it seemed like more of a generic statement. Ms. Berger replied that it's not currently included. Ms. Berger went on to explain that where this all was in the past was in 1833.1, which might be the right section for this. Ms. Rather suggested that in the existing language under section five after the phrase "but not limited to" his or her own inserted right before counter-transference.

Dr. Brew replied that she is hesitant because that section is about the supervision and that she wants to put this in the supervisor section. Ms. Madsen said maybe we just mirror that language somewhere under the requirements for supervision section.

Ms. Lonner said between three and four might be a good fit. The mirrored language would be "self-monitor for and address supervision dynamics such as but not limited to...that may affect the supervision relationship.

Ms. Berger said she like may affect supervision period because it may not be the supervision relationship, but it may be the supervisor's own issues that affects how they provide supervision.

Ms. Wong suggested that the word address is good but that it might be good to specify that they need to seek consultation.

Dr. Brew thought that would be too specific because there are many ways that it could be addressed. Ms. Madsen added that narrowing it too much would limit the options available.

Ms. Rather asked, from the supervisor's committee standpoint if at the instantiation of the meeting what was the spirit in which all the changes and revision were being made, in other words what was the motivation, and does it feel like that has been met.

Dr. Brew replied that when she first came on the Board she expressed to Ms. Madsen that she wasn't satisfied with the quality of the supervision at the agencies where her students work. Dr. Brew further elaborated that she is happy with the changes and that she is hopeful that they don't negatively impact people wanting to become supervisors, and that she hopes they are not too rigorous to the point where no one would want to be a supervisor.

***1<sup>st</sup> motion: To Adopt the language for LMFT statute and to direct staff to make any non-substantive changes and to pursue a legislative proposal. The Board voted unanimously to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Max Disposti – yes  
Karen Pines – absent

***2<sup>nd</sup> motion: Upon the enactment of the proposed legislation, without any substantial or substantive change staff is directed to initiate the regulatory packet consistent with agenda item number 23 (a). The Board voter unanimously to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Max Disposti – yes

**b. Discussion and Possible Action Regarding Proposed Supervision Language Amendments for Licensed Professional Clinical Counselors:**

Ms. Helms reported that the first LPCC item that's different 4999.12 has been amended to define supervisor only. This is for consistency with the Board's other license types and to ensure that the definition applies to all circumstances where the term supervisor is used.

Language was added to clarify that in order for an LPCC to supervise either an associate MFT, MFT trainee, associate PCC, or an LPCC licensee seeking the required

experience to treat couples and families, the supervisor must meet the additional training and education requirements specified by BPC section 4999.20.

The definitions of “clinical setting” and “community mental health setting” have been moved from regulations to statute, as staff believes placing them in statute with the other defined terms is more appropriate.

Stakeholders and Board licensing staff expressed interest in amending the definition of “community mental health setting” due to confusion about the term. The Supervision Committee directed staff to clarify that this setting shall not be a private practice, but to delete the language about ownership of the private practice because that language was causing confusion.

BPC Section 4999.46 has been divided into smaller sections, with each new section focused on a specific topic of supervision.

BPC sections 4999.34, 4999.44, 4999.455, and 4999.47 have been moved to other newly proposed sections of law, in order to provide better flow in the placement of the law, and to provide more consistency with LMFT licensing law.

Current statute prohibits associates from having any proprietary interest in their employer’s business. Additional language has been added stating that an associate shall not lease or rent space, or pay for furnishings, equipment, supplies or other expenses that are the obligation of their employers. This language is consistent with language already in LCSW and LMFT statute.

This section currently states that the following two items are unprofessional conduct:

- 4999.90(r) Any conduct in the supervision of a registered intern, associate clinical social worker, or clinical counselor trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.
- 4999.90 (u) The violation of any statute or regulation of the standards of the profession, and the nature services being rendered, governing the gaining and supervision of experience required by this chapter.

At prior committee meetings, staff was recommending deleting subsection 4999.90(r), because the two sections appear duplicative. However, after further discussion with the Board’s enforcement unit, this deletion is no longer recommended. The enforcement unit believes subsection 4990(r) is useful in cases of supervisor violations, while 4990(u) is more useful for supervisee violations.

