



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:
https://www.youtube.com/watch?v=O1YEiuhn_lg

DATE January 19, 2024

TIME 1:00 p.m.

LOCATIONS

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

Alternative Platform WebEx Video/Phone Conference

ATTENDEES

Members Present at Remote Locations

Christopher Jones, Chair, LEP Member
Wendy Strack, Chair, Public Member
Abigail Ortega, LCSW Member
John Sovec, LMFT Member

Staff Present at Primary Location

Steve Sodergren, Executive Officer
Rosanne Helms, Legislative Manager
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst

Staff Present at Remote Location

Sabina Knight, Legal Counsel
Kristy Schieldge, Legal Counsel
Marlon McManus, Assistant Executive Officer

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

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

2
3 Christopher Jones, Chair of the Policy & Advocacy Committee (Committee)
4 called the meeting to order at 1:00 p.m. Roll was called, and a quorum was
5 established.

6
7 **2. Introductions**

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

11
12 **3. Consent Calendar: Discussion and Possible Approval of October 27, 2023**
13 **Committee Meeting Minutes**

14
15 Motion: Approve the October 27, 2023 Committee meeting minutes.

16
17 M/S: Strack/Jones

18
19 Public Comment: None

20
21 Motion carried: 3 yea, 0 nay 1 abstention.

22

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

23
24 **4. Discussion and Possible Recommendations Regarding Licensing**
25 **Requirements for Licensed Educational Psychologists (Business and**
26 **Professions Code (BPC) §4989.20)**

27
28 Staff presented language for potential amendments to the licensing requirements
29 for licensed educational psychologists (LEP) in the Business and Professions
30 Code.

31
32 **1. Specifying Required Hours of Experience**

33
34 Discussion/Comments

35 Jones: Two years of full-time experience is the best way to measure the
36 experience for a school psychologist because of the way that the job is
37 structured. The 1200-hour requirement for the internship program is based
38 upon the number of hours that typical school psychologist works in a school
39 year. Furthermore, school psychologists must show competencies in specific
40 “domains” versus overall competency; unsure if there is a specified number of
41 hours required for each domain – may need to look at this.

1 Sovec: In favor of moving towards a more specific requirement.

2
3 Jana Parker: Agrees that hours can get confusing even when they are
4 tracking hours for supervision for the credential. It is a requirement to work in
5 public schools for 2 years, which is the easiest way to track. Perhaps the
6 language could state “a full school year” instead of “a year.”
7

8 Dr. Kristin Makena, California Association of School Psychologists (CASP):
9 In agreement with the language proposed. CASP supports alignment with
10 other BBS licenses as well as recognizing that employment in school districts,
11 charter and private schools may vary. The language aligns with the
12 credential requirements. CASP agrees with this change because the concern
13 is that in one year, an individual may work part time and not fulfill the 1200
14 hours. As for “domains,” there is a percentage for each, but it’s equal for
15 each of the 10 domains.
16

17 Jones: Requested to look at the domain percentages and continue that
18 discussion.
19

20 Kristy Schieldge: (to Jones) suggested that he ask staff to provide the
21 regulations for the California Commission on Teacher Credentialing to
22 determine how they are counting hours of experience, and what it is requiring
23 the public sector. Staff and the Committee will need to explore defining a
24 school year and how that’s calculated, and whether it’s daily requirements or
25 a percentage of the year.
26

27 Sovec: Suggested that the regulations address private schools and other
28 institutions and determine how to calculate experience from those institutions.
29

30 Jones: Explained that the difficulty is breaking the job down to hours because
31 school psychologists are not technically under supervision while working as a
32 credentialed school psychologist; they work in teams. The question is who
33 would sign off on those hours.
34

35 Sovec: Teacher credentialing is already using clock hours. More research
36 should be done to determine how to use this system, how to apply it and
37 verify it.
38

39 Christy Berger: Added that calculating hours for an individual who has
40 multiple jobs at various time bases will complicate it even more if we continue
41 to use the term “or the equivalent to full time.” This will be very challenging
42 for the applicant who has a lot of part-time experience if we went to this time-
43 based situation.
44

1 **2. Clarifying Requirements for In-State Versus Out-of-State School**
2 **Psychologists**

3
4 Discussion/Comments

5 Jones: In favor of this amendment.

6
7 Makena, CASP: Agrees with the amendment; only concern is defining
8 who that supervisor could be.

