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Policy and Advocacy Committee Meeting Minutes April 21, 2017

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

Members Present

Christina Wong, Chair, LCSW Member
Samara Ashley, Public Member
Deborah Brown, Chair, Public Member
Dr. Christine Wietlisbach, Public Member

Staff Present

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

I. Call to Order and Establishment of Quorum

Christina Wong, Chair of the Policy and Advocacy Committee (Committee), called the meeting to order at 9:57 a.m. Christina Kitamura called roll, and a quorum was established.

II. Introductions

Committee members and Board staff introduced themselves. Meeting attendees voluntarily introduced themselves.

Ms. Wong welcomed Dr. Christine Wietlisbach on her return to the Committee.

III. Approval of February 3, 2017 Meeting Minutes

This item was tabled.

IV. Discussion and Possible Recommendation Regarding Assembly Bill 191 (Wood) Mental Health: Involuntary Treatment

AB 191 is sponsored by the California Association of Marriage and Family Therapists (CAMFT).

Existing law:

- 1) Allows a person to be taken into custody for up to 72 hours for assessment, evaluation, and crisis intervention, when that person is deemed a danger to oneself or others due to a mental health disorder.
- 2) Allows a person on a 72-hour detention to be certified for up to 14 days of intensive treatment related to a mental health disorder or impairment by chronic alcoholism if the person is found to be a danger to self or others and is not willing or able to accept voluntary treatment.
 - a. Requires the notice of certification to be signed by the following two people (Welfare & Institutions Code (WIC) §5251):
 1. The professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee must be a physician or licensed psychologist with at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders; and
 2. A physician or psychologist who participated in the evaluation. However, if the professional person in charge or the designee is the physician who performed the medical evaluation or a psychologist, then the second person may be another physician or psychologist, or if one is not available, then it may be a licensed clinical social worker (LCSW) or registered nurse who participated in the evaluation.
- 3) Upon the expiration of the 14 days of intensive treatment, allows further confinement for intensive treatment for another 14 days if the person was suicidal during the previous intensive treatment. A certification is required and must be signed by two professionals, specified in WIC §5251.
- 4) Allows that upon completion of the 14-day period of intensive treatment, a person may be certified for an additional period of up to 30 days of intensive treatment if the following conditions are met:
 - a. The professional staff of the treating entity finds the person remains gravely disabled as a result of a mental disorder or chronic alcoholism; and
 - b. The person remains unwilling or unable to accept treatment voluntarily.
 1. The certification must be signed by the following two people (WIC §5270.20):
 - i. The professional person in charge of the facility providing the treatment; and
 - ii. A physician or a licensed psychologist with at least 5 years postgraduate experience in the diagnosis and treatment of emotional and mental disorders. This person must have participated in the evaluation. However, if the professional person in charge is the

physician who performed the evaluation or a psychologist, the second person to sign may be another physician or psychologist, or if one is not available, it may be a LCSW or registered nurse who participated in the evaluation.

AB 191 would allow, if a physician or psychologist is not available, the second person to sign the certification for involuntary intensive treatment to be a licensed marriage and family therapist (LMFT) or a licensed professional clinical counselor (LPCC).

Intent

The author's office states that it is not uncommon for LMFTs or LPCCs to be part of involuntary hold treatment teams, but they are currently not able to provide the second required signature. If a social worker or registered nurse is not available, this can lead to a person being held longer than authorized by law, or it can cause continuity of care issues, because the treating LMFT or LPCC is unable to sign the certification.

Dr. Christine Wietlisbach moved to recommend to the Board to support AB 191. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

V. Discussion and Possible Recommendation Regarding Assembly Bill 456 (Thurmond) Healing Arts: Associate Clinical Social Workers

AB 456 would extend the Board's 90-day rule to applicants for registration as an associate clinical social worker (ASW). Currently, the 90-day rule allows applicants for registration as a marriage and family therapist intern or a professional clinical counselor intern to count post-degree hours of supervised experience before receiving a registration number, as long as they apply for their intern registration within 90 days of the granting of their qualifying degree.

Background

The 90-day rule has been included in LMFT licensing law for many years. When the LPCC licensure act was created, it was modeled after LMFT law and included the 90-day rule. LCSW law does not contain the 90-day rule.

The purpose of the rule has been to assist recent graduates in obtaining some of their supervised experience hours during the time they are waiting for their registration number. Currently, the Board strives to keep its registration processing times to under 30 days. However, in the past due to high seasonal application volumes, budget constraints, or furloughs, processing times were higher. In addition, before fingerprints were submitted and processed electronically, it could take up to 3 months for the FBI and the Department of Justice to complete the required background checks. Electronic fingerprinting has reduced the processing time to approximately 3 to 7 days.

Intent

The author's office states that the delay between graduation and receipt of a registration number creates a hiring barrier for ASW applicants, and it creates an unnecessary inequity between ASW applicants, who cannot utilize the 90-day rule, and MFT and PCC intern applicants, who can. They note that removal of barriers for the public mental health workforce has been recognized as a major priority of both the California Office of Statewide Health Planning and Development (OSHPD) and the Mental Health Services Act (MHSA).

Previous Board Position

In 2012, the Board pursued legislation to eliminate the 90-day rule for LMFT and LPCC applicants. This was due to concerns that the 90-day rule could potentially be used to practice unlicensed and outside the Board's jurisdiction while temporarily bypassing the Board's enforcement process.

One concern was if a consumer or a supervisor were to file a complaint against an applicant who was not yet registered but was using the 90-day rule to gain hours, the Board would have no jurisdiction to investigate the complaint and take action.

