



Board of Behavioral Sciences



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Gavin Newsom, Governor  
State of California

Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

## BOARD MEETING MINUTES

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

November 28: [https://www.youtube.com/watch?v=ugXqKy\\_Qw38&feature=youtu.be](https://www.youtube.com/watch?v=ugXqKy_Qw38&feature=youtu.be)

November 29: <https://www.youtube.com/watch?v=rOkb-FXvI3A&feature=youtu.be>

November 30: <https://www.youtube.com/watch?v=MSBt95O5I5A&feature=youtu.be>

**DATE** November 28, 2018

**LOCATION** Hyatt Regency Orange County  
11999 Harbor Blvd.  
Plaza Terrace A-D  
Garden Grove, CA 92840

**TIME** 8:30 a.m.

### ATTENDEES

**Members Present:** Betty Connolly, Chair, LEP Member  
Dr. Leah Brew, LPCC Member  
Deborah Brown, Public Member  
Dr. Peter Chiu, Public Member  
Alexander Kim, Public Member  
Gabriel Lam, LCSW Member  
Jonathan Maddox, LMFT Member  
Vicka Stout, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent:** Max Disposti, Vice Chair, Public Member

**Staff Present:** Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Jonathan Burke, Enforcement Manager  
Sabina Knight, Legal Counsel  
Christina Kitamura, Administrative Analyst

**Other Attendees:** Debra D. Nye-Perkins, Administrative Law Judge  
Molly Selway, Deputy Attorney General  
*See voluntary sign-in sheet (available upon request)*

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## **OPEN SESSION AGENDA**

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### **I. Call to Order and Establishment of Quorum**

Betty Connolly, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:34 a.m. Roll was called, and a quorum was established. Members in attendance are noted above.

### **II. Public Comment for Items Not on the Agenda**

No comments.

### **III. Suggestions for Future Agenda Items**

No suggestions.

***Administrative Law Judge Debra D. Nye-Perkins presided over the following petition hearings. Deputy Attorney General Molly Selway presented the facts of each case on behalf of the People of the State of California.***

### **IV. Petition for Early Termination of Probation for Shelby C. Alkire, LCSW 75373**

The hearing was opened at 8:37 a.m. Shelby Alkire was present and represented herself. Deputy Attorney General Selway presented the background of Ms. Alkire's probation.

Ms. Alkire was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Deputy Attorney General Selway and Board Members. The record was closed at 9:30 a.m.

### **V. Petition for Early Termination of Probation for Deneen Leo Watson, LMFT 94909**

The hearing was opened at 9:39 a.m. Deneen Watson was present and represented himself. Deputy Attorney General Selway presented the background of Mr. Watson's probation.

Mr. Watson was sworn in. He presented his request for early termination of probation and information to support the request and was cross-examined by Deputy Attorney General Selway and Board Members. The record was closed at 10:37 a.m.

**VI. Petition for Early Termination of Probation for Paul Gabrinetti, LMFT 8301**

The hearing was opened at 10:51 a.m. Paul Gabrinetti was present and was represented by counsel, Dr. Steve Frankel. Deputy Attorney General Selway presented the background of Mr. Gabrinetti's probation.

Dr. Frankel gave an opening statement. Mr. Gabrinetti was sworn in. Mr. Gabrinetti presented his request for early termination of probation and information to support the request and was cross-examined by Deputy Attorney General Selway and Board Members. The record was closed at 11:59 a.m.

**VII. Petition for Early Termination of Probation for Jaime Cruz, AMFT 87794**

The hearing was opened at 1:18 p.m. Jaime Cruz was present and represented himself. Deputy Attorney General Selway presented the background of Mr. Cruz's probation.

Mr. Cruz was sworn in. He presented his request for early termination of probation and information to support the request and was cross-examined by Deputy Attorney General Selway and Board Members. The record was closed at 2:03 p.m.

**VIII. Petition for Early Termination of Probation for Elizabeth Maloney, LEP 2528**

The hearing was opened at 2:11 p.m. Elizabeth Maloney was present and represented herself. Deputy Attorney General Selway presented the background of Ms. Maloney's probation.

Ms. Maloney was sworn in. She presented her request for early termination of probation and information to support the request and was cross-examined by Deputy Attorney General Selway and Board Members. The record was closed at 2:39 p.m.

