



Board of Behavioral Sciences



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Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

POLICY AND ADVOCACY COMMITTEE MINUTES

A recorded webcast of this meeting is available at:

DATE July 21, 2023

TIME 12:00 p.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Abigail Ortega, LCSW Member
John Sovec, LMFT Member
Wendy Strack, Public Member

Staff Present: Steve Sodergren, Executive Officer
Marlon McManus, Assistant Executive Officer
Rosanne Helms, Legislative Manager
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel
Kristy Schieldge, Legal Counsel

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

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

2
3 Max Disposti, Chair of the Policy and Advocacy Committee (Committee) called
4 the meeting to order at 12:00 p.m. Roll was called, and a quorum was
5 established.

6
7 **2. Introductions**

8
9 Committee members introduced themselves.

10
11 **3. Consent Calendar**

12
13 **a. Discussion and Possible Approval of July 29, 2022 Committee Meeting**
14 **Minutes**

15
16 **b. Discussion and Possible Approval of October 14, 2022 Committee**
Meeting Minutes

17
18 **c. Discussion and Possible Approval of January 13, 2023 Committee**
19 **Meeting Minutes**

20 Amendments were noted on July 29, 2022 minutes.

21
22 Motion: Approve the July 29, 2022 Committee meeting minutes as amended,
23 and approve the October 14, 2022 and January 13, 2023 Committee meeting
24 minutes.

25
26 M/S: Strack/Sovec

27
28 Public Comment: None

29
30 Motion carried: yea - 4, nay - 0

31

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

32
33 **4. Discussion and Possible Recommendation Regarding Clarifying**
34 **Supervision Requirements (Business and Professions Code (BPC)**
35 **§§4980.43.2, 4980.43.4, 4996.23.1, 4996.23.3, 4999.46.2, 4999.46.4)**

36
37 **Definition of Direct Supervisor Contact (BPC §§4980.43.2(b), 4996.23.1(b),**
38 **4999.46.2(b))**
39

1 The proposal before the Committee limits the number of “persons receiving
2 supervision for providing clinical mental health services” instead of limiting the
3 number of “supervisees.”
4

5 The proposal also clarifies who may attend a supervision session. It states that
6 licensed clinical mental health professionals may sit in on supervision as
7 observers without counting against the total allowable number of people being
8 supervised. It also states that persons who do not provide clinical services are
9 not permitted in a supervision session.
10

11 Public Comment

12 Rebecca Gonzales, National Association of Social Workers, California Chapter
13 (NASW-CA): Expressed concern about allowing student interns within the
14 allowable limit because that takes seats away from those who want to gain
15 hours, and it contributes to a lower level of clinical oversight for MSW student
16 interns. MSW student interns require a different oversight. Additionally, if MSW
17 students can be counted in groups, it could dissuade agencies from taking MSW
18 student interns as they may need more supervision than an MFT student.
19

20 Ben Caldwell: Referred to proposed language in Attachment A, subdivision
21 (b)(2) “persons who provide non-clinical services”; recommended amending the
22 language to state “persons who do not provide clinical services” because some
23 supervisors also provide non-clinical services. The proposed language, as
24 currently written, would exclude those supervisors.
25

26 Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT):
27 CAMFT is not taking a position on the proposed language or the outcome, but
28 instead is looking forward to a clear definition.
29

30 Laura DeSantis: Asked for the definition of an “observer” and asked if the
31 language should define it. Concerned that the observer could participate or
32 provide feedback, detracting from the eight-person group.
33

34 Committee/Staff Discussion

35 Sovec: Asked for the definition of an observer, what their role is in the group,
36 whether the observer is non-participatory.

37 Disposti: Agrees with Sovec regarding the observer and their role. Group should
38 consist of the supervisor and supervisees.
39

40 Discussion continued around the number of supervisees in a group, the
41 supervisee experience in the group, and the observer. It was suggested to
42 remove the language regarding the observer and allowing agencies to have
43 control over the observer.
44

Motion: Remove BPC §4980.43.2(b)(2) from Attachment A and bring the proposal to the Board for further discussion.

M/S: Sovec/Disposti

Public Comment

Gonzales, NASW-CA: Would like to emphasize her comment that was made earlier in the conversation and would like to explore that further.