The other concern was that an applicant with a previous conviction would be able to submit an application after graduation and begin working under the 90-day rule. The applicant would then have up to one year to submit their conviction records. This is considered a deficiency if not submitted up front. Deficiencies must be cleared within one year. Most applicants with deficiencies submit the required information immediately. Occasionally, however, an applicant with a serious conviction will delay submitting the required information up to one year.

Although applicants are gaining hours during this period, if after reviewing the application the Board imposes supervised practice or other restrictions on their supervised experience as a condition of their registration due to a conviction, the hours gained without the imposed restrictions would not count. In addition, the law states that applicants utilizing the 90-day rule to gain hours cannot work in a private practice setting until the registration is issued.

Due to stakeholder opposition and a lack of specific cases where such a situation compromised consumer protection, the Board was unable to find an author for the proposal to eliminate the 90-day rule. The Board is no longer pursuing this proposal.

Dr. Wietlisbach expressed that she does not like the 90-day rule because she is more concerned about public protection than interns getting hours.

Ms. Wong asked how long the 90-day rule has been in place for LMFTs. Ms. Helms responded that it has been in place since "at least the 80s." She cannot determine exactly when the rule came into existence.

Rebecca Gonzales, National Association of Social Workers California Chapter (NASW-CA), stated that NASW-CA is in support of AB 456. The rule exists for only two professions; AB 456 would make it consistent amongst all three professions.

Dean Porter, California Association for Licensed Professional Clinical Counselors (CALPCC), expressed support for AB 456 for the same reason stated by Ms. Gonzales.

Dr. Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA), stated that AAMFT-CA has not taken a position on AB 456. He pointed out that currently thousands of therapists (trainees) from all of the professions are practicing without having a BBS background check. Currently, social work interns are getting experience within their degree programs. People are working in agency and public-sector positions without a registration. Those agencies require background checks and fingerprinting.

Ms. Gonzales added that it is a disadvantage to the social work professions to not have the 90-day rule apply to them, and that they lose jobs because of that.

Ms. Madsen stated that about five percent of the applicants have a criminal background, and most of them get through the process. Of that group, maybe less than one percent require a more extensive look at their acquired history. That is the group that ultimately takes advantage of the situation and delay submitting their documents for a year.

Ms. Madsen added that there may be other ways to tighten up the law that allows for a year to clear their deficiencies. Staff would need to look at the enforcement data to determine if there is an issue.

Dr. Christine Wietlisbach moved to defer the recommendation of AB 456 to the Board. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

VI. Discussion and Possible Recommendation Regarding Assembly Bill 508 (Santiago) Health Care Practitioners: Student Loans

AB 508 would remove a healing art board's ability to issue a citation and fine and its ability to deny an application for a license or renewal of a license due to the licensee or applicant being in default on a U.S. Department of Health and Human Services education loan.

Existing Law:

- 1) Allows a healing arts board under DCA to issue a citation and fine to a licensee who is in default on a U.S. Department of Health and Human Services education loan.
- 2) Allows a DCA healing arts board to deny an application for a license or a renewal of a license if the person is in default on a U.S. Department of Health and Human Services education loan.

- 3) Requires the board to consider the following when deciding whether to issue disciplinary action for a loan default:
 - a. The population served by the health care practitioner; and
 - b. The practitioner's economic status.

Intent

The author's office is seeking to protect the professional licenses of people who have defaulted on their federal student loan debt, arguing that by removing a person's ability to practice their profession, they remove their ability to repay their loans and other bills. The author notes that at least 20 states have laws allowing disciplinary action against student loan defaulters, such as loss of driver's licenses or professional licenses, but that most of these laws were passed before the student loan debt bubble grew. They cite the following data:

- Data from the Department of Education showing that nearly 1/3 of student debtors with federal loans are behind on their bills;
- Data from the Association of American Medical Colleges showing that 86% of the class of 2013 graduated with debt, and 40% of them owed at least \$200,000.

In 2015, the state of Montana passed a bill removing the ability to revoke licenses for defaulting on student loans.

Board Enforcement Actions and Fiscal Impact

The Board's Enforcement Unit has not issued any citations or fines for a student loan default. Therefore, this bill would have no fiscal impact to the Board in terms of lost revenue from fines.

Ms. Madsen stated that the Board's regulations do not require the Board to take action on loan defaults. However, the Board could take action if it so chooses.

Deborah Brown moved to recommend to the Board that it support AB 508. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

VII. Discussion and Possible Recommendation Regarding Assembly Bill 703 (Flora) Professions and Vocations: Licenses: Fee Waivers

AB 703 would require licensing boards within DCA to grant fee waivers for the application for and issuance of an initial license to a person who holds a current license in the same profession in another state and is married to or in a domestic partnership with an active duty member of the U.S. military.

Current law requires boards under DCA to expedite the licensure process for applicants who are honorably discharged from the military, or who are spouses of active military members and who are already licensed in the same profession in another state.

AB 703 would prohibit a fee waiver from being granted for any of the following:

- A license renewal;
- The application for and issuance of an additional license or registration; or
- An application for examination.

The author's office states that almost 35 percent of military spouses in the labor force require licenses or certifications for their professions, and that these individuals are ten times more likely than civilians to have moved across state lines in the past year.

Fiscal Impact

AB 703 requires fee waivers for the application of a license and for the issuance of a license, if a board charges both fees. The Board only charges an initial license fee.

At the end of 2014, the Board began tracking data on the number of applicants who applied for an expedited application or license due to military service.