In addition, unprofessional conduct language related to discipline is inconsistent between LMFT, LCSW, and LPCC statute. The language in 4999.90(t) and (u) are being amended to be more consistent with the language for the other license types.

Several provisions in regulation sections 1820 and 1821 are either already in statute, or are outdated. Other subsections were moved to statute, if staff believed that location was more appropriate. The remaining provisions of section 1820 discuss specific forms that supervisors or supervisees are required to complete.

A section has been added to regulations discussing required criteria for supervision gained outside of California. This new section is similar to a section that already exists in LMFT regulations.

The language that talks about student loan vs. educational loan will be cleaned up and made consistent.

The change that discussed the written agreement and supervision in a non-private practice where we discuss changing clinical perspectives we will make same change in LPCC law.

For number 26 where discuss the supervisor's self-assessment where we use the term – pre-existing supervisor we will strike term pre-existing supervisors and replace it with individuals acting as a supervisors with the same change being made for LPCCs.

On page 127 of the MFT language on number four where it talks about monitoring for and addressing clinical dynamics we will also place this language in the supervisory responsibilities portion of the regulation.

***1<sup>st</sup> motion: Dr. Brew moved that the Board makes the changes to the LPCCs statute as discussed and to direct staff to make and non-substantive changes and to pursue a legislative proposal. Ms. Wong seconded the motion. The Board voted unanimously to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Max Disposti – yes

***2<sup>nd</sup> motion: Dr. Brew moved that, upon the enactment of the proposed legislation, without any substantial or substantive change, staff is directed to initiate the rulemaking process. Dr. Chiu seconded the motion. The Board voted unanimously to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Max Disposti – yes

**c. Discussion and Possible Action Regarding Proposed Supervision Language Amendments for Licensed Clinical Social Workers**

There are inconsistencies in the unprofessional conduct provisions between the license types pertaining to supervision. Changes are proposed so that the LCSW statutes will mirror the LMFT and LPCC statutes.

At the request of stakeholders, the amount of supervised experience hours required for LCSW licensure is proposed to be reduced from 3,200 hours to 3,000 hours.

Additionally, the maximum for the “nonclinical” category is also proposed to be reduced from 1,200 hours to 1,000 hours. The purpose is to put California in alignment with the majority of other states and with the LPCC and LMFT professions.

BPC Section 4996.23 has been divided into smaller sections, with each new section focused on a specific topic of supervision. BPC Section 4996.24 has been moved into a new section, in order to group it with the other related provisions pertaining to supervision and employment settings.

Current statute requires 13 weeks of an applicant’s supervised experience to include a minimum of one hour of individual supervision specifically under a LCSW. The proposed amendment would allow these 13 weeks of supervision to either be individual or triadic.

A number of provisions in current LMFT and LPCC statute are proposed to be added to LCSW statute for consistency. This would be helpful for supervisors, many of whom supervise for more than one different license type. The provisions proposed to be added are summarized below:

- A. All experience and supervision requirements are applicable equally to employees and volunteers.
- B. Experience may be gained solely as part of the position for which the associate volunteers or is employed.
- C. Associates and applicants who receive reimbursement for expenses incurred for services rendered in a setting other than a private practice, and are issued a tax form 1099, shall be considered an employee and not an independent contractor. Applicants have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.
- D. Associates and applicants who receive a stipend or educational loan repayment as an incentive for working in an underserved region, or from a program designed to encourage demographically underrepresented groups to enter the profession, and are issued a tax form 1099, shall be considered an employee and not an independent contractor. Applicants have the burden of demonstrating that the payments received were for this purpose.
- E. A supervisor must evaluate the associate’s work site and determine that the site provides experience within the scope of practice, and that experience gained will be in compliance with all legal requirements.
- F. In any setting, associates and applicants shall only perform services where their employer regularly conducts business, which may include other locations if the services are performed under the direction and control of the employer and supervisor.



- G. In a private practice setting, the associate's supervisor must be one of the following:
- o An owner or shareholder of the private practice OR
  - o Employed by the private practice AND practices at the same site as the associate's employer.

Sections Added: BPC §§4996.23.2, 4996.23.3; Changes are specific to LCSW due to differences in current statute, but the resulting language is the same for LMFT and LPCC.