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

Limitation on Number of Supervisees per Supervisor (BPC §§4980.43.4((c), 4996.23.3(c), 4999.46.4(c))

The proposal before the Committee does the following:

- Clarifies that supervisors of supervisees in non-exempt settings are limited to a total of six supervisees.
- Clarifies that the supervisees include not only registered associates, but also anyone who is gaining supervised experience toward licensure with the Board in a non-exempt setting, including MFT trainees and 90-day rule applicants. It would not include PCC trainees, social work interns, supervisees working in exempt settings and other mental health professionals receiving supervision who are not pursuing licensure with the Board.

Alternative language was also provided if the Board wished to include all possible supervisee types in the six supervisee per supervisor limit.

Public Comment

Gonzales, NASW-CA: It is very confusing to have two different numbers. Suggested looking at the total number of clients for whom a clinical supervisor is providing clinical oversight. Issues concerning numbers: quality assurance from a consumer perspective, adequate access and oversight for the supervisor, and a workload issue for the supervisor. Suggested creating ranges.

Atkins, CAMFT: CAMFT supports following the original intent of the law and wants clarification of the law.

1 Motion: Bring this discussion to the Board for consideration.

2
3 M/S: Disposti/Strack

4
5 Public Comment: None

6
7 Motion carried: yea - 4, nay - 0

8

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

9
10 **Additional Item for Discussion: Eight Supervisees per Group**

11
12 Supervisors and supervisees sometimes are confused because the law limits a
13 supervisor in a non-exempt setting to six individual or triadic supervisees.
14 However, the law also allows group supervision to include up to eight
15 supervisees. The Committee was asked if they wanted to consider changing the
16 number of allowed supervisees.

17
18 Discussion

19 Sovec: Does not want to increase the number, but instead consider the actual
20 number of hours for the supervisor's commitment.

21
22 Ortega: Would like to hear from the supervisors about the limit of 6 supervisees –
23 whether it is too little, too much, or sufficient.

24
25 Public Comment

26 Gonzales, NASW-CA: Increasing the number to eight would overburden the
27 supervisor and then it would be difficult finding people who are willing to become
28 supervisors. On the other hand, limiting the number to six makes it harder for
29 people gaining hours to find supervisors.

30
31 Caldwell: Agrees with Gonzales. Asked if there is any data on supervision-
32 related complaints since changing the number from three to six, or an increase in
33 supervision-related problems.

34
35 Sodergren responded that staff has not looked into that data.

36
37 No action was taken on this piece.

1 **5. Discussion and Possible Recommendation Regarding Required Display of**
2 **License or Registration (BPC §§4980.31, 4980.44, 4989.48, 4996.7, 4996.8,**
3 **and 4999.70; California Code of Regulations Title 16 (16CCR), §§1811 and**
4 **1815.5)**

5
6 At its previous meeting, the Committee directed staff to draft language updating
7 the license or registration display language to provide other options for providing
8 the client with the license or registration number, type, and expiration date each
9 time services are provided, if physical display of the license or registration
10 certificate is not possible due to services being provided via telehealth.

11
12 The proposed language was provided. Staff also recommended an additional
13 amendment to delete BPC §4996.8, which placed an additional requirement on
14 LCSWs that is not consistent with the other three practice acts.

15
16 Staff also suggests that this discussion be continued, because it ties in with a
17 larger discussion regarding information that must be provided to a client when
18 providing mental health services and information that must be provided to clients
19 via advertising.

20
21 Public Comment

22 Caldwell: Likes the proposed language and the flexibility it offers.

23
24 Gonzales, NASW-CA: Concurred with Caldwell and approves the deletion of the
25 BPC §4996.8.

26
27 Laura DeSantis: Has concerns and feels that this is cumbersome. If the intent is
28 for the client to have knowledge of the licensee's number so they can file a
29 complaint, then it should be addressed in informed consent laws where it should
30 be required that every associate and licensee give their license numbers at the
31 beginning.

32
33 Atkins, CAMFT: CAMFT is fine with the proposed language. Given the Board's
34 mandate of consumer protection, CAMFT does not feel that this is overly
35 cumbersome, especially given the verbal inclusion.

36
37 Committee/Staff Discussion

38 Kristy Schieldge: Suggested updating the term "written text" to "in writing" (BPC
39 §§4980.31(c), 4989.48(c), 4996.7(f), and 4999.70(c)).

40
41 Sovec: Asked if there is a way to have more flexibility, such as on initial contact
42 or during intake and on each renewal period, instead of presenting the
43 information for each session.