The Board entered Closed Session at 2:40 p.m.

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## **CLOSED SESSION AGENDA**

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- IX. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions**

The Board met in closed session.

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## **OPEN SESSION AGENDA**

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- X. Recess until 8:30 a.m. on Thursday, November 29, 2018**

The Board reconvened in open session and recessed at 4:55 p.m.

**DATE** November 29, 2018

**LOCATION** Hyatt Regency Orange County  
11999 Harbor Blvd.  
Plaza Terrace A-D  
Garden Grove, CA 92840

**TIME** 8:30 a.m.

**ATTENDEES**

**Members Present:** Betty Connolly, Chair, LEP Member  
Dr. Leah Brew, LPCC Member  
Deborah Brown, Public Member  
Dr. Peter Chiu, Public Member  
Alexander Kim, Public Member  
Gabriel Lam, LCSW Member  
Jonathan Maddox, LMFT Member  
Vicka Stout, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent:** Max Disposti, Vice Chair, Public Member

**Staff Present:** Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Jonathan Burke, Enforcement Manager  
Sabina Knight, Legal Counsel  
Christina Kitamura, Administrative Analyst

**Other Attendees:** Kimberly Belvedere, Administrative Law Judge  
Robert Tomlin White, Deputy Attorney General  
*See voluntary sign-in sheet (available upon request)*

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## OPEN SESSION AGENDA

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### **XI. Call to Order and Establishment of Quorum**

Ms. Connolly called the meeting to order at 8:32 a.m. Roll was called, and a quorum was established. Members in attendance are noted above.

### **XII. Public Comment for Items Not on the Agenda**

No comments.

### **XIII. Suggestions for Future Agenda Items**

No suggestions.

***Administrative Law Judge Kimberly Belvedere presided over the following petition hearings. Deputy Attorney General Robert Tomlin White presented the facts of each case on behalf of the People of the State of California.***

### **XIV. Petition for Modification of Probation for Esteban Gonzalez, LMFT 102014**

The hearing was opened at 8:34 a.m. Esteban Gonzalez was present and represented himself. Deputy Attorney General White presented the background of Mr. Gonzalez's probation.

Mr. Gonzalez was sworn in. He presented his request to modify probation and information to support the request and was cross-examined by Deputy Attorney General White and Board Members. The hearing was closed at 9:23 a.m.

### **XV. Petition for Modification of Probation for Dalia Merida Cuevas, ASW 79171**

The hearing was opened at 9:37 a.m. Dalia Merida Cuevas was present and represented herself. Deputy Attorney General White presented the background of Ms. Merida Cuevas' probation.

Ms. Merida Cuevas was sworn in. She presented her request to modify probation and information to support the request and was cross-examined by Deputy Attorney General White and Board Members. The record was closed at 10:22 a.m.

### **XVI. Petition for Modification of Probation for Julie D. Figueroa, LMFT 103029**

The hearing was opened at 10:34 a.m. Julie Figueroa was present and represented herself. Deputy Attorney General White presented the background of Ms. Figueroa's probation.

Ms. Figueroa was sworn in. She presented her request to modify probation and information to support the request and was cross-examined by Deputy Attorney General White and Board Members. The record was closed at 11:17 a.m.

### **XVII. Petition for Modification of Probation for Eduardo Hernandez, LCSW 77036**

The hearing was opened at 11:30 a.m. Eduardo Hernandez was present and represented himself. Deputy Attorney General White presented the background of Mr. Hernandez's probation.

Mr. Hernandez was sworn in. He presented his request to modify probation and information to support the request and was cross-examined by Deputy Attorney General White and Board Members. The record was closed at 12:33 p.m.

The Board took a break at 12:33 p.m. and reconvened at 1:41 p.m.

#### **XVIII. Petition for Reinstatement of License for Eileen Kelly, LMFT 30191**

The hearing was opened at 1:41 p.m. Eileen Kelly was present and represented herself. Deputy Attorney General White presented the background of Ms. Kelly's license revocation.

Ms. Kelly was sworn in. She waived the opportunity to provide a testimony to present her request to reinstate her license. Deputy Attorney General White and Board Members cross-examined Ms. Kelly. Ms. Kelly and Deputy Attorney General White provided closing statements. The record was closed at 2:20 p.m.

The Board entered Closed Session at 2:22 p.m.