9
10 Jana Parker: In favor of the amendment. Concerns: 1) A licensed
11 psychologist may not be familiar with many issues that educational
12 psychologist deal with in public schools, such as education code. 2) A
13 school psychologist in a parochial school may not deal with education
14 code. 3) Training in parochial schools may not be the same as training in
15 public schools.

16
17 **3. Adding an Age Limit to a Passing Score on the LEP Exam**

18
19 Discussion/Comments

20 Jones: In favor of adding an age limit to 7 years.

21
22 Direction: Continue having discussions on items 1 and 2 and bring it back to
23 Committee.

24
25 **5. Discussion and Possible Recommendations Regarding the Board's Retired**
26 **License Requirements (BPC §§ 4984.41, 4989.45, 4997.1, 4999.113)**

27
28 The Committee discussed whether amendments to the Board's retired license
29 requirements reduce barriers to reactivate a license. Possible amendments were
30 presented and include the following:

- 31
- 32 • Require the license to be unrestricted (no discipline). Currently, a license
33 must be current and active or in "inactive" status. If a license is expired,
34 one must reactivate the license in order to retire it.
 - 35 • Extend the amount of time that a retired license can be restored without
36 reapplying for licensure and passing both exams. Currently, the time
37 frame is 3 years from the date the license was retired.
 - 38 • Allowing a retired licensee to practice in certain settings, such as in an
39 exempt setting or "free-of-charge."
 - 40 • Allowing a retired licensee to have a "supervision only" status.
- 41

42 Staff also presented the Board of Registered Nursing's (BRN) new retired license
43 program:
44

- The nurse must hold an unrestricted license on the date of retired license application.
- A retired licensee may provide free nursing services in any public health program created by federal, state, or local law or administered by a federal, state, county, or local government entity, under the supervision of a licensee.
- Retired licensees are exempt from continuing education requirements.
- The fee for a retired license must be established at no less than one-half of the regular renewal fee.
- A retired license may be reinstated to an active status one time only.

To reinstatement a retired nursing license to active status, the retired licensee must complete the requirements to renew a license, including providing fingerprints, and paying any required renewal fees, and one of the following:

- If retired 8 years or less, have completed 30 hours of continuing education in the past 2 years.
- If retired more than 8 years, they must either hold a current valid active and clear registered nurse license in another state or U.S. territory, or Canada; or pass the current licensure exam.

Discussion/Comments

Dr. Ben Caldwell: Expressed concern regarding individuals reactivating their licenses after having been retired for a long period of time, not current on what is happening in the field and returning to practice.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT): Expressed concerns regarding reactivation of retired licensees: 1) being out of the practice for a long period of time and not having continuing education during that period. 2) "Working under supervision" needs to be clarified.

The Committee directed staff to draft language for further discussion, focusing on the BRN model, focusing on the 1st bullet (holding an unrestricted license) and the last bullet (retired license may be reinstated to an active status one time only), and the reinstatement language.

1 **6. Discussion and Possible Recommendations Regarding Advertising and**
2 **Other Disclosure Requirements in Statutes and Regulations (Title 16 of the**
3 **California Code of Regulations (CCR) §§1811 and 1880; and BPC §§4980.03,**
4 **4980.44, 4980.48, 4989.49, 4992.2, 4996.15, 4996.18, 4999.12, 4999.36,**
5 **4999.46.1**
6

7 At its October 2023 meeting, the Committee discussed the Board's advertising
8 laws and client disclosure laws and was presented research pertaining to
9 advertising laws in other states and at other DCA boards. It directed staff to
10 make changes to the following:
11

- 12 1. Advertising Regulations (Title 16 CCR §1811)
- 13 2. Statute for Associates (BPC §§4980.44, 4996.18, 2999.46.1)
- 14 3. Statute for Trainees/Interns (Title 16 CCR 1880 and BPC §§4980.48,
- 15 4996.15, 4999.36)
- 16 4. Amendment of Advertising Definition (BPC §§4980.03, 4989.49, 4992.2,
- 17 4999.12)
- 18