17. Supervision – Written Agreement – Consistency with LMFT and LPCC: Currently, an associate working in any setting, including private practice, may obtain supervision from a person not employed by the associate's employer if the supervisor signs an agreement with the employer to "take supervisory responsibility for the associate's social work services." The following amendments to this provision are proposed for consistency with LMFT and LPCC law:

- A. Disallow in a private practice setting: No longer allow supervision by a person not employed by the private practice. This goes hand-in-hand with item #16 G above, which would require the supervisor to be an owner, shareholder or employed by the private practice. These provisions would avoid situations where an associate is working in a private practice without adequate supervisory oversight. Other settings, such as an agency, are more appropriate for this arrangement as they typically have more structure, support and other supervisory oversight.
- B. Change the content of the written agreement:
- Rather than simply requiring the individual to take "supervisory responsibility," which is inherent in any supervisory relationship, the proposed language would instead require the supervisor to, "ensure that the extent, kind, and quality of counseling performed by the supervisee is consistent with the supervisee's training, education, and experience, and is appropriate in extent, kind, and quality." The agreement would also require an acknowledgment by the employer that the employer.
  - Is aware of the licensing requirements that must be met by the supervisee and agrees not to interfere with the supervisor's legal and ethical obligations to ensure compliance with those requirements; AND
  - Agrees to provide the supervisor access to clinical records of the clients counseled by the supervisee.

The Supervision Committee recommended requiring the written agreement to contain an acknowledgement that the employer is aware the supervisor will need to provide clinical direction to the supervisee in order to ensure compliance with the standards of practice of the profession.

Stakeholders were concerned about the statement that the supervisor would "need to provide clinical direction" to the supervisee. They noted that some registrants, especially ASWs, work in CPS settings or mental health clinic settings. They had concerns that these settings would be hesitant about agreeing with the above statement, and may decide to limit registrant work in their settings. After discussion,

the Committee and stakeholders decided on language in the agreement that the supervisor will provide “clinical perspectives” to the supervisee, and the employer would agree not to interfere.

A weekly log for the purposes of tracking supervised experience is not currently required for LCSW licensure, though it is required for LMFT and LPCC. This log is proposed to also be required for LCSW.

Looking at the LMFT changes and which ones are going to apply to LCSWs there is number seven which makes consistent the language where the law refers to a student loan vs. educational loan will be cleaned up and made consistent. We will also change the phrase clinical perspectives to clinical guidance. The same language in the regulations, where we use the term –pre-existing supervisor we will strike term pre-existing supervisors and replace it with individuals acting as a supervisor with the same change being made for LCSWs. Where we talk about monitoring for and addressing clinical dynamics we will also place this language in the supervisory requirements portion of the regulation.

***1<sup>st</sup> motion: Ms. Lonner moved to make the necessary changes discussed today and direct staff to make any non-substantive changes and submit the legislation. Ms. Wong seconded. The Board voted unanimously to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Max Disposti – yes

***2<sup>nd</sup> motion: Ms. Wong motioned to, upon enactment of the legislation, adopt the language discussed today in the regulatory package and direct staff to make any non-substantive changes. Ms. Lonner seconded. The Board voted unanimously to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Dr. Leah Brew – yes  
Max Disposti – yes

Board took a break at 11:49 a.m. and reconvened at 1:11 p.m. Karen Pines returned to the meeting at 1:11 p.m.

**d. Discussion and Possible Action Regarding the Board's Proposed 2017 Omnibus Bill**

Ms. Helms reported that it was the time of the year when the Board must submit technical legal changes for the omnibus bill.

**1. Amend BPC Sections 801, 801.1, and 802 – Judgment and Settlement Reporting Amounts**

Background: Currently, healing arts licensees must report all judgments or settlements for negligence claims in excess of a certain dollar amount to his or her licensing board. For some boards, this amount is \$3,000.

For the Board's LMFT, LCSW, and LPCC licensees, this reporting amount is \$10,000. However, there is a reference error in law. The law states Board licensees subject to "Chapter 14 (commencing with Section 4990)" are subject to this reporting requirement. While Chapter 14 refers to LCSW statute, section 4990 is a reference to the beginning of the Board's general provisions. This error needs to be corrected.