Many of the expedited applications in 2015 and 2016 were applications for registrations. Because a high number of registrants may not go on to receive a license, or it may be many years before they do so, the number of applications for a registration is likely not indicative of the number of persons who will eventually ask for an initial license fee to be waived. Instead, staff only looked at exam eligibility applications, and initial license requests that were expedited in 2015 and 2016.

- In 2015, one request was received for an expedited exam eligibility application from a military spouse.
- In 2016, four requests were received for expedited exam eligibility or initial license issuance from military spouses.

Because the military expedite process for licensure is relatively new, it is possible that these requests could increase in the future as more applicants learn that military spouses are eligible for expedited licenses. At this time, the fiscal impact would be \$128 (the average amount of the waived fee) per military spouse applicant. The cost of waiving these fees in 2016 (\$512) would be minor and absorbable.

Proration of Initial License Fees

The Board prorates the initial license fee for all applicants based on their birth month and the month the initial license issuance application is received by the Board. Licenses always expire in the licensee's birth month, and if the fee were not prorated, some would pay the full amount but receive less than the full two years of licensure due to their birth date.

Because the initial license fee is prorated, allowing a fee waiver for it may cause some inequity.

Tracking Previous Fee Waivers

AB 703 states that applicants can only be granted one fee waiver. If an applicant is applying for more than one license, they cannot obtain fee waivers for other licenses. It may be difficult for the Board to determine whether an applicant was previously granted a fee waiver.

Ms. Madsen commented that this would require modifications to the BreEZE system.

Christina Wong moved to recommend to the Board to support AB 703. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes

Christina Wong - yes

Deborah Brown - yes

Dr. Christine Wietlisbach - yes

VIII. Discussion and Possible Recommendation Regarding Assembly Bill 767 (Quirk-Silva) Master Business License Act

AB 767 creates a master business license system under the Governor's Office of Business and Economic Development. It would allow a person who needs to apply for more than one business license to submit a single master application through GO-Biz, which would then distribute the application information to the various relevant licensing entities.

This bill:

- 1) Establishes the Master Business License Act, and creates a business license center under GO-Biz that is tasked with the following:
 - a. Developing and administering a computerized one-stop master business license system capable of storing, retrieving, and exchanging license information;
 - b. Providing a license information service, which details requirements to engage in business in the state;
 - c. Identifying types of licenses appropriate for inclusion in the master business license system;
 - d. Incorporating licenses into the master business license system.
- 2) Requires each state agency to cooperate and provide reasonable assistance to GO-Biz in implementing the Master Business License Act.
- 3) Allows any person that applies for two or more business licenses that are in GO-Biz's master business license system to submit a master application to GO-Biz to request the issuance of the licenses.
- 4) Requires GO-Biz to develop an internet-based platform that allows businesses to electronically submit their master application, along with the payment of every fee required to obtain each requested license and a master application fee.

- 5) Requires the fees collected under the master business license system to be allocated to the relevant respective licensing agencies.

Intent

The author's office states that the most common form of business in California are sole proprietorships, citing that 3.1 million of the 4 million firms in California have no employees. They note that these small businesses face regulatory hurdles when starting or expanding.

GO-Biz has already built a California Business Portal website, through which businesses can identify which permits and licenses are required. If a business uses this website, it can follow the individual links to apply for each required license. The goal is to take the existing website and improve it by creating a single online interface to use for numerous application processes.

Effect on Board Applicants

Applicants for BBS licensure must obtain a Master's degree toward licensure. The educational institution helps prepare these students to apply for licensure; by the end of their respective graduate programs, they are aware that the BBS is their licensing entity.

Obtaining a license with the Board is a process. Having an entity that is not familiar with the details of the process for each license type accepting applications could add an unnecessary level of complexity to the licensure process.

It may be unreasonable to assume that an outlying agency can take on the task of tracking the licensing requirements for each of the DCAs' boards and bureaus and maintaining up-to-date information.

Fiscal Impact

The fiscal impact for each DCA board and bureau has not been calculated. However, the DCA has estimated an IT cost of \$4.9 million over two fiscal years for the entire department. This cost would cover modifications to the Board's primary license database systems: Breeze, CAS, and ATS. It also assumes GO-Biz and DCA will need to securely transmit business application and license, address, and fee information daily.

Samara Ashley moved to recommend to the Board to support AB 767 if amended to remove BBS from the bill. Dr. Christine Wietlisbach seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

IX. Discussion and Possible Recommendation Regarding Assembly Bill 1116 (Grayson) Peer Support and Crisis Referral Services Act

AB 1116 was amended on April 21, 2017.

Existing law provides a definition of a “psychotherapist” for purposes of establishing the psychotherapist-patient privilege. This bill adds a person or volunteer staffing a crisis hotline or crisis referral service for emergency service personnel to the definition of a “psychotherapist” for purposes of a noncriminal proceeding.

AB 1116 specifies that a communication made by emergency service personnel to a crisis hotline or crisis referral service is confidential and cannot be disclosed in a civil or administrative proceeding. However, the crisis hotline or referral service may reveal information to prevent reasonable certain death, substantial bodily harm, or commission of a crime.

Previous AB 1116

- 1) Would have established that a person or volunteer staffing a crisis hotline or crisis referral service is a “psychotherapist” for purposes of a non-criminal proceeding, for purposes of psychotherapist-patient privilege in Article 7 of Chapter 4 of the Evidence Code.
- 2) Would have also established under certain specified circumstances, a communication made by emergency service personnel to a peer support team member while receiving peer support services is confidential and cannot be disclosed in a civil or administrative proceeding. A record kept pursuant to such services is also confidential and not subject to subpoena, discovery, or introduction into evidence in a civil or administrative proceeding.