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#### **CLOSED SESSION AGENDA**

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#### **XIX. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions**

The Board met in closed session.

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#### **OPEN SESSION AGENDA**

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#### **XX. Recess Until 8:30 a.m., Friday, November 30, 2018**

The Board reconvened in open session and recessed at 5:20 p.m.

**DATE** November 30, 2018

**LOCATION** Hyatt Regency Orange County  
11999 Harbor Blvd.  
Plaza Terrace A-D  
Garden Grove, CA 92840

**TIME** 8:30 a.m.

### ATTENDEES

**Members Present:** Betty Connolly, Chair, LEP Member  
Dr. Leah Brew, LPCC Member  
Deborah Brown, Public Member  
Dr. Peter Chiu, Public Member  
Alexander Kim, Public Member  
Gabriel Lam, LCSW Member  
Jonathan Maddox, LMFT Member  
Vicka Stout, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent:** Max Disposti, Vice Chair, Public Member

**Staff Present:** Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Rosanne Helms, Legislative Analyst  
Christy Berger, Regulatory Analyst  
Jonathan Burke, Enforcement Manager  
Sabina Knight, Legal Counsel  
Christina Kitamura, Administrative Analyst

**Other Attendees:** *See voluntary sign-in sheet (available upon request)*

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## OPEN SESSION AGENDA

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*Items XXIV, XXV c, XXV d, and XXVI were heard out of order.*

### **XXI. Call to Order, Establish a Quorum, Introductions**

Ms. Connolly called the meeting to order at 8:35 a.m. Roll was called, and a quorum was established. Members in attendance are noted above.

## **XXII. Consent Calendar**

- a. Approval of the August 15, 2018 Board Meeting Minutes**
- b. Approval of the September 12-14, 2018 Board Meeting Minutes**
- c. Approval of the October 19, 2018 Board Meeting Minutes**

Minor corrections on August 2018 and September 2018 minutes were forwarded to Christina Kitamura.

**MOTION:** To approve the minutes, as amended, listed on the consent calendar.

Wietlisbach moved; Wong seconded. The motion carried; 10 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown	x				
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti				x	
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout	x				
Dr. Christine Wietlisbach	x				
Christina Wong	x				

## **XXIII. Board Chair Report: Board Member Activities**

Deborah Brown: Fresno County of Mental Health spoke at her class regarding mental health and is proposing to put a mental health provider at every school in the San Joaquin Valley. They are looking for 252 therapists by December 31, 2018.

## **XXIV. Department of Consumer Affairs Update: Status of Executive Officer Salary Study**

Christopher Castrillo, Deputy Director of Board and Bureau Relations, provided an update regarding the Executive Officer Salary Study.

The Department of Consumer Affairs (DCA) contracted with KH Consulting to conduct the study. KH Consulting is two months into the project. This study is targeted for a six-month completion date and should be completed in late February/early March.

KH Consulting conducted 12 interviews with some of DCA's executive officers (EO). A previous study in 2011 showed a lack of participation from EOs. KH Consulting did not interview each EO due to limited time and money. A survey will be sent to each EO. The consultant will analyze the data from the survey to provide a draft report in early 2019.

The survey will ask for details regarding data, licensee population, key aspects of the EO's position, and other details. The consultant will look at gender parity of the pay scale amongst DCA EOs.

After the report is released, DCA Executive Office will look at:

- Equity
- Breakdown of programs and how their salary bands are related to their specific program
- Evaluation process
- Transparency and communication
- Metrics
- Denial of salary increase requests

Mr. Castrillo confirmed that the final report will be shared with the Business, Consumer Services and Housing Agency (Agency) and the Governor's Office.

## **XXV. Executive Officer's Report**

### **a. Budget Report**

The Board's budget for fiscal year (FY) 2018/2019 is \$11.5 million.

DCA transitioned to FI\$Cal, a new system used for budgets, accounting, and procurements. The transition continues to be challenging in terms of obtaining timely reports.

#### General Fund Loans

The Fund Condition reflects the final payment of the \$12.3 million dollars previously loaned to the General Fund.

#### Board Fund Condition

The Fund Condition for FY 2018/2019 reflects a 5.3-month reserve.

### **b. Operations Report**

#### Licensing Program: 4<sup>th</sup> Quarter FY 2017/2018

There was a reporting error in the licensing program. Actual data for AMFT registrations increased by 32%.