In addition, LEPs are not included in the list of licensees that are subject to the \$10,000 reporting requirement. Instead, they are subject to the \$3,000 reporting requirement. The Board's Enforcement Unit notes that there is no known reason why the reporting threshold should be any different for LEPs, and such a difference for only one Board license type is arbitrary and potentially confusing for staff and licensees.

Recommendation: Amend BPC §§ 801, 801.1, and 802 to correct the reference error to Chapter 14, and amend these sections to include LEPs in the \$10,000 reporting requirement amount.

Additionally, BPC Section 801.1(b) refers to the Board as the "Board of Behavioral Science Examiners." This language was amended to reference the "Board of Behavioral Sciences."

**2. Amend BPC Sections 4980.09 and 4999.12.5 – Registration Title Name Change for LMFT and LPCC Applicants**

Background: In 2016, legislation was signed to change the "intern" title to "associate" for LMFT and LPCC registrants.

In the 2016 legislation, staff proposed language stating that any reference to a "marriage and family therapist intern" or "professional clinical counselor intern" shall be deemed a reference to an "associate marriage and family therapist" or an "associate professional clinical counselor," respectively.

At the time the language was drafted, Legislative Counsel recommended adding a more generic statement that any reference in law or regulation to the term "intern" shall be deemed a reference to an "associate." Although Legislative Counsel drafted this proposed language, it was not amended into last year's bill. Therefore, staff believes it should be included in this year's bill, ahead of the title change effective date of January 1, 2018.

Recommendation: Amend BPC §§4980.09 and 4999.12.5 to state that references in law or regulation to an “intern” shall be deemed a reference to an “associate.”

**3. Amend BPC Sections 4980.44, 4984.7, 4999.32, 4999.42, 4999.53, 4999.62, 4999.63, and 4999.120, Evidence Code Section 1010, Penal Code Section 11165.7 – Changing “Intern” title to “Associate”**

Background: As noted in Item #2 above, legislation was recently signed to change the “intern” title to “associate” for LMFT and LPCC registrants beginning on January 1, 2018.

Although language is being placed in the law stating that a reference to an “intern” shall be deemed a reference to an “associate,” staff has begun the process of amending the new title into law in sections that are already being amended.

Recommendation: Change the term “intern” to “associate” in sections that the Board is already planning to amend during the 2017 Legislative Session, and in certain other sections where staff believes it is critical to make the change.

In addition, an errant reference to LCSW code in Evidence Code Section 1010(c) was corrected.

**4. Amend BPC Sections 4984.4, 4984.7, 4996.3, 4996.6, 4999.32, 4999.33, 4999.60, 4999.61, 4999.62, 4999.63, and 4999.120 - Changing the term “Examination Eligibility” to “Licensure”**

Background: Under the Board’s previous examination structure, once applicants finished gaining all experience hours, they applied for “examination eligibility” to be able to take the two exams required for licensure.

Under the new Board’s new examination structure, applicants must take the first exam – the California law and ethics exam – while they are still registered as an intern and gaining hours. After they are done gaining hours as an intern, they submit for eligibility to take the final exam. Because these individuals have already been eligible to take one exam, references to applying for “examination eligibility” are no longer accurate.

Recommendation: Change references in law to applying for “examination eligibility” to references to applying for “licensure.”

**5. Amend BPC Sections 4984.9, 4989.46, 4992.8, and 4999.118 – Name Change Requirements**

Background: Current law requires a licensee or registrant requesting a name change to submit a written request with a copy of the legal document authorizing the name change (such as a court order or a marriage certificate).

When the Department of Consumer Affairs transitioned to the Breeze database system, it began requiring applicants to also submit a copy of government-issued photo identification (such as a passport, driver’s license, or alien registration). This was done for security reasons.

Although the Department is requiring this, it is not specifically mentioned in the Board's statutes that address name changes.

At its September 30, 2016 meeting, the Policy and Advocacy Committee asked whether requiring notices of a name change within 30 days was a reasonable amount of time, given processing times of the Social Security Administration and the DMV.

Staff reviewed the policies of the Social Security Administration (SSA), which issues social security cards, and the California Department of Motor Vehicles (DMV) which issues California drivers licenses and I.D. cards.

