



BOARD MEETING MINUTES

Open sessions of this Board Meeting were webcasted. Records of the webcasts are available at the following links:

Part 1: https://www.youtube.com/watch?v=5KDIAcM_8JU&feature=youtu.be

Part 2: <https://www.youtube.com/watch?v=4RrIN1Oic4k>

DATE July 7, 2021

MEETING PLATFORM WebEx Video Conference and Phone Conference

Pursuant to the provisions of Governor Gavin Newsom’s Executive Order N-08-21, dated June 11, 2021, neither a public location nor teleconference locations are provided.

TIME 9:00 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Crystal Anthony, LCSW Member
Deborah Brown, Public Member
Ross Erlich, Public Member
Susan Friedman, Public Member
Dr. Diana Herweck, LPCC Member
Christopher Jones, LEP Member
Jonathan Maddox, LMFT Member
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Wendy Strack, Public Member

Members Absent: Yvette Casares Willis, Public Member
Crystal Anthony, LCSW Member (*absent during hearings*)

Staff Present: Steve Sodergren, Executive Officer (*open session*)
Rosanne Helms, Legislative Manager
Christy Berger, Regulatory Analyst
Sabina Knight, Legal Counsel

Gena Beaver, Enforcement Manager (*open session*)

Other Attendees: Jonathan Lew, Administrative Law Judge
Andrew Steinheimer, Deputy Attorney General (*open session*)
Petitioners (listed on agenda)
Public participation via WebEx video/phone conference

OPEN SESSION

Items taken out of order: Item XI and item IX were heard after item VII.

I. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 9:00 a.m. Roll was called, and a quorum was established.

II. Public Comments for Items Not on the Agenda

None

III. Suggestions for Future Agenda Items

None

IV. Discussion and Possible Action Regarding Comments Received During 15-Day Public Comment Period on Proposed Revisions to Supervision Rulemaking Proposal to Amend Title 16, California Code of Regulations (CCR) sections 1820, 1820.5, 1821, 1833, 1833.1, 1833.2, and 1870: Add sections 1815.8, 1820.3, 1821.1, 1821.2, 1821.3, 1833.05, 1833.1.5, 1834, 1869, 1869.3, 1870.3, 1870.5, and 1871: and Repeal sections 1822 and 1870.1

A 45-day public comment period was held in 2020 on this regulatory package. Comments were received, and staff responded to those comments. Additional changes to the text were made, and the Board approved the language in March 2021.

A 15-day public comment period was held, and the following comments were received by Kathleen Hawks and Teresa Pardini. Board staff provided responses to the comments.

MOTION: Approve the proposed responses to public comments received and direct staff to make any Board-approved changes and any technical or non-substantive changes needed to complete the rulemaking process.

Wong moved. Brown seconded.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Deborah Brown	x				
Yvette Casares Willis				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

The motion carried: 12 yea, 0 nay.

V. Discussion and Possible Action Regarding Additional Proposed Revisions to Supervision Rulemaking Proposal to Amend Title 16, CCR sections 1820, 1820.5, 1821, 1833, 1833.1, 1833.2, and 1870: Add sections 1815.8, 1820.3, 1821.1, 1821.2, 1821.3, 1833.05, 1833.1.5, 5 1834, 1869, 1869.3, 1870.3, 1870.5, and 1871: and Repeal sections 1822 and 1870.1

This regulation proposal contains minor changes to the Board-approved text. Most of the changes are pushing out the anticipated effective date of July 1, 2021 to January 1, 2022.

Other amendments:

- Nonsubstantive change to section 1871(c)(5) to correct a typographical error.
- Written Oversight Agreement (sections 1820(a), 1833(a) and 1869(a)):
 - Strike language that specifies the circumstances under which a written oversight agreement is required. The text now refers back to the statute.
 - Add language to clarify that the subsections (1-4) below subsection (a) contain the provisions pertaining to the written oversight agreement and its execution.
 - Move text that clarifies that the written oversight agreement pertains to the supervisee’s employer from subsection (a) to subsection(a)(3).

- Supervision Agreement (sections 1820(c), 1833(c) and 1869(c)): Change the text that specifies which supervisors and supervisees do not need to complete a supervision agreement. The new effective date has been changed to January 1, 2022.
- Supervisor Self-Assessment Report (sections 1821(d)(2)&(3), 1833.1(d)(2)&(3), and 1870(d)(2)&(3)).
 - Effective Date Phase-in for Existing Supervisors. Licensees supervising an associate or MFT trainee as of the effective date of the regulations shall submit a self-assessment report to the board by January 1, 2023.
 - Effective Date for New Supervisors. Change the effective date of the self-assessment report requirement for new supervisors to be the same as the anticipated effective date of the regulations.
 - Supervisor Removal from List. Strike text that would have required supervisors to notify the board within 60 days of being no longer qualified to supervise so that the supervisor can be removed from the list.
- Supervisor Training and Coursework (sections 1821.3, 1834 and 1871).
 - Initial Training for New Supervisors. Change the effective date of the one-time training required for new supervisors to be the same as the anticipated effective date of the regulations.