- Application volumes increased 31%
- Processing times decreased

- 1,642 initial licenses were issued

As of September 3, 2018, the Board had 114,369 licensees and registrants.

Staff has begun tracking subsequent registration number applications:

- 200 Associate Marriage and Family Therapist (AMFT) applications
- 161 Associate Clinical Social Worker (ASW) applications
- 3 Associate Professional Clinical Counselor (APCC) applications

#### Examination Program: 4<sup>th</sup> Quarter FY 2017/2018

- 5,508 examinations were administered
- Examination statistics by school were provided
- Clinical examination pass rates align well with the national pass rates
- 7 examination development workshops were conducted

#### LPCC Occupational Analysis and Review of the NCMHCE

DCA's Office of Professional Examination Services (OPES) completed the Licensed Professional Clinical Counselor (LPCC) Occupational Analysis in June 2018. The full report was provided in the meeting materials.

OPES will use information from the occupational analysis report to evaluate the National Clinical Mental Health Counseling Examination (NCMHCE).

Leah Brew: Noted that 95% of the population surveyed were dually licensed.

#### Review of the AMFTRB National Examination

OPES will conduct a review of the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) National Examination at the conclusion of the License Marriage and Family Therapist (LMFT) Occupational Analysis, which was initiated in October 2018.

#### Administration Program: 4<sup>th</sup> Quarter FY 2017/2018

The Board received 10,287 applications, an 8% increase from last quarter.

Effective October 1, 2018, the Board revised its renewal notification process. All licensees and registrants will receive a renewal notification with instructions to renew online. A paper renewal coupon is no longer included in the renewal notification.

#### Enforcement Program: 4<sup>th</sup> Quarter FY 2017/2018

- 432 consumer complaints, 421 criminal conviction notifications were received
- 777 cases were closed, and 48 cases were referred to the Attorney General's (AG) office for formal discipline
- 29 Accusations and 16 Statement of Issues were filed

- 41 final citations were issued
- 529 average number of days to complete Formal Discipline; year-to-date average is 529 days
- 346 average number of days the case is with the AG's Office; year-to-date average is 346 days
- 93 average number of days to complete all Board investigations; year-to-date average is 93 days

#### Continuing Education Audits: 4<sup>th</sup> Quarter FY 2017/2018

Due to vacancies in the licensing unit, continuing education audits were not conducted this quarter. The audits will resume next quarter.

#### Outreach Activity

Board staff has been engaged with the MFT consortium meetings on a quarterly basis. Staff either physically attended the consortiums or participated via phone conference.

Ms. Madsen attended the National Board of Certified Counselor (NBCC) annual conference and the AMFTRB annual conference. Ms. Madsen presented the Board's license portability framework at both conferences.

#### NBCC Annual Meeting

License portability and telehealth practice were key discussion topics. Revisions to the National Counselor Licensure Endorsement Process (NCLEP) proposal were discussed. California LPCCs will not benefit from the revisions. Specifically, California LPCCs cannot meet the 2008 licensure requirement since the first LPCC license was issued in 2012. Ms. Madsen pointed out the challenge for California LPCCs to meet the requirements outlined in the NCLEP proposal. As a result, the American Association of State Counseling Boards (AASCB) planned to revisit the proposal's requirements.

Dr. Brew: Would like to know why 2008 was decided as licensure requirement criteria, versus a criterion for minimum number of years of licensure.

#### AMFTRB Annual Meeting Summary

License portability and telehealth practice were key discussion topics. During the license portability discussions, Ms. Madsen discussed California's proposal to improve license portability for out-of-state applicants. The proposal is modeled after the AMFTRB proposal and was well received.

Seven states in attendance reported that they will accept the California's LMFT Clinical examination in lieu of the national examination: Virginia,

West Virginia, Florida, Texas, Wyoming, Nebraska and Wyoming. Although not in attendance, Oregon also accepts the California exam.

### Discussion

Kim Madsen was not approved to attend the Association of Social Work Boards (ASWB) annual conference.

Dr. Brew: Expressed the importance of California taking part in the ASWB conferences, particularly with portability.

Christina Wong: It is very critical that California has a voice at the ASWB conferences. California's social work population has shown huge growth. Other states look to California's policies as a model.