- A name change with the Social Security Administration must be done first, before a DMV name change request. The SSA indicates the issuance time for a new social security card is approximately 10 days, however, DMV does state that it verifies the change with the SSA electronically.
- Once a person changes their name with the SSA, they may then request that their DMV license or ID card be changed. The DMV indicates that the new license/ID card will be issued within 60 days.

Given this information, it appears that requiring a government issued photo ID be produced within 30 days "after each change" (as current law states), to complete a name change may not be feasible. Therefore, staff recommends amendments to require Board notification of a name change within 30 days of the issuance of a new government issued photographic identification.

Jeffrey Libert, AAMFT CA, asked what the penalty is for not submitting a name change on time would be. Ms. Madsen replied that we could issue a citation and fine for any violation, but that it would be unlikely we'd issue a fine. Usually where this is caught is during the exam cycle

Recommendation: Amend Board statute for each license type to require that licensees or registrants notify the Board of a name change within 30 days of the issuance of a new government issued photo I.D. The licensee or registrant must provide a copy of the current government issued photo I.D and the legal document authorizing the name change, and must certify the information is correct by signing a statement under penalty of perjury.

## **6. Amend BPC Sections 4980.72, 4996.17, and 4999.60 – Requirements for Out-of-State Licensees**

Background: BPC section 4996.17 outlines the licensing requirements for LCSW applicants who have education and experience gained outside of California.

The section outlines licensing requirements for those who hold a license in another state, and also allows licensees and registrants who have previously passed the national clinical exam currently accepted by the Board, to become licensed as an LCSW without having to take that same exam again.

However, these requirements do not specifically state that to qualify for the clinical exam exemption, the applicant's license must be active and in good standing.

Although this is the intent of the law, the Board has reviewed applications from individuals who held a license at one time, or who hold an inactive license.

As an example, the Board received one application where the applicant had held a license in another state, but it was expired. That individual had passed the acceptable clinical exam, but the exam was taken in the mid-1990's.

The Board's LMFT law (BPC §4980.72) and LPCC law (4999.60) both state that a license must be valid to qualify as an out-of-state licensee applicant, but do not state that the license must be active to qualify for the clinical exam exemption. Therefore, language in all three sections has been amended for consistency: a license must be valid and in good standing to qualify as an out-of-state licensee, but it must be active and in good standing to qualify for the clinical exam exemption.

Recommendation: Amend BPC §4996.17 to do the following:

- a. Clarify that to apply as an out-of-state licensee, that license must be valid and in good standing; and
- b. Clarify that to qualify for waiver of the clinical exam, an applicant with an out-of-state license or registration who has already passed that exam must demonstrate that the out-of-state license or registration is active and in good standing.

Also amend BPC §§ 4980.72 and 4999.60 for consistency.

## **7. Amend BPC Section 4999.42 – LPCC Intern Registration**

Background: This section outlines the requirements to qualify for registration as an LPCC intern.

LPCCs are the Board's newest license type. The initial legislation to license LPCCs needed to set a start date for the Board to begin issuing registrations. This section contains that start date, which was January 1, 2011.

Recommendation: Delete the start date for the Board to issue LPCC intern registrations, as it is no longer needed.

## **8. Amend BPC Section 4999.53 – Passage of the Clinical Exam for LPCC Applicants without an Associate Registration**

Background: BPC Section 4999.53 specifies that a clinical counselor associate applying for licensure must pass a California law and ethics exam and a clinical exam.

However, the wording of this section does not address a situation in which the applicant is applying for licensure, but is no longer registered as an associate (These individuals may have completed their hours but no longer need a registration if they are not currently practicing, or if they are working in an exempt setting.)

BPC Section 4999.55 requires both registrants and applicants for licensure to pass the California Law and Ethics Exam. However, the statutes do not specifically state that

applicants for licensure are required to take the clinical exam. Regulations do designate the California law and ethics and the clinical exam as the Board's LPCC licensing exams. However, statute should specify that all applicants must pass the clinical exam.

This amendment is needed for LPCC only; it is not necessary for the Board's other license types.

Recommendation: Amend BPC Section 4999.53 to specify that to qualify for licensure, all registrants or applicants for licensure must pass a California law and ethics exam and a clinical exam. Additionally, amend the law to specify that registrants or applicants for licensure may only take the clinical exam once they meet specific criteria.