19 This proposal will require that the Board pursue changes to both statute and
20 regulations, ideally with both becoming effective at the same time.
21

22 **1. Advertising Regulations**
23

24 The Board's regulatory counsel suggested that the Committee discuss this
25 further. A nickname can be used but it must not be false, fraudulent, or
26 misleading, and the advertisement must contain the name as filed with the
27 Board. Recommended expanding the language to require the nickname
28 immediately follow or in proximity to the full required name. Kristy
29 Schieldge provided greater explanation behind her suggestion.
30

31 Discussion/Comments

32 Extensive discussion regarding took place between Ms. Schieldge and the
33 Committee regarding legal verbiage, clarification and interpretation of law,
34 and potential language.
35

36 Jones: Feels that stopping at BPC §651 is sufficient.
37

38 Caldwell: 1) Having a nickname that complies with BPC §651 seems
39 sufficient. Asked if we are changing something that does not need to be
40 changed. 2) "Proximity" is difficult to manage. Agrees with ending it after
41 BPC §651 but not sure that it changes anything substantive.
42

43 GV Ayers, California Association for Licensed Professional Clinical
44 Counselors (CALPCC): Suggested an amendment to 16 CCR §1811(g)
45 by adding to the beginning "In addition to the information required in (a),"

1 and strike “(2) The full name as filed with the board is also included in that
2 advertisement.” He added that there is nothing to be gained by proximity.

3
4 Atkins, CAMFT: Requested that the Committee take a “common sense
5 approach” to ensure that the average consumer can make the connection
6 from a nickname to the full name as filed with the Board, and to avoid
7 unintended consequences.

8
9 The Committee directed staff to revise the text and bring it to the next
10 Committee meeting.

11 12 **2. Statute for Associates**

13 Discussion/Comment

14
15 Sovec: §4999.46.1(c) “All applicants and registrants shall inform each
16 client or patient **before performing** any professional services...”
17 Suggested “initiating” instead of “performing.”

18
19 Caldwell: Supports changes to §4980.44(a).

20
21 Atkins, CAMFT: CAMFT does not have a strong position regarding the
22 content here, but desires consistency.

23
24 The Committee directed staff to make the changes suggested by Sovec.

25 26 **3. Statute for Trainees/Interns**

27 Discussion/Comment: None

28
29 Atkins, CAMFT: CAMFT supports the changes.

30
31 Staff will make the same change on §4996.15(b) as is 4999.46.1(c): use
32 “prior to initiating” instead of “prior to performing.”
33
34

35 36 **4. Amendment of Advertising Definition**

37 Discussion/Comment: None

38
39 Direction: Directed staff to draft language and make discussed changes
40 suggested by Sovec.
41

1 **7. Discussion and Possible Recommendations to Initiate a Rulemaking to**
2 **Amend the Board's Standards of Practice for Telehealth Regulations (16**
3 **CCR §1815.5)**
4

5 The Telehealth Committee proposed amendments to the Board's telehealth
6 regulations, which were presented to the Policy and Advocacy Committee and
7 provided in materials as Attachment A.
8

9 **1. Subdivisions 1815.5(e) and (f)**
10

11 Regulation §1815.5(e) states that a California licensee or registrant may
12 only provide telehealth to a client in another jurisdiction if they meet the
13 requirements to lawfully provide services in that jurisdiction, and if
14 telehealth is allowed by that jurisdiction.
15

16 Regulation §1815.5(f) states that failure to comply with any provisions of
17 the Board's telehealth regulations is unprofessional conduct.
18

19 CAMFT had raised a concern that making it unprofessional conduct if a
20 therapist fails to check to make sure he or she is following the laws of the
21 jurisdiction where the client is located is too rigid and could lead to
22 unintended consequences. CAMFT suggested that the location of
23 1815.5(e) be moved to after 1815.5(f) so that it functions as guidance,
24 rather than a requirement that one must follow to avoid discipline by this
25 Board.
26

27 However, the Board's Regulations Counsel pointed out that any violation
28 of the Board's statutes and regulations is unprofessional conduct.
29

30 Based on this, the Telehealth Committee believes that §1815.5(f) is
31 unnecessary and should be struck.
32

33 **2. Replace the Term "Valid and Current" License or Registration;**
34 **Subdivision 1815.5(a)**
35