Ms. Madsen: If California is going to use national exams, then we need to be at the table. With California having highest population in licensed social workers, it is critical that California has a voice.

### Board Move Update

The approval of the suite plans is pending.

### Fee Audit

Cooperative Personnel Services HR Consulting is conducting the Board's fee audit. They're in the process of drafting the report, which will be presented at the next Board meeting.

### Discussion

Dr. Ben Caldwell, American Association for Marriage and Family Therapy (AAMFT): Pass rates on the MFT clinical exam seem to be decreasing and trending down to the pass rates of early 2017. Requesting an "anonymized dataset of clinical examinees so that researchers" could analyze the data.

Ms. Madsen: AMFTRB reported a significant drop in pass rates once they transitioned to a new exam version based on the occupational analysis and began writing critical thinking level questions. AMFTRB experiences the same issues and concerns that are expressed to the Board. The Board will work with Dr. Caldwell on the data; however, the exam is legally defensible.

Steve Sodergren: Extracting the data is very time consuming because of the new system and the transfer of information to BreZE.

Dr. Brew: When an exam is changed due to an occupational analysis, the programs are not informed. Programs continue teaching the same, based on what they know.

Kenneth Edwards, California Association for Licensed Professional Clinical Counselors (CALPCC): Echoes Dr. Brew's comments regarding the proposed revisions to the NCLEP, specifically the 2008 licensure requirement.

### **c. Personnel Report**

#### New Employees

Crystal Nerton joined the Board in October. She is working in the Licensing Unit as an LEP Evaluator.

#### Departures/Vacancies

Antoinette Pannell transferred to the Board of Professional Engineers, Land Surveyors and Geologists in October. The Board is currently reviewing applications to fill this vacancy.

Sandra Wright retired, leaving a vacancy in the Enforcement Program's Discipline & Probation Unit. The Board will be conducting interviews for this vacancy soon.

A candidate has been selected for the MFT Evaluator position; approval from human resources is pending.

The Exam Manager vacancy will not be filled until after the office move.

### **d. Strategic Plan Update**

The Strategic Plan was provided in the meeting materials for review. Ms. Madsen noted that the Board is in the initial stages of developing video tutorials that will be accessible on the website.

Mr. Sodergren noted that Board staff met with OPES to discuss ideas about assisting candidates in the exam process. OPES and Board staff are still exploring options. Mr. Sodergren will keep the Board updated on those discussions.

Ms. Madsen shared that the Board is close to securing a contract with a new examination vendor.

## **XXVI. Substance Abuse Coordination Committee Update**

The Substance Abuse Coordination Committee (SACC) held its third meeting in October 2018. SACC staff presented findings regarding Out-of-State and Third-Party Rehabilitation Programs drug testing frequency:

- No agreement/consensus regarding the ideal testing frequency

- At minimum, testing frequency should be twice a month

SACC members heard presentations regarding testing frequency from panelists who had extensive backgrounds in drug treatment and recovery programs. All panelists acknowledged that cost is a factor. The panelists noted three factors which are common with successful participants:

- Participation in a peer support group
- Random testing
- Structure of the monitoring program

SACC members engaged in a discussion to determine if any changes to the testing frequency established in Uniform Standard #4 should be made.

A proposal to include an additional exception to the testing frequency was discussed. The proposed exception would allow a board to reduce the testing frequency to not less than 24 times per year if the licensee is receiving a minimum of 50% supervision per day at his/her worksite.

SACC members voted to add the proposed exception and to keep the testing frequency established in Uniform Standard #4 the same. During a previous meeting, the SACC members voted to revise the language addressing vacations or absences.

## **XXVII. Discussion and Possible Action Regarding the Policy and Advocacy Committee Recommendations**

### **a. Recommendation #1 Regarding Proposed Technical and Non-Substantive Amendments to Business and Professions Code Sections 4980.36, 4980.37, 4980.395, 4980.41, 4980.43.1, 4980.43.4, 4980.50, 4980.57, 4980.81, 4989.22, 4990.26, 4992.1, 4996.2, 4996.20, 4996.22, 4996.23.3, 4999.12, 4999.30, 4999.32, 4999.33, 4999.46.1, 4999.46.4, 4999.52**

Rosanne Helms provided an overview of the Policy and Advocacy Committee's (Committee) recommendation regarding the proposed technical and non-substantive amendments to listed BPC sections (Omnibus Bill).