AB 1116 Amendment

Removes the language adding a person or volunteer staffing a crisis hotline or crisis referral services to the definition of “psychotherapist” in Evidence Code section 1010.

Adds that communication between emergency service personnel and a peer support team member is privileged for purposes of a non-criminal proceeding, to the same extent and subject to the same limitations as communication between a patient and a psychotherapist described in Evidence Code section 1010.

Ms. Wong stated that AB 1116 appears to be evolving; however, the intent is great.

Ms. Gonzales stated that NASW is neutral on AB 1116.

Ann Tran-Lien, California Association of Marriage and Family Therapists (CAMFT), stated that CAMFT supports the intent of AB 1116, but had concerns regarding the unintended consequences of adding these professionals under the definition of psychotherapist.

Christina Wong moved to defer the recommendation of AB 1116 to the Board. Dr. Christine Wietlisbach seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

X. Discussion and Possible Recommendation Regarding Assembly Bill 1188 (Nazarian) Health Professions Development: Loan Repayment

AB 1188 would increase the Mental Health Practitioner Education Fund fee that LMFTs and LCSWs pay upon license renewal from \$10 to \$20. It would also require LPCCs to pay a \$20 fee into the fund upon renewal and would allow LPCCs and Professional Clinical Counselor (PCC) interns to apply for the loan repayment grant if they work in a mental health professional shortage area.

This bill:

- 1) Increases the biennial Mental Health Practitioner Education Fund Fee charged to LMFTs and LCSWs at license renewal from \$10 to \$20.
- 2) Requires LPCCs to pay a biennial Mental Health Practitioner Education Fund Fee of \$20 upon license renewal.
- 3) Allows LPCCs and PCC interns to be eligible to apply for grants to reimburse educational loans under the Licensed Mental Health Service Provider Education Program if they are providing direct patient care in a publicly funded facility or a mental health professional shortage area.

Intent

The purpose of this bill is to increase the number of mental health professionals willing to work in medically underserved areas by making LPCCs eligible for educational loan reimbursements through the Licensed Mental Health Services Provider Education Program.

Change “MFT Intern” title to “Associate MFT”

The “MFT intern” title will be changing to “associate MFT” on January 1, 2018. Therefore, the “marriage and family therapist intern” reference in HSC §128484 should be changed to “associate marriage and family therapist.”

Minor Reference Correction in BPC Sections 4996.65 and 4999.121

Staff recommends that minor technical amendments be made to BPC §§4996.65 and 4999.121 to reference both the biennial renewal fee and the authority for the biennial renewal fee. This is consistent with the LMFT statute (BPC §4984.75).

Delayed Implementation

This bill is an urgency measure. However, implementation of this bill will require new fee codes to be established in the BreEZe database. Staff must also update renewal forms for each license type to reflect the new fee amount. Delaying implementation until July 1, 2018 would allow sufficient time to implement these changes.

AAMFT-CA and NASW-CA support AB 1188.

Christina Wong moved to recommend to the Board that it support AB 1188 if amended to provide a delayed implementation date of July 1, 2018 to allow changes to be made to the BreEZe database to meet the requirements of the bill if signed into law. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

The Committee took a break at 11:46 a.m. and reconvened at 1:20 p.m.

**XI. Discussion and Possible Recommendation Regarding Assembly Bill 89 (Levine)
Psychologists: Suicide Prevention Training**

AB 89 would require, beginning January 1, 2020, an applicant for licensure as a psychologist, or a licensed psychologist upon renewal of his or her license, to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention.

Intent

The purpose of this bill is to establish a baseline requirement for all licensed psychologists in suicide risk assessment and intervention.

The author states that the Board of Psychology conducted two surveys of its graduate programs, internship programs, and post-doctoral training programs. These surveys found that the majority of survey respondents provided some education and training on suicide risk assessment and intervention. However, the amount of education and training varied widely.

Previous Legislation and Governor's Directive

During the 2013-2014 Legislative Session, AB 2198 was introduced to ensure that licensed mental health professionals were receiving adequate training in suicide assessment, treatment, and management. The bill would have required licensees of the BBS and the Board of Psychology to complete a six-hour training course in the subject. New applicants for licensure would have been required to complete a 15-hour course in the subject.

While the Board shared the author's concerns, it indicated that it did not believe the bill, as written, would accomplish its objective. At its May 2014 meeting, the Board took an "oppose unless amended" position on the bill. The Board requested that the bill be amended to instead form a task force to include members of the Board, stakeholders, the Board of Psychology, county mental health officials, and university educators. However, the bill was not amended.

The Governor vetoed AB 2198. In his veto message, he asked that the licensing boards evaluate the issues raised in the bill and take needed actions.

BBS Response to Governor's Directive

The Board designed a survey for California schools offering a degree program intended to lead to Board licensure. The purpose of the survey was to determine the extent of exposure to the topics of suicide assessment, treatment, and management for students enrolled in these degree programs. The schools were asked to report courses required by the program covering these topics, and the number of hours or units devoted to the subject.

A total of 28 Master's degree programs responded to the survey. The Board found that schools commonly integrate the topic of suicide assessment across a variety of courses, including in practicum. In addition, several schools offered additional elective coursework for students who wanted further specialization on this topic.