MOTION: Approve the amended regulation text and initiate a 15-day public comment period. Additionally, if no adverse comments are received during the public comment period, or if any adverse comments received are irrelevant to the amended regulation text, delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Disposti moved. Friedman seconded.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Deborah Brown	x				
Yvette Casares Willis				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman					
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox	x				
Kelly Ranasinghe	x				
John Sovec	x				

Wendy Strack	x				
Christina Wong	x				

The motion carried: 11 yea, 0 nay. (Friedman was not present during the roll call vote.)

VI. Discussion and Possible Recommendation Regarding Assembly Bill 107 (Salas) Licensure: Veterans and Military Spouses

AB 107 would require all boards within DCA to issue temporary licenses to military spouses, if they meet certain specified requirements.

Current Board Process

The Board does not have a temporary license status, nor does it have licensing reciprocity with any other states. The Board has a “licensure by credential” pathway to licensure, which is a streamlined process for qualifying licensees in other states who have been licensed for at least two years (SB 679).

The Board is required to expedite the licensing process for an applicant who is married to or in a domestic partnership with an active member of the U.S. military who is assigned to active duty in California, if the applicant holds a current license in the same profession in another state.

Bypassing the Licensure Process

This bill does not require the following:

- That the licensing requirements in the other state in which the person holds a license be substantially equivalent to the requirements in California; or
- That the applicant passes the required Board administered examinations.

Continuity of Care

This bill creates a temporary license that is valid for a 12-month period, or until the regular license is issued, whichever occurs first. A consumer who seeks mental health services often seeks treatment for an extended period of time. A practitioner whose temporary license expires could disrupt the continuity of care for patients.

Staffing and BreEZe Impact

A temporary license status would need to be created in the BreEZe system, which could result in a fiscal impact. A new license type would increase staff workload, creating a need for new staff.

LEPs

SB 679 did not establish a licensure by credential option for LEPs, because only one other state that has LEP licensure.

Previous Board Position

At its May 2021 meeting, the Board took an “oppose unless amended” position on AB 107 and asked that the Board be removed from the provisions of the bill and cited several concerns. Since that time, the bill has been amended to require passage of a California law and ethics exam.

Implementation Concerns

Staff has concerns about the implementation issues. A temporary license appears to bypass or confuse board’s regular licensure process for applicants licensed less than 2 years who may be required to complete activities such as registering as an associate to complete additional experience hours and passing the clinical exam.

MOTION: Oppose AB 107 unless amended to remove BBS from the requirements of the bill.

Wong moved. Sovec seconded.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Deborah Brown	x				
Yvette Casares Willis				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

The motion carried: 12 yea, 0 nay.

VII. Discussion and Possible Recommendation Regarding Assembly Bill 468 (Friedman) Emotional Support Dogs

This bill would require a health care practitioner who provides documentation about an individual's need for an emotional support dog to comply with certain requirements.

State law defines guide dogs, signal dogs, and service dogs used to assist individuals with disabilities. Emotional support dogs are another category that is not as well defined; however, some BBS licensees issue certifications for these dogs.

The portion of AB 468 relevant to the Board:

1. Prohibits a health care practitioner from providing documentation relating to an individual's need for an emotional support dog unless they comply with all of the following criteria:
 - a. Have a valid, active license, and includes the license's effective date, license number, jurisdiction, and type of professional license in the documentation;
 - b. Is licensed to provide professional services within the scope of the license in the jurisdiction in which the documentation is provided;
 - c. Has established a client-provider relationship with the individual for at least 30 days before providing the documentation regarding the individual's need for an emotional support dog; and
 - d. Completes a clinical evaluation of the individual regarding the need for an emotional support dog.
 - e. *The author is requesting feedback regarding the following provision:
Provides verbal or written notice to the individual that knowingly and fraudulently representing oneself to be the owner or trainer of any canine licensed, qualified, or identified as a guide, signal, or service dog is a misdemeanor violation.*
2. States that if a health care practitioner violates any of the provisions listed in Item 4 above, they may be subject to discipline from their licensing board.
3. States that a person knowingly and fraudulently representing, selling, offering for sale, or attempting to represent, sell, or offer for sale an emotional support dog as being entitled to the rights and privileges accorded by law to a guide, signal, or service dog, or violating the written notice requirements, is subject to the following civil penalties, brought by the Attorney General, a district attorney, a county counsel, or a city attorney:
 - a. \$500 for the first violation

- b. \$1,000 for the second violation
- c. \$2,500 for the third and subsequent violations.

Crystal Anthony: It is not clear who this bill is protecting.

Rosanne Helms: The Board receives cases where it finds that people are issuing these letters without establishing a relationship with the client. The author's office states that it is not helpful to those who have the define guide and service dogs.