#### **1. Amend BPC §4980.36 – Law and Ethics Topics**

Recommendation: Amend BPC §4980.36(d)(2)(J)(vi) to read "The application of legal and ethical standards in different types of work settings."

#### **2. Amend BPC §§4980.36, 4999.32, 4999.33 – Single Integrated Degree Program**

Recommendation: Add a reference to the required degree being a single integrated program into §§4980.36, 4999.32, and 4999.33.

3. Amend BPC §§4980.36, 4980.37, 4980.81, 4999.32, and 4999.33 – Assessment, Diagnosis, and Prognosis

Recommendation: Replace the term “prognosis” in the above sections with the term “treatment planning.”

4. Amend BPC §§4980.43.1, 4990.26, 4996.20, 4999.12, and 4999.46.1 – References to “Laws and Regulations”

Recommendation: Change references to “laws and regulations” to “statutes and regulations.”

5. Amend BPC §§4980.43.4, 4996.23.3, and 4999.46.4 – Pre-Licensee Service Locations

Recommendation: Amend the acceptable service locations in §§4980.43.4, 4996.23.3, and 4999.46.4 to the places the employer “permits business to be conducted.”

6. Amend BPC §§4980.50, 4989.22, 4992.1, and 4999.52 – Pending Complaints or Investigations and Examinations

Recommendation: Amend §§4980.50, 4989.22, 4992.1, and 4999.52 to delete obsolete references to withholding exam results and to delete obsolete 2016 effective dates. Add a provision allowing the Board to deny exam admission or refuse to issue a license if a petition to revoke probation has been filed.

7. Delete BPC §4980.395 – Aging & Long-Term Care Requirement: Applicants Beginning Graduate Study Prior to January 1, 2004

Recommendation: Delete BPC §4980.395.

8. Delete BPC §4980.57; Amend BPC §§4980.41, 4996.2, and 4996.22 – Spousal and Partner Abuse Assessment Coursework Requirement

Recommendation: Streamline the spousal and partner abuse assessment coursework requirements in BPC §§4980.57 and 4980.41 for LMFTs, and 4996.2 and 4996.22 for Licensed Clinical Social Workers (LCSW), so that the 7-hour requirement must be completed pre-licensure.

9. Amend BPC §4990.30 – Petition for Reinstatement of a Registration

Recommendation: Amend §4990.30(b)(1) and (3) to note that if a registrant applying for reinstatement under the allowed timeframes is ineligible for reinstatement due to the registration number being older than six years, then he or she may apply for a subsequent registration number.

Discussion regarding item 4

Dr. Caldwell: There are some forms of law that would apply to MFT's and should be included in the supervision process that do not necessarily come in the form of statute or regulation. Case law being the easiest example. The phrase "applicable law", or simply the term "law", because all of those are various forms of law, is a better fit than saying "statutes and regulations", which is narrower.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA): Explained the difference between statutes and regulations. A statute is law passed by the legislature. Regulations are the details created by state agencies that explains how the agency will implement the law.

The Board agreed to direct staff to hold this item and bring a recommendation back to the next Board meeting.

Discussion regarding item 8

Mr. Wong, NASW-CA: The Master's Program is only a 2-year program, half of which is practicum. You can't keep adding course content into a degree program. Licensed mental health professionals are aware of the issues and are attending workshops and researching issues that they are facing. The Board should feel comfortable that professionals are keeping up with these topic areas and not think that these topics need to be mandated.

The Board agreed to direct staff to pull back this item and have further discussions regarding spousal and partner abuse coursework.

Ms. Helms: This item is a bigger discussion, not an omnibus item. It's possible that this will not be put back in the omnibus bill this year.

**MOTION:** Direct staff to make any discussed changes, and any non-substantive changes, and to pursue legislation to make the amendments.

Brew moved; Wong seconded. The motion carried; 10 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown	x				
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti				x	
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout	x				
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**b. Recommendation #2 Regarding Registrant Employment by Temporary Staffing Agencies**

Christy Berger provided an overview of the Committee's recommendation regarding registrant employment by temporary staffing agencies.