The Board concluded that mandating a specific number of hours of suicide assessment coursework is unlikely to be effective in reducing suicides, because degree programs are already providing coverage of the topic. The Board offered alternative solutions:

- Ensuring front-line health care professionals, such as nurses, physicians assistants, and unlicensed school and county mental health workers, have adequate training on the topic;
- Formation of a task force to discuss the latest research in suicidality and to develop a model curriculum;
- Assess resources at the county mental health level to determine if there is an adequate level of support for suicidal individuals; and
- Increase public awareness through media campaigns to reduce stigma of seeking mental health services, and to identify available local resources.

Ms. Helms clarified that AB 89 does not impose any new requirements on the Board or its licensees.

AAMFT-CA and NASW-CA did not take a position on AB 89.

Christina Wong moved to recommend to the Board that it take a neutral position on AB 89. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes

Christina Wong - yes

Deborah Brown - yes

Dr. Christine Wietlisbach - yes

XII. Discussion and Possible Recommendation Regarding Assembly Bill 1372 (Levine) Crisis Stabilization Unit: Psychiatric Patients

AB 1372 allows a crisis stabilization unit that provides specialty mental health services, at its discretion, to provide medically necessary crisis stabilization services to individuals beyond the allowable treatment time of 24 hours under certain circumstances.

This bill:

- 1) Permits a crisis stabilization unit designated by a mental health plan that provides Medi-Cal specialty mental health services, under the discretion of the plan, to provide medically necessary crisis stabilization services to individuals beyond the allowable service time of 24 hours under the following circumstances:
 - a) The individual needs inpatient or outpatient psychiatric care; and
 - b) Crisis stabilization beds or outpatient services are not reasonably available.

- 2) Requires each mental health plan to establish treatment protocols, standards and procedures that a crisis stabilization unit must follow for individuals who are provided crisis stabilization services for more than 24 hours. The established protocols, standards, and procedures must be consistent with best practices and must be evidence-based.

Intent

The author's office noted crisis stabilization units may provide services to a patient for up to 24 hours. When a patient comes in, they work to stabilize the crisis and determine if a referral to outpatient or inpatient treatment is needed. If the patient needs continued service but there are no continuing services available to refer them to, the units are forced to release the patient after 24 hours. This bill would allow extra time for a crisis stabilization unit to find inpatient psychiatric care or outpatient care for someone who needs care beyond 24 hours.

Ms. Wong agreed with the author's comments, stating that this extension would be helpful for those coming into the crisis stabilization unit.

Christina Wong moved to recommend to the Board that it support AB 1372. Dr. Christine Wietlisbach seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

XIII. Discussion and Possible Recommendation Regarding Assembly Bill 1591 (Berman) Medi-Cal: Federally Qualified Health Centers and Rural Health Centers: Licensed Professional Clinical Counselors

AB 1591 would allow Medi-Cal reimbursement for covered mental health services provided by a LPCCs employed by a federally qualified health center (FQHC) or a rural health clinic (RHC).

Existing law establishes that FQHC services and RHC services are covered Medi-Cal benefits that are reimbursed on a per-visit basis. The law defines a FQHC or RHC "visit" as a face-to-face encounter between an FQHC or RHC patient and a health care professional specified in law. However, the law does not include LPCCs.

Currently, there are approximately 600 FQHCs and 350 RHCs in California. The intent of this legislation is to allow FQHCs and RHCs the ability to hire a LPCC and be reimbursed through Medi-Cal for covered mental health services.

Samara Ashley moved to recommend to the Board that it support AB 1591. Christina Wong seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes

Dr. Christine Wietlisbach - yes

**XIV. Discussion and Possible Recommendation Regarding Senate Bill 27 (Morrell)
Professions and Vocations: Licenses: Military Service**

SB 27 is very similar to AB 703. SB 27 would require DCA licensing boards to grant fee waivers for the application for and issuance of an initial license to an applicant who has served as an active duty member of the California National Guard or the U.S. Armed Forces and was honorably discharged.

SB 27 has the same prohibitions as AB 703 on fee waivers for license renewal and exam eligibility applications.

The author's office notes that Wisconsin, Florida, and Texas have passed legislation granting fee waivers for initial occupational licensure for honorably discharged veterans.

The Board began tracking data about the number of applicants in who applied for an expedited application or license due to military service at the end of 2014. Many of the expedited applications in 2015 and 2016 were for a registration. Because a high number of registrants may not go on to receive a license, or it may be many years before they do so, the number of applications for a registration is likely not indicative of the number of persons who will eventually ask for an initial license fee to be waived. Therefore, staff only looked at exam eligibility applications, and initial license requests that were expedited in 2015 and 2016.

In 2015, the Board received 58 requests for an expedited exam eligibility application or initial license issuance due to military service. In 2016, the Board received 92 requests for an expedited exam eligibility or initial license issuance due to military service.

Because the military expedite process for licensure is relatively new, it is possible that these requests could increase in the future. However, at this time, the fiscal impact would be \$128 per applicant. Therefore, the cost of waiving these fees in 2016 would have been approximately \$12,000.

Dr. Caldwell asked if there is data showing the number of applicants who have military service and who have indicated that on their applications. This number could be greater than the number of those who request to expedite their application.

Mr. Sodergren responded that those numbers were not used to determine the fiscal impact; but the data could be extracted to estimate the fiscal impact and to determine the percentage of applicants that have military service.

Deborah Brown moved to direct staff to obtain additional information and to defer the recommendation of SB 27 to the Board. Dr. Christine Wietlisbach seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes

Deborah Brown - yes
Dr. Christine Wietlisbach - yes

**XV. Discussion and Possible Recommendation Regarding Senate Bill 244 (Lara)
Privacy: Agencies: Personal Information**

SB 244 would provide additional privacy protections for personal information that is submitted to state agencies from an applicant for public services or programs.