Kelly Ranasinghe: This bill is supported by the California Apartment Association and the Western Manufactured Housing Communities Association. The Board is not a foil for a financial interest. The Board's purpose is public protection.

Christina Wong: The intent of the bill is a step in the right direction to put some mechanism and clarity in place. There are people abusing this and charging money for these letters.

Max Disposti: There are veterans with PTSD who rely on emotional support dogs. They are not asking for special privileges. This bill creates more challenges.

MOTION: Oppose AB 468.

Disposti moved. Anthony seconded.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Deborah Brown	x				
Yvette Casares Willis				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong		x			

The motion carried: 11 yea, 1 nay.

VIII. Discussion and Possible Recommendation Regarding Senate Bill 14 (Portantino) Pupil Health: School Employee and Pupil Training: Excused Absences: Youth Mental and Behavioral Health

This item was tabled.

IX. Discussion and Possible Recommendation Regarding Assembly Bill 988 (Bauer-Kahan) Mental Health: 988 Crisis Hotline

AB 988 would implement a statewide 988 mental health crisis hotline system.

Intent

The passage of the federal government’s National Suicide Hotline Designation Act establishes a 988 mental health crisis hotline. The state must create a framework to receive callers and provide callers with care.

MOTION: Support AB 988.

Disposti moved. Wong seconded.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Deborah Brown	x				
Yvette Casares Willis				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

The motion carried: 12 yea, 0 nay.

X. Discussion and Possible Recommendation Regarding Senate Bill 607 (Roth) Professions and Vocations

This item was tabled.

XI. Discussion and Possible Recommendation Regarding Senate Bill 801 (Roth) Healing Arts: Board of Behavioral Sciences: Licensees

This bill is in the process of being amended this week. The amended version will propose the following:

- Extending the Board’s sunset date from January 1, 2022 until January 1, 2026. (Business and Professions Code (BPC) §§4990, 4990.04)
- Moving the proposed provisions of AB 723 into this bill. AB 723 is sponsored by the California Association of Marriage and Family Therapy (CAMFT) and makes changes to BPC §4980.02 to modernize and clarify the LMFT scope of practice. The Board has a “support” position on AB 723.
- It also contains several changes to the Board’s licensing statutes that are minor, technical, and/or non-substantive. These changes were approved by the Board as omnibus bill items. The Board serves as the sponsor of these items.

This bill contains the Board’s Omnibus Bill proposal. The Board sponsors this language of the bill.

MOTION: Support amending BPC §§4990 and 4990.04, which are the sections proposing to extend this board’s sunset date until January 1, 2026, and the amendments to BPC §4980.02 to modernize and clarify the LMFT scope of practice that were previously in AB 723 as introduced on February 16, 2021.

Wong moved. Herweck seconded.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Crystal Anthony	x				
Deborah Brown	x				
Yvette Casares Willis				x	
Max Disposti	x				
Ross Erlich	x				
Susan Friedman	x				
Dr. Diana Herweck	x				
Christopher Jones	x				
Jonathan Maddox	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Christina Wong	x				

The motion carried: 12 yea, 0 nay.

Administrative Law Judge Wilbert Bennett presided over the following petition hearings. Deputy Attorney General Patricia Heim presented the facts of each case on behalf of the People of the State of California.

XII. Amber McKinney-Morgan, ASW 89316, Petition for Early Termination of Probation

Petitioner Amber McKinney-Morgan was represented by counsel Miranda McCroskey. Ms. Heim presented the background of the petitioner's probation.

The petitioner was sworn in. She presented her request for early termination of probation and information to support the request. The petitioner was examined by her counsel and cross-examined by Ms. Heim and Board members. Petitioner's counsel gave a closing statement. The record was closed at approximately 12:02 p.m.

XIII. Brad Winthrop Wood, LCSW 20025, Petition for Early Termination of Probation

The record was open at 12:37 p.m. Petitioner Brad Wood was represented by counsel Derek O'Reilly-Jones. Ms. Heim presented the background of the petitioner's probation. Petitioner's counsel gave an opening statement.

Two witnesses were sworn in and testified on the behalf of the petitioner: Jason Lambert. LCSW and Donald Jones.

Petitioner was sworn in. He presented his request for early termination of probation and information to support the request. The petitioner was examined by his counsel and cross-examined by Ms. Heim and Board members. The record was closed at 2:27 p.m.

XIV. Sheila Francis Lynch, LCSW 76775, Petition for Early Termination of Probation

The hearing was opened at approximately 2:43 p.m. Petitioner Sheila Lynch represented herself. Mr. Heim presented the background of the petitioner's probation.

Petitioner was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Mrs. Heim and Board members. The record was closed at 3:30 p.m.

XV. Kerstin Marlon Robbins, LMFT 53214, Petition for Early Termination of Probation

This petition was withdrawn.

CLOSED SESSION

XVI. 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.

The Board met in closed session at approximately 3:35 p.m.

XVII. Adjournment

The Board adjourned at the conclusion of the Closed Session.