The proposed language:

1. Specifies that the contracting agency shall determine where the supervisee may perform services.
2. Specifies that the written agreement shall be between the contracting agency and the supervisor. In addition, it clarifies that no written agreement shall be required when the supervisor is an employee of the contracting agency.
3. Clarifies that any trainee, associate or applicant for licensure placed by a temporary agency must either be a W-2 employee or volunteer, as specified in statute.

**MOTION:** To approve the proposed text for a 45-day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period; to follow established procedures and processes in doing so, and delegate to the Executive Officer the authority to make any technical or non-substantive changes that may be required in completing the rulemaking file.

Brew moved; Wong seconded. The motion carried; 10 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown	x				
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti				x	
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout	x				
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**c. Recommendation #3 Regarding Practice Setting Definitions and Social Work Students Working in a Private Practice Setting**

Ms. Berger provided an overview of the Committee’s recommendation regarding practice setting definitions and social work students working in a private practice setting.

Proposed Language: Exempt Settings

The Committee developed language that would require unlicensed/unregistered therapists working in an exempt setting, and not pursuing licensure, to provide consumers with a printed disclosure, prior to initiating psychotherapy, containing information about how to file a complaint about the therapist with the agency.

In addition, the Committee developed language that would require all settings in which psychotherapy is performed, including private practices, to provide written information to consumers about where to file a complaint with the Board about a licensed or registered psychotherapist.

Proposed Definitions: “Private Practice” and “Other For-Profit” Settings

The Committee developed language that would separately define “Private Practice” and “Other For-Profit” settings. The new definitions are designed to clarify which settings must comply with (or are otherwise affected by) each of the laws that reference “private practice.”

The Committee considered including “other for-profit” setting types within the private practice definition. However, this would subject “other for-profit” companies to all of the laws pertaining to private practices, and the Committee determined that this would be problematic in some cases. In addition, since most for-profit companies operate under some type of oversight, the restrictions that pertain to private practices may be

unnecessary. The Committee is currently reviewing all of the laws that specifically reference “private practice” and is working to determine which of those laws should also apply to “other for-profit” settings. The Committee will develop proposed language as necessary and is expected to complete that work early next year.

#### Proposed Language Re: LCSW Students

Language specifically prohibiting private practice placements for clinical social work students is proposed to be added. In addition, the phrase “or working in a recognized training program” is proposed to be deleted, as it appears to be obsolete.

Ms. Berger: It occurred to us that there might be little companies that have no oversight. If we include these types of companies that don’t have oversight in the “other for-profit” definition, and the laws that pertain to private practice don’t pertain to these, is this a big enough concern that we want to define these types of companies separately? Another for-profit that’s not owned by a mental health professional? Do we want to look into this more as we’re developing this? And how great of a concern is it?

#### Discussion

Jonathan Maddox: The Board has an invested interest to identify any potential placement setting where students and future licensees are going to train. We want competent, clinically-sound practitioners working in the field to advance the health of all Californians. And if we are allowing students and pre-licensees to be in environments that we don’t regulate, we potentially put them at risk because the people who own these companies aren’t necessarily motivated by the same values that I would be as a licensed MFT. We have the responsibility to research this further and address it.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT): There’s more research and conversation that needs to happen. There is a big difference between a licensed person or group owning some of these smaller facilities that’s regulated by the state versus an individual opening a facility.

Ms. Madsen: Items under Attachment C are still a work in progress. She suggested returning it to the Committee for further discussion.

**MOTION:** Direct staff to make any discussed changes and any non-substantive changes to Section A and Section D, and to pursue as a legislative proposal.

Wietlisbach moved; Chiu seconded. The motion carried; 10 yea, 0 nay.

Roll call vote:

Member	Yea	Nay	Abstain	Absent	Recusal
Dr. Leah Brew	x				
Deborah Brown	x				
Dr. Peter Chiu	x				
Betty Connolly	x				
Max Disposti				x	
Alexander Kim	x				
Gabriel Lam	x				
Jonathan Maddox	x				
Vicka Stout	x				
Dr. Christine Wietlisbach	x				
Christina Wong	x				

**XXVIII. Discussion and Possible Action Regarding Proposed Revisions to California Code of Regulations Sections 1804,1805, 1815.8, and 1820.7. Contact Information; Application Requirements; Incapacitated Supervisors**

This item was removed from the agenda.