Existing law:

- 1) Requires DCA entities to collect either the federal employer identification number, the individual taxpayer identification number, or the social security number of all applicants.
- 2) States that the federal employer identification number, individual taxpayer identification number, or the social security number collected by a licensing board is not a public record and is not open to the public for inspection.
- 3) Requires that DCA entities provide information on the internet regarding the status of every license issued by that entity. This may not include personal information, including home telephone number, date of birth, or social security number. An address of record is required to be disclosed.
- 4) Establishes the Mental Health Practitioner Education Fund, which provides loan repayment grants.
- 5) Prohibits the Mental Health Practitioner Education Fund, as well as other specified loan repayment funds, from denying an application based on the citizenship or immigration status of the applicant. Permits the applicant to apply using either his or her social security number or individual tax identification number.

This bill:

- 1) States that information submitted by applicants for licenses may be collected, recorded, and used only for the purposes of determining eligibility for a license.
- 2) States that the federal employer identification number, individual taxpayer identification number, or the social security number collected by a licensing board is confidential and cannot be disclosed except to administer the licensing program or as otherwise required by California law or federal court order.
- 3) States that personal information collected or obtained by any state agency is to be used only for the purposes for which it was obtained and is not a public record.
- 4) States that personal information collected or obtained by a state agency may only be disclosed as follows:
 - a) If it is required to administer the requested public service or programs;
 - b) If disclosure is required by California law;
 - c) If disclosure is required by a state or federal order;
 - d) If the applicant provides a signed consent form to share the data.

- 5) Defines “personal information” as name, address, birthplace, religion, sex, age, marital status, citizenship or immigration status, social security number, political affiliation, status as a recipient of public services, health information, income, or credit information of the applicant or of any family members or individuals provided in support of the application.
- 6) Prohibits information provided by an applicant for a Mental Health Practitioner Education Fund loan repayment grant, and for applicants of other specified similar programs, from being considered a public record. Specifies applicant information provided is confidential and is to be used only to assess eligibility and may not be disclosed for any other purpose without written consent of the applicant, except as required by California law or court order.

Intent

The author’s office is seeking to protect the personal information of individuals that is collected or obtained by state and local agencies for the administration of public programs. They note that misuse of this information could have “devastating consequences” and would “undermine the public safety and health goals of our laws.”

The author also notes that a goal is to “ensure that all residents, regardless of religion, health condition, gender, gender identity, citizenship, immigration status or status as a survivor of crime feel comfortable interacting with government agencies, with an expectation that their information will be confidential.”

Ms. Gonzales stated that NASW-CA is supportive of SB 244.

Deborah Brown moved to recommend to the Board that it support SB 244. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

- Samara Ashley - yes
- Christina Wong - yes
- Deborah Brown - yes
- Dr. Christine Wietlisbach - yes

XVI. Discussion and Possible Recommendation Regarding Senate Bill 374 (Newman) Health Insurance: Discriminatory Practices: Mental Health

SB 374 grants the Department of Insurance the authority to require that large group health insurance policies and individual or small group health insurance policies must provide all covered mental health and substance use disorder benefits in compliance with federal law. This is parallel to current authority already given to the Department of Managed Health Care for its regulation of large, individual or small group health care service plans.

This bill:

- 1) Requires a large group health insurance policy, regulated by Department of Insurance, to provide all covered mental health and substance use disorder benefits in compliance with the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) and the Public Health Service Act.

- 2) Requires an individual or small group health insurance policy, regulated by Department of Insurance, to provide all covered mental health and substance use disorder benefits in compliance with the MHPAEA, the Public Health Service Act, and Insurance Code (IC) section 10112.27.

Intent

According to the author's office, the current requirement in the Insurance Code to comply with the federal MHPAEA only applies to non-grandfathered individual and small group health insurance policies. This means the Department of Insurance does not currently have statutory authority to enforce the MHPAEA in all market segments that the Department of Managed Health Care has. Because of this, approximately 20% of health insurance policies in the state are not subject to state enforcement of federal mental health parity requirements, which risks ceding state enforcement authority to the federal government.

Ms. Gonzales stated that NASW-CA supports for SB 374.

Ms. Wong stated that the bill appears to close loopholes to ensure that the insurance companies are in compliance with federal law.

Christina Wong moved to recommend to the Board that it support SB 374. Samara Ashley seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

XVII. Discussion and Possible Recommendation Regarding Senate Bill 399 (Portantino) Health Care Coverage: PDD or Autism

SB 399 was amended on April 17th. This bill seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment. It also revises the definitions of a "qualified autism service professional" and a "qualified autism service paraprofessional."

Current law:

- 1) Requires that every health care service plan or insurance policy must also provide coverage for behavioral health treatment for pervasive developmental disorder or autism (PDD/A).
- 2) Defines "behavioral health treatment" as professional services and treatment programs, including applied behavior analysis and evidence-based behavior intervention programs, which develop or restore the functioning of an individual with pervasive developmental disorder or autism, and meets specified criteria.
- 3) Defines a "qualified autism service provider" as either:
 - a) A person, entity, or group that is certified by a national entity, such as the Behavior Analyst Certification Board; or

- b) A person who is licensed as a specified healing arts practitioner, including a psychologist, marriage and family therapist, educational psychologist, clinical social worker, or professional clinical counselor.
- 4) Defines a “qualified autism service professional” as someone who meets all of the following:
- a) Provides behavioral health treatment;
 - b) Is employed and supervised by a qualified autism service provider;
 - c) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;
 - d) Is a behavioral service provider approved by a regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program;
 - e) Has training and experience providing services for pervasive developmental disorder or autism.
- 5) Defines a “qualified autism service paraprofessional” as an unlicensed and uncertified person who meets all of the following:
- a) Is employed and supervised by a qualified autism service provider;
 - b) Provides treatment according to a treatment plan developed and approved by the qualified autism service provider;
 - c) Is certified by a qualified autism service provider as having adequate education, training, and experience.