36 The Telehealth Committee recommended replacing the requirement in
37 §1815.5(a) that requires a license be "valid and current" to engage in
38 telehealth, to instead require the license to be "current and active".
39

40 **3. Disclosure of License and Registration Number**
41

42 The Board is currently pursuing a legislative proposal to make changes to
43 how license information is shared with clients. Instead of continuing to
44 require a licensee or registrant to display the license or registration in a
45 conspicuous place in their primary place of practice, the Board's proposed
46 amendments will require this information instead be included in the notice

1 to clients that is required to be provided prior to initiating psychotherapy
2 services.

3
4 If the proposed amendment is successful, the Board may wish to review
5 §1815.5(c)(3), which requires a client be provided with the therapist's
6 license or registration number and type of license and registration upon
7 initiation of telehealth services, as it may no longer be necessary.

8
9 Staff recommends that if the telehealth regulations are approved by the
10 Board, that this issue be revisited prior to the submission of the
11 regulations to the Office of Administrative Law (OAL) for initial notice to
12 the public.

13 14 **4. Utilization of "Industry Best Practices"**

15
16 The current telehealth regulations (§1815.5(d)(3)) require that each time a
17 therapist provides services via telehealth, they must "utilize industry best
18 practices for telehealth to ensure both client confidentiality and the
19 security of the communication medium."

20
21 The requirement to utilize "industry best practices" is a vague term that
22 has led to confusion about how this requirement is fulfilled.

23
24 The Telehealth Committee moved forward with replacing the requirement
25 in 1815.5(d)(3) to utilize "industry best practices" with the requirement
26 language used in statute by the Veterinary Medical Board. Staff worked
27 with the Board's regulation counsel to expand on the statute to specifically
28 cite the main state and federal laws and regulations that would be
29 included in this requirement. The proposed text was provided as
30 Attachment A.

31 32 Discussion/Comments

33
34 Caldwell: §1815.5(a) requires a California license or registration to practice
35 within these scopes via telehealth. This may be inconsistent with statute
36 because BPC §2290.5(a)(3) defines MFT and PCC trainees as telehealth
37 providers; they could be working within those scopes via telehealth without a
38 license or registration.

39
40 Helms: Staff decided against bringing trainees into the telehealth regulations
41 because the Board does not regulate them.

42
43 Schieldge: Agreed that trainees cannot be included in the regulation because of
44 the jurisdictional issue.

Atkins, CAMFT: Confused about when BBS has jurisdiction over trainees and when it does not have jurisdiction.

Motion: Recommend approval of the proposed regulatory text in Attachment A with gender-neutral pronoun changes in §§1815.5(c)(3) and 1815.5(d) and recommend the Board consider all of the following actions:

- (1) Direct staff to submit the text in Attachment A as revised to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review; and if no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for a hearing if requested.
- (2) If no adverse comments are received during the 45-day comment period and no hearing is requested, authorize the Executive Officer to take all steps necessary to complete the rulemaking and adopt the proposed regulations as noticed for Title 16, California Code of Regulations section 1815.5.

M/S: Jones/Sovec

Public Comment: None

Motion carried: 4 yea, 0 nay.

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

8. Update on Board-Sponsored Legislation

Licensing Requirements Bill Proposal

This bill proposes clarifying two of the Board's statutory requirements:

- The requirement to physically display a license or registration; and
- The allowable number of "supervisees" that a supervisor is permitted to oversee.

Omnibus Bill Proposal

This bill proposal, approved by the Board at its November 2023 meeting, makes minor, technical, or non-substantive amendments to add clarity to current law.

- 1 **9. Update on Board Rulemaking Proposals**
2
3 Disciplinary Guidelines
4 Status: Preparation for DCA Initial Review Process
5
6 Unprofessional Conduct
7 Status: Preparation for Submittal to the Office of Administrative Law for Public
8 Notice of Proposed Regulatory Action
9
10 **10. Suggestions for Future Agenda items**
11
12 None
13
14 **11. Public Comment for Items not on the Agenda**
15
16 None
17
18 **12. Adjournment**
19
20 The Committee adjourned at 4:06 p.m.