***Patricia Lock-Dawson moved to direct staff to make any discussed changes and any non-substantive changes, and to pursue a legislative proposal. Dr. Peter Chiu seconded. The Board voted to pass the motion.***

Board vote:

Renee Lonner – yes  
Dr. Christine Wietlisbach – yes  
Betty Connolly – yes  
Dr. Peter Chiu – yes  
Christina Wong – yes  
Deborah Brown – yes  
Dr. Leah Brew – yes  
Max Disposti – yes  
Karen Pines – yes

**e. Discussion and Possible Action Regarding Proposed Rulemaking to Specify Documentation Acceptable for Supervised Work Experience in the Event of an Incapacitated or Deceased Supervisor**

Occasionally, an applicant who is in the process of gaining supervised experience hours, or who has completed all supervised experience hours and is preparing to apply for licensure, learns that one of his or her supervisors is now deceased, or is incapacitated to the point that they cannot verify the applicant's experience.

This is problematic for the applicant if the signature necessary to verify experience was not obtained from the supervisor prior to this time.

**Required Proof of Supervised Experience**

The following are submitted with an application for licensure as proof of completed supervised experience (using LPCC applicants as an example):

- *Supervisor Responsibility Statement*: Must be signed by the supervisor and given to the applicant prior to the commencement of any counseling or supervision (see Attachment A).
- *Supervisory Plan*: Must be signed by the supervisor and given to the applicant prior to the commencement of any counseling or supervision (see Attachment B).

- *Experience Verification:* The supervisor should sign off on supervised experience at the completion or termination of supervision.

In addition, applicants must maintain a *Weekly Summary of Experience Hours*, signed by the supervisor weekly (see Attachment D). The applicant does not submit this log to the Board except upon request.

**Current Practice When Supervisor is Deceased or Incapacitated**

Currently, in cases where an applicant’s supervisor dies or is incapacitated before all paperwork is complete, board staff reviews documentation on a case by case basis in order to determine if it can accept the experience hours. The Board recommends the applicant submit all of the following for consideration:

- The previously signed, original *Supervisor Responsibility Statement* and *Supervisory Plan*
- The previously signed, original *Weekly Summary of Hours of Experience* logs
- Documentation by the employer verifying employment of the supervisor and supervisee
- The letter of agreement for supervision if the supervisor was not employed by the employer.

However, there is nothing specifically in law outlining acceptable methods of verifying supervised experience, in lieu of a supervisor’s signature, should the supervisor pass away or become incapacitated.

***Dr. Christine Wietlisbach moved to direct staff to make any discussed changes and any non-substantive changes, and to pursue a regulatory proposal. Renee Lonner seconded. The Board voted to pass the motion.***

Board vote:

- Renee Lonner – yes
- Dr. Christine Wietlisbach – yes
- Betty Connolly – yes
- Dr. Peter Chiu – yes
- Christina Wong – yes
- Deborah Brown – yes
- Dr. Leah Brew – yes
- Max Disposti – yes
- Karen Pines – yes

**f. Advertising; and to Delete California Code of Regulations Section 1805.1 – Permit Processing Times; and to Add Title 16 California Code of Regulations Section 1806.01 – Expiration of Examination Eligibility**

**1. Amend Section 1805.1 – “Permit” (Application) Processing Times:**

This proposal would amend the regulation that sets forth minimum and maximum application processing time frames, and which also purport to state the “actual” processing times based on the prior two years. The amendments would do the following:



- Delete an outdated reference to the “Permit Reform Act of 1981”.
- Update the types of applications appearing under the “Program” column.
- Modify the “Maximum time for notifying that an application is complete or deficient” to reflect the Board’s currently advertised processing times, which are in line with goals set by management. Staff has been able to meet these goals consistently over the past 18 months.
- Delete the column labeled “Maximum time after receipt of a complete application to issue or deny a license or a registration.” It is challenging to set accurate time frames in this category for the following reasons:
  - An individual may have a “complete application” for licensure, but not have passed the examinations. The Board has little to no impact on the length of time it takes to pass an exam.
  - Processing follow-up documentation to complete a licensing application is a high priority for staff and rarely takes more than 30 days. The problem is that this category also encompasses enforcement reviews (criminal convictions or discipline), which can take 4 to 6 months. Providing a single time frame for this category does not provide useful information.
- Delete the column labeled “Actual processing times based on prior two years.” Due to workload constraints, the “actual” processing times listed are typically outdated, as updates require running a regulation proposal. The Board’s website provides information that is much more current and useful.
- Originally staff considered deleting this section altogether, but stakeholders mentioned that if we ever had furloughs again this would give us something to point to in our law that says that we have to have staffing to be able to meet these guidelines.