44
45 Ortega: Appreciates the different methods to communicate this information, but
46 the information should be stated more than just on an intake. Suggests requiring

the information on the intake and then periodically communicate the information to the client.

Public Comment

Gonzales, NASW-CA: Doesn't have a problem with the proposed language, but Sovec's comments are reasonable.

Caldwell: The language is fine; doesn't feel that the requirements are cumbersome in the telehealth environment. For consumer protection, providing that information on intake is beneficial. The information can be provided at each session or readily available at the beginning of each session.

Committee/Staff Discussion

The Committee and staff continued to discuss the intake piece.

Motion: Direct staff to look into amending the required notice to clients in lieu of the proposed language in Attachment A and bring it back to the Committee for further review.

M/S: Dispost/Strack

Public Comment: None

Motion carried: yea - 4, nay - 0

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

6. Discussion and Possible Recommendation Regarding Changes to Licensed Educational Psychologist Regulations: Experience Equivalent to Three (3) Years Full-Time Experience as Credentialed School Psychologist (16CCR §1856)

This item was tabled.

7. Discussion and Possible Recommendation Regarding Changes to Enforcement Regulations: Unprofessional Conduct, Amount of Fines (16CCR §§1845, 1858, 1881, 1886.30 and 1886.40)

Proposed revisions were brought to the Committee at the January 2023 meeting as part of an agenda item that also proposed to amend the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines". This is now a

1 separate proposal, and there have been some changes to the language since the
2 January 2023 meeting.

3
4 Proposed Changes

- 5
6 • Amendments to 16 CCR §§ 1845 (LMFT), 1858 (LEP), and 1881 (LCSW)
7 (Unprofessional Conduct)
8
9 • Amendments to 16 CCR §§ 1886.30 and 1886.40 and (Citation Factors;
10 Amount of Fines: Confidentiality of Medical Information Act)
11

12 Motion: Recommend to the Board to approve the text and direct staff to make
13 any non-substantive change to the proposed language and provide the language
14 to the Board for consideration as a regulation proposal at the next Board
15 meeting.

16
17 M/S: Disposti/Sovec

18
19 Public Comment: None

20
21 Motion carried: yea - 4, nay - 0
22

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

23
24 **8. Discussion and Possible Recommendation Regarding Changes to**
25 **Enforcement Regulations: Unprofessional Conduct, Amount of Fines,**
26 **Uniform Standards Related to Substance Abuse and Disciplinary**
27 **Guidelines (Title 16, CCR Sections 1823, 1845, 1858, 1881, 1886.40 and 1888**
28 **and Uniform Standards Related to Substance Abuse and Disciplinary**
29 **Guidelines (Rev. December 2020))**

30
31 The proposed revisions to the “Uniform Standards Related to Substance Abuse
32 and Disciplinary Guidelines” were presented to the Committee. Listed are the
33 items that have changed significantly since the January 2023 meeting.

34
35 Proposed Changes

36
37 **I. UNIFORM STANDARDS**

- 38
39 1. Amendments to CCR §1888 and Uniform Standards: Violations Involving
40 Abuse of Drugs or Alcohol; Quarterly Report Form

2. Introduction to Uniform Standards / Disciplinary Guidelines Document and Introduction to Penalty Guidelines
3. Uniform Standards

II. PENALTY GUIDELINES

1. All Terms and Conditions

Optional Terms and Conditions of Probation

2. Psychological/Psychiatric Evaluation
3. Psychotherapy
4. Clinical Diagnostic Evaluation
5. Supervised Practice

Public Comment/Discussion

Caldwell: The prohibition of an evaluator, a supervisor, a therapist from having been subject of a disciplinary action against their license – this runs counter to the efforts to rehabilitate those who go through a disciplinary process, fulfill all the requirements of that process, and then come into good standing. This suggests that the individual never fully regains the ability to do the things that they could have done previously.

Schieldge: For public protection, we want to look for people that do not have a record of violating the law. The goal is to “protect the public and enforce the laws written. What discipline shows is that there has been a failure to understand that. We want to make sure that people who are going to be monitoring those for the protection of the public essentially for the Board in a probationary environment are understanding of that. The best way to ensure that is to make sure they don’t have a record of discipline.”

Caldwell: For somebody who may have had a minor disciplinary issue 20 years ago, for example, the language is saying that the Board will never fully trust that person to be the eyes and ears on its behalf. This goes against the intention of the probation process.