This bill:

- 1) Changes the requirement for review of the behavioral health treatment plan from no less than once every six months, to no more than once every six months unless a shorter period is recommended by the qualified autism service provider or is included in the treatment plan.
- 2) Makes changes to the definition of a “qualified autism service professional” to allow other qualifications as well as requiring the following:
 - a) Meet the requirements to be approved as a vendor by a California regional center to provide services as an associate behavior analyst, behavior analyst, behavior management assistant, behavior management consultant, or behavior management program, or
 - b) Have a bachelor’s degree in one of the specified criteria.
- 3) Makes changes to the definition of a “qualified autism service paraprofessional” requiring the following:
 - a) Meet the education and training criteria set forth in the regulations regarding use of paraprofessionals in group practice providing behavioral intervention services; or
 - b) Meet all of the following:

- Has an associate degree or has completed two years of coursework in a related field of study; and
 - Has 40 hours of training in the specific form of behavioral health treatment; and
 - Is credentialed or certified in applied behavior analysis or behavioral health treatment for paraprofessionals by a national entity or has completed the training component of a credential or certification program.
- 4) Specifies that the setting, location, or time of treatment cannot be used as a reason to deny or reduce coverage.
- 5) Specifies that lack of parent or caregiver participation shall not be used as a basis for denying or reducing coverage.

Intent

The author's office states that currently, patients with PDD/A are being denied treatment coverage for prescribed behavioral health treatment, due to loopholes in the law. Some of these loopholes include the requirement for parental participation, location requirements, vendorization requirements, only offering coverage for one form of behavioral health treatment, and requirements for professional and paraprofessional providers to be employed by their supervising qualified autism service provider. This bill seeks to remove these loopholes, and to increase the requirements to qualify as an autism service paraprofessional.

NASW-CA and CAMFT are watching SB 399.

CAMFT expressed concerned that the qualified autism service paraprofessional could be supervised by either qualified autism service providers who are licensed professionals, or qualified autism service professionals who are not licensed. CAMFT is concerned that the paraprofessionals who are serving the population might not be obtaining the appropriate supervision.

Dr. Christine Wietlisbach moved to recommend to the Board that it take no position and watch SB 399. Christina Wong seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
 Christina Wong - yes
 Deborah Brown - yes
 Dr. Christine Wietlisbach - yes

XVIII. Discussion and Possible Recommendation Regarding Senate Bill 572 (Stone) Healing Arts Licenses: Violations: Grace Period

SB 572 would require a healing arts board to grant a licensee a 15-day grace period to correct any violations of law that do not cause irreparable harm before imposing discipline.

Current law sets forth certain acts that are considered unprofessional conduct, and grants the Board the authority to deny, suspend, revoke, or place on probation, any license or registration for unprofessional conduct. Current law also grants the Board the authority to issue citations and fines for violations of Board statute and regulations.

SB 572 prohibits a healing arts board from imposing disciplinary action or a penalty for a violation of law if:

- 1) The violation did not cause any irreparable harm and will not cause such harm if left uncorrected for 15 days;
- 2) The licensee corrects the violation within 15 days; and
- 3) The licensee is not currently on probation at the time of the violation.

Intent

The author's office states that there is no grace period for licensees that are in violation of minor provisions. The author's office claims that the lack of a grace period gives an incentive for governing boards to seek out minor violations.

Concerns

- 1) The bill does not provide a definition of "irreparable harm." Therefore, this is left to subjective interpretation. There are many types of violations that may not result in irreparable harm in every instance, but that still have the potential to harm a client.

Lack of a definition of "irreparable harm" could also increase enforcement costs. The Board may have to send more cases to subject matter experts to determine if irreparable harm occurred. The Board pays subject matter experts a rate of \$85 per hour.

- 2) This bill would create a disincentive for licensees to complete their required continuing education (CE). At least 36 hours of CE must be completed every two years upon license renewal. The Board determines compliance by conducting random audits of licensees, who must submit proof of completing the CE coursework.

If a licensee was provided with a 15-day grace period to come into compliance, some licensees may decide there is no need to complete this education unless audited. If they were audited and were non-compliant, they could utilize the 15-day grace period to find and complete coursework, and they would avoid the standard citation and fine for failure to comply.

- 3) This bill states that to avoid disciplinary action, the licensee must correct the violation within 15 days. It is unclear when the 15-day window to correct the violation commences.
- 4) DCA has established performance measures that targets processing times for various steps in the enforcement process. The performance measure target for completing an investigation is 180 days. The addition of a 15-day grace period will extend the investigation time. If a subject matter expert needs to be consulted to determine if there has been irreparable harm, this will also increase investigation time.

- 5) It is the responsibility of each licensee and registrant to be aware of the laws and regulations governing his or her profession. The possibility of a citation and fine provides an incentive for compliance with the law. Current Board practice for a citation and a fine is that the licensee or registrant must pay the fine, and he or she has 30 days to correct the violation.