**2. Amend Section 1811 - Advertising: Effective January 1, 2018, the titles “MFT Intern” and “PCC Intern” will be replaced by “Associate MFT” and “Associate PCC”:**

This proposal would add the use of “Registered Associate Marriage and Family Therapist” or “Registered Associate Professional Clinical Counselor” to the list of acceptable titles when advertising. It sunsets the use of the term “intern” on December 31, 2018, which will provide time for registrants to use their existing stock of business cards and other advertising-related materials that use the term “intern”.

***Dr. Peter Chiu moved to direct staff to make any discussed changes and any non-substantive changes, and to pursue one or more regulatory proposals. Max Disposti seconded. The Board voted to pass the motion.***

Board vote:

- Renee Lonner – yes
- Dr. Christine Wietlisbach – yes
- Betty Connolly – yes
- Dr. Peter Chiu – yes
- Christina Wong – yes
- Deborah Brown – yes

Dr. Leah Brew – yes  
Max Disposti – yes  
Karen Pines – yes

**XXIV. Discussion and Possible Action to Amend Business and Professions Code Section 4992 – Applications and Examinations**

This item was removed from the agenda.

**XXV. Status of Board-Sponsored Legislation and Update on Other Legislation Affecting the Board**

AB 1917 and SB 11478 were both signed by the Governor as well as two bills that some of our professional associations were sponsoring.

AB 1808 regarding minors consenting to mental health services and the ability of trainees to treat them, and also AB 1863 which has to do with LMFTs getting medical reimbursement for rural health clinics were also both signed into law.

The Board's Sunset Bill, AB 2191 was signed by the governor so the Board's sunset date is now officially extended to January 1, 2021

A bill that the Board was original neutral on but that the Board changed toward the end of the session, AB 796 deletes the sunset date on the law that requires health care service plans or insurance policies to provide coverage for behavioral health treatment for pervasive development disorder or autism was signed by the governor.

SB 1195 and SB 1194 both sought to ensure that boards under the Department of Consumer Affairs are in compliance with the recent Supreme Court ruling, *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. This ruling stated that state licensing boards consisting of market participants in the industry regulated by the board can be held liable for violations of antitrust law unless their anti-competitive decision meets two requirements. The anti-competitive action or decision must be based on a clearly articulated and affirmatively expressed state policy; and the board decision must be actively supervised by the state. Both of these bills died but we will probably see some form of them next year.

**XXVI. Status of Board Rulemaking Proposals**

Ms. Madsen mentioned that the ESL regulation was currently at the Department of Finance.

Jeffrey Libert, AAMFT asked what the estimated implementation date would be. Ms. Madsen said if it was signed in December it would be implemented April 1, 2017.

**XXVII. Suggestions for Future Agenda Items**

Dr. Brew – discuss standard terms for reinstatement of revoked license or registration.

Ms. Madsen– Adding the topic of parent alienation into the curriculum.

Dr. Wieitlisbach – adding to Leah's suggestion: discussion to also include reinstatement for inactivity.

Dr. Brew – discussion for standard terms for reinstatement and for return to practice after a period of time.

Mr. Disposti – for discussion: there's a need in the Mental Health community for gender therapists, there are gender therapists but no guidelines; self-induced training; no conversations at this level.

**XXVIII. Public Comment for Items Not on the Agenda**

Mike Griffin, CAMFT, expressed appreciation to the Board and the work on the Supervision Committee.

Issue of telehealth: CAMFT is trying to answer questions, any info that can be provided is appreciated.

SMEs – reimbursements. They're not getting reimbursed, and would like to bring that to the board's attention.

Wendy Vitalich: Asked if the issue of the subsequent intern number hitting up against the six-year mark when you're in private practice will be brought up again.

**XXIX. Adjournment**

The meeting was adjourned at 1:59 p.m.