Schieldge: The purpose of regulation is to have bright line rules that are easy to implement and enforced for the protection of the public. All the boards in the department use this standard to eliminate people from consideration – the boards do not want to take the risk and place the burden on staff of evaluating every person’s violation. It’s a safer option to have those without a record of discipline to evaluate someone’s safety and competency and ethics regarding rehabilitation.

Gonzales, NASW-CA: Agrees with Caldwell, and with AB 2138 we have 70 years as a standard of time and would be in favor of that solution.

Schildge: AB 2138 applies to applicants, not licensees, to start the process of becoming licensed.

Sovec: Feels strongly about the no disciplinary requirement as well but would like the full Board input.

6. Education Pertaining to the Violation
7. Attend Recovery Support Program
8. Rehabilitation Program
9. Abstain from I Drugs and Alcohol / Submit to Drug and Alcohol Testing

Discussion

Sovec: For Recovery Support Program, some of the required information may be unattainable. It is impossible to provide contact information or phone numbers for the program. A screenshot of the meeting directory could be attainable.

After a lengthy discussion, staff suggested changing the requirement for contact information to "contact information, if available."

Public Comment/Discussion

Caldwell: Penalty Guidelines number 9, replacing the phrase "controlled substances" with "drugs or alcohol" will have unintended consequences. Currently, the language would prohibit someone who is on probation for a substance related violation from using over-the-counter medication or other products that contain caffeine, for example. Suggested using the term "controlled substances" or other language prohibiting abuse and not possession or consumption.

Schildge: DCA is bound by the Uniform Standards, and the Board cannot deviate from those standards per the Attorney General's Office.

Standard Terms and Conditions of Probation

10. Obey all Laws
11. File Quarterly Reports
12. Failure to Practice/Tolling
13. Notification to Employer
14. License Surrender
15. Cost Recovery

IV. BOARD POLICIES AND GUIDELINES

16. Stipulated Settlements
17. Recommended Language for License Surrenders

1 18. Recommended Language for Revocation of License
2 19. Reinstatement / Reduction of Penalty Hearings
3
4

5 Motion: Remove the requirement of contact information from the Recovery
6 Support Program term.
7

8 M/S: Sovec/Disposti
9

10 Public Comment: None
11

12 Motion carried: yea - 4, nay - 0
13

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

14
15
16 Motion: Approve the text with the amendments discussed, authorize staff to
17 make non-substantive changes to the proposed language, and bring the proposal
18 to the Board for consideration as a regulation proposal at its next meeting.
19

20 M/S: Disposti/Strack
21

22 Public Comment: None
23

24 Motion carried: yea - 4, nay - 0
25

Member	Vote
Max Disposti	Yes
Abigail Ortega	Yes
John Sovec	Yes
Wendy Strack	Yes

26
27 **9. Update on Board-Sponsored and Board-Monitored Legislation**
28

29 The Board is pursuing of the following legislative proposals this year:
30

31 AB 232 Temporary Practice Allowances: This bill is in the Senate
32 Appropriations Committee.
33

34 SB 887 Consumer Affairs (Omnibus Bill Proposal): This bill is in the
35 Assembly Business and Professions Committee.

1 Board-Supported Legislation:

2
3 SB 11 California State University: Mental Health Counseling: This bill is in the
4 Assembly Health Committee.

5
6 SB 372 Department of Consumer Affairs: Licensee and Registrant Records:
7 Name and Gender Changes: This bill is in the Assembly Appropriations
8 Committee.

9
10 SB 373 Board of Behavioral Sciences, Board of Psychology, and Medical
11 Board of California: Licensees' and Registrants' Addresses: This bill is in the
12 Assembly Appropriations Committee.

13
14 Board-Monitored Legislation

15
16 SB 766 Social Workers: This is a 2-year bill.

17
18 **10. Update on Board Rulemaking Proposals**

19
20 Nothing to report.

21
22 **11. Suggestions for Future Agenda Items**

23
24 Caldwell: 1) Required supervision for those who are graduated from their
25 programs (they are no longer trainees), but not yet associates or applicants.
26 How much supervision do they need? Are supervisors obligated to continue
27 providing the same level of supervision that they were providing to a trainee? 2)
28 What form(s) of signatures is the Board accepting? It would be helpful for the
29 Board to provide clarity and to formally make the policy official.

30
31 **12. Public Comment for Items not on the Agenda**

32
33 None

34
35 **13. Adjournment**

36
37 The Committee adjourned at 3:22 p.m.