Dr. Caldwell expressed that this bill would open the door for “serial low-grade offenders” to continue violating minor rules. AAMFT-CA does not see a significant problem concerning disciplinary overreach. However, AAMFT-CA is concerned that some punishments may be disproportionate to the act of the minor violations. This bill may not be the solution. Dr. Caldwell suggested revisiting the disciplinary guidelines.

Dr. Wietlisbach stated that the idea of whether a violation causes irreparable harm or not is very difficult to see.

Dr. Christine Wietlisbach moved to recommend to the Board that it oppose SB 572. Christina Wong seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

XIX. Discussion and Possible Recommendation Regarding Senate Bill 636 (Bradford) Addiction: Treatment: Advertising: Payment

SB 636 prohibits persons who provide counseling services in an alcoholism or drug abuse recovery and treatment program licensed by the Department of Health Care Services (DHCS), from giving or receiving any type of remuneration for patient referrals. It permits DHCS to investigate potential violations and recommend disciplinary action to the relevant licensing board.

Existing law:

- 1) Grants DHCS the authority to license adult alcoholism or drug abuse recovery or treatment facilities.
- 2) Requires staff providing counseling services at alcohol and drug programs, which include alcoholism or drug abuse recovery or treatment facilities, to be either a licensed professional, certified as an alcohol and drug counselor, or registered with an alcohol and drug counselor certifying organization.
- 3) Makes it unlawful for a healing arts licensee to offer, deliver, receive, or accept any type of rebate, refund, commission, preference, discount, or other consideration as compensation or inducement for referring patients.
- 4) Makes it unlawful for a healing arts licensee to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim or image in order to induce the rendering of professional services or furnishing of products in connection with the person’s professional practice or business.

This bill:

- 1) Prohibits licensed professionals and registered and certified counselors providing counseling services for an alcoholism or drug abuse recovery treatment program licensed by DHCS from giving or receiving remuneration or anything of value for referral to alcoholism or drug abuse recovery and treatment services.
- 2) Allows DHCS to investigate and suspend or revoke the license or certification of an alcoholism or drug abuse recovery and treatment program, for a violation of the above provision. It may also suspend or revoke the registration or certification of a counselor for such a violation.
- 3) Allows DHCS to investigate allegations against a licensed professional who is providing counseling services at one of its licensed or certified alcoholism or drug abuse recovery or treatment programs, and allows it to recommend disciplinary actions, including termination of employment at the program and suspension and revocation of licensure by the appropriate licensing board.
- 4) States that the proceedings for suspension or revocation of a license shall be conducted according to the administrative hearing process outlined in law and that the DHCS shall have all the powers granted by the law for the administrative hearing process.

Intent

The author's office is seeking to ban patient brokering. Kickbacks and other financial agreements between treatment providers and referrers can compromise patient safety and the integrity of the payment system. DHCS currently does not have the authority to regulate alcohol and drug counselor program advertising and kickbacks.

Ms. Madsen explained that this bill would remove the Board's authority to administer regulatory oversight. She doesn't have an issue if DHCS refers the matter to the Board to take the appropriate action after it determines that a violation occurred.

Committee members and stakeholders expressed that they have concerns regarding disciplinary recommendations made upon Board licensees by DHCS.

Dr. Christine Wietlisbach moved to recommend to the Board that it oppose SB 636 unless amended, and direct staff to provide technical assistance to the author's office. Christina Wong seconded. The Committee voted to pass the motion.

Vote

Samara Ashley - yes
Christina Wong - yes
Deborah Brown - yes
Dr. Christine Wietlisbach - yes

XX. Status on Board-Sponsored Legislation

AB 93

AB 93 is the Board's supervision bill. AB 93 passed the Assembly Business and Professions Committee and is currently in the Assembly Appropriations Committee.

Board Omnibus Bill

The Omnibus Bill was introduced into SB 800. One proposed amendment item, BPC sections 801, 801.1, and 802 Judgment and Settlement Reporting Amounts, was rejected as being too substantive. This bill will be heard in committee on Monday.

XXI. Status of Board Rulemaking Proposals

English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2

Upon review by the Office of Administrative Law (OAL), staff was notified of wording changes that would be necessary for approval. The proposed changes were approved by the Board in March 2017, and a 15-day public comment period was held. The revised language and documents are currently being prepared for approval by DCA and OAL.

Application Processing Times and Registrant Advertising

The proposal is currently in the new "initial review phase" process required by DCA. The initial review phase is expected to be completed in the next few weeks, at which time the proposal will be submitted to OAL for publishing in the California Regulatory Notice Register to initiate the 45-day public comment period.

Contact Information; Application Requirements; Incapacitated Supervisors

The proposal is being prepared for the initial review phase required by DCA, which can take up to four months. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

XXII. Suggestions for Future Agenda Items

Dr. Caldwell called two bills to the Committee's attention and requested that the bills be addressed at the May Board meeting: 1) AB 387 on minimum wage for healthcare workers employed by the State and completing requirements for licensure; and 2) ACR8 on post-traumatic "street" disorder.

Ms. Gonzales shared that some students with criminal records who are about to graduate are concerned about the Board's evaluation process. She feels that these students need to be reassured that the Board will be fair. Ms. Gonzales stated that people are deterred from applying for licensure because they are misinformed about the evaluation process. She would like the Board to address this.

XXIII. Public Comment for Items not on the Agenda

Dr. Caldwell commented that AB 1917 changed the rule regarding out-of-state graduate education programs. Previously, California residents taking out-of-state-based online programs were still evaluated based on in-state requirements. The BBS website still mentions the outdated rule. Dr. Caldwell requested that the Board update the website.

XXIV. Adjournment

The Committee adjourned at 2:47 p.m.