**XXIX. Discussion and Possible Action Regarding Licensed Educational Psychologists Supervising Associates Gaining Experience Hours in School Settings – California Association of School Psychologists**

Chris Jones from the California Association of School Psychologists (CASP) gave a presentation to support CASP's proposal to allow Licensed Educational Psychologists (LEPs) to act as supervisors of AMFTs, ASWs, and APCCs while providing Educationally Related Mental Health Services (ERMHS) in school settings.

Mr. Jones explained that many school districts are using associates to provide ERMHS. The Education Code requires ERMHS service providers to be supervised by someone with a Pupil Personnel Services Credential (PPS), and LEPs already have this credential and the appropriate training in the education system. LEPs have training in special education and mental health interventions.

Key to ERMHS: Providing mental health services to students so they have the ability to access their academic program.

Mr. Jones cited the following reasons for changes to the supervision regulations:

1. Many associates want to work in school settings; however, not all schools employ BBS licensees who can provide supervision. This limits the opportunities for internships and denies schools access to needed support.
2. Placing associates in school settings has created disparity in the current Education Code and BBS regulations regarding who is properly credentialed to supervise the registrants.
3. Some licensees who have never worked in school settings are supervising registrants who must write and service special education goals and objectives and participate in Individualized Educational Program (IEP) meetings.
4. Associates working in school settings are performing tasks that all LEPs perform; therefore, they should be supervised by LEPs.

Mr. Jones provided background and history of the following:

- Education Code requirements for delivery of ERMHS programs
- Supervision requirements of ERMHS programs
- Mental health delivery under AB 114
- Delivery of mental health services in schools

A robust conversation took place. No action was taken.

### **XXX. Status on Board-Sponsored Legislation and Other Legislation Affecting the Board**

#### Signed by the Governor

1. AB 93 Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision
2. AB 2117 Licensing Process Bill
3. SB 1491 Omnibus Bill - Proposed Technical and Non-Substantive Amendments
4. AB 456 Healing Arts: Associate Clinical Social Worker, 90-Day Rule
5. AB1436 Board of Behavioral Sciences: Suicide Prevention
6. AB 2138 Licensing Boards: Denial of Application: Criminal Conviction
7. AB 2296 Professional Clinical Counselors

### Vetoed by the Governor

SB 906 Medi-Cal: Mental Health Service: Peer, Parent, Transition Age and Family Support Specialist Certification

## **XXXI. Status of Board Rulemaking Proposals**

### **a. Enforcement Process: Amend Title 16, California Code of Regulations Sections 1823, 1845, 1858, 1881, 1886.40, 1888 and Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**

This proposal was under initial review at DCA since July 2017. The proposal was returned to by Agency on November 19, 2018 with significant changes. Board staff and legal counsel will confer and determine the next steps.

### **b. Examination Rescoring: Application Abandonment: APCC Subsequent Registration Fees: Amend Title 16, California Code of Regulations Section 1816.1 – Add Fee for Subsequent Professional Clinical Counselor Intern Registrations**

Board staff received feedback from Agency and is continuing to work on the rulemaking proposal.

### **c. Supervision: Amend Title 16, California Code of Regulations Sections 1820, 1821, 1833, 1833.1, 1833.2, 1870 and 1870.1; Add Sections 1821.1, 1821.2, 1821.3, 1833.1.5, 1834, 1869, 1870.5 and 1871; Repeal Sections 1822 and 1874**

This proposal was approved by the Board in November 2016 but was put on hold pending the passage of AB 93. Staff recently presented some changes to the rulemaking proposal. Staff anticipates initial review of the proposal in early 2019.

Ms. Madsen: Provided a brief overview of the rulemaking process.

Ms. Madsen: Explained that Agency had a rulemaking package for 60 days. At a previous Board meeting, Ryan Marcroft, Deputy Director of Legal Affairs, indicated that Agency has 30 days to review a rulemaking package. Ms. Madsen added that other DCA EOs are concerned about the rulemaking process to initiate AB 2138, which will affect all DCA boards and bureaus. All board and bureaus will be submitting their rulemaking packages at the same time. According to the timeline provided by Mr. Marcroft, legal has 90 days to review a package, which has not been the Board's experience yet.

## **XXXII. Suggestions for Future Agenda Items**

No suggestions.

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

No public comments.

**XXXIV. Adjournment**

The Board adjourned at 2:08 p.m.