

BBS Board Meeting
August 28, 2015 at 8:30 a.m.
Full Board Open Session

Began at 8:34 a.m.

A. Approval of the May 20-21, Board Meeting Minutes

B. Chair Report

BBS Chair, Christina Wong, reported that the Board is celebrating its 70th Birthday. The Board recognized staff members who have worked for the Board for between five and 15 years.

C. Executive Officer's Report

i. Budget Report - The Board's FYU 2014/2015 budget is \$9,407,794. The expenditures received to date reflect a total \$8,805,714 or 94% of the Board's budget. Based on these figures, it appears the Board will have an unencumbered balance of \$602,080. The Board's budget for fiscal year 2015/2016 is \$9,039,000. As previously reported, the Board's budget includes two limited term positions and full time position authority for two existing half time positions.

ii. Operations Report

Application processing times – As of the week of August 17th, the Board was processing MFT Intern applications received on July 28th, LMFT Examination Eligibility applications received on June 26th, ASW applications received on July 20th, LCSW Examination eligibility applications received on June 21, LEP Examination Eligibility applications received on July 5th, PCC Intern applications received on July 22nd, LPCC Examination Eligibility applications received on July 31st. The Board received 8,480 applications in the fourth quarter. A total of 1,030 initial licenses were issued in the fourth quarter. As of August 2015, the Board has 102,821 licensees and registrants.

Enforcement Program - The Enforcement staff received 229 consumer complaints and 250 criminal convictions in the fourth quarter.

Board Outreach Efforts – The Board's summer 2015 newsletter is available on the Board's website. Information about the BBS's Examination Restructure is also available on the website.

iii. Personnel Report

The Board hired four full-time employees including a Staff Services Manager in the Consumer Complaint & Investigations Unit, a Associate Governmental Program Analyst in the Administration Unit, a Office Technician in the Licensing Unit, and a Staff Services Analyst in the Licensing Unit. The Board has a total of three vacancies, two in the Licensing Unit and one in Cashiering.

D. Strategic Plan Update

A copy of the Board's Strategic Plan is available on the Board's website at www.bbs.ca.gov/pdf/publications/splan_2017.pdf

E. Supervision Committee Update

The Supervision Committee held its seventh meeting on June 26, 2015 in Sacramento.

Formal Decision on Supervised Experience Hours - Senate Bill 620 would streamline LMFT and LPCC hours of experience ("buckets") to require a minimum of 1,750 hours of direct counseling, and a maximum of 1,250 hours of non-clinical experience. The bill allows for a 5-year transition period to ensure that no applicant is adversely affected by the changes. Stakeholders raised concern that SB 620 removes the limit on experience hours gained via telehealth (current law limits to 375 hours). The committee decided not to pursue a language change, as stipulating a limit was felt to be arbitrary at this time. It was noted that more research and monitoring of telehealth experience would be beneficial in order to identify future issues that may indicate a need for such a limit.

Information Decision on Supervision Qualifications – The Supervision Committee is recommending the following:

- Increase the initial training of LMFT and LPCC supervisors to 15 hours for consistency with the current requirements for LCSW supervisors
- Require 6 hours of ongoing training every two years for LCSW, consistent with current LMFT and LPCC requirements. The committee is exploring the possibility of using a competency- based model for these hours rather than specifying particular training content
- Accept an advanced supervisor certification in lieu of the requirement that supervisors be licensed for two years before supervising
- Require supervisors to self-certify to the Board that they meet all qualifications to supervise prior to the commencement of supervision
- Require the supervisor to provide the supervisee with a signed disclosure that includes

information about how to submit a complaint about a supervisor

- Require the Board to perform random audits of supervisor qualifications. Currently, staff can only audit retrospectively as hours are turned in with the licensing application.
- Time licensed in another state should be able to count towards 2 years of licensure for all supervisor/license types.
- The requirement that a supervisor practice psychotherapy (or supervise individuals who practice psychotherapy) for 2 out of the past 5 years should not be changed. However, language should be added to require competency in the areas of clinical practice and techniques being supervised.

The Supervision Committee's next meeting will be held on October 23rd, 2015 in Sacramento.

F. Examination Restructure Update

The Board's examination restructure will become effective on January 1, 2016.

Exam Blackout Period

Examination eligibility data is transmitted to test vendors electronically. The current system configuration for identifying and transmitting this data for LMFT and LCSW exam applicants will be changed due to the restructure. To make the transition to the new exam structure, the Board is implementing a blackout period during the month of December 2015. During this period, LMFTs and LCSWs will be unable to schedule or test. The blackout period will allow the Board to validate applicant data and verify it has been transmitted and received by the various vendors. This will help to ensure that testing candidates will be able to resume scheduling and testing on January 1, 2016.

Outreach

To better inform applicants and registrants as to how the exam restructure will affect them, BBS staff has developed informational materials and videos. As materials are developed they will be posted to the Board's website on the Examination News page. During the beginning of August, the Examination News page was revised and now includes links to more information about the exam restructure. BBS licensing staff is also distributing informational inserts to newly eligible interns and exam candidates. BBS staff has been coordinating with the Department of Consumer Affairs to develop three informational videos. The first of these videos will be posted in September.

G. Discussion and Possible Action Regarding Proposed Regulations for Telehealth

The proposed regulations address the use of telehealth in the provision of psychotherapy and clarify questions, such as when a California license is needed, actions a licensee must take in order to protect the client in a telehealth setting, and that failure to follow telehealth

requirements is considered unprofessional conduct.

CAMFT submitted comments regarding the proposed regulatory changes. Specifically, subsection 1815.5(c)(iv) requires a licensee or registrant, upon initiation of telehealth services, to “Provide the client with written procedures to follow in an emergency situation. This shall include contact information for emergency services near the client’s location.”

CAMFT wrote a letter to the Board indicating that the subsection is not only unnecessary, but also unclear. CAMFT argues that because there can be a wide variety of emergency situations depending on the circumstances of the client (for example, an emergency could be due to child abuse, domestic violence, suicidal patient, etc.), the language sets an unrealistic requirement upon providers. CAMFT suggested that the language in Section 1815.5(c)(iv) be struck and replaced with the following: 1815.5(c)(iv) “Upon initiation of telehealth services, the licensee or registrant shall make reasonable efforts to ascertain the contact information of relevant resources, including emergency services, in the patient’s geographic area.”

BBS’s legal counsel had one modification suggestion for the regulation provision to instead read: “Upon initiation of telehealth services, the licensee or registrant shall document reasonable efforts made to ascertain the contact information of relevant resources, including emergency services, in the patient’s geographic area.”

Board member, Leah Brew, suggested adding language to the provision to indicate when the information should be provided, specifically at the beginning of the service.

Staff was directed to make the discussed changes and continue pursuing this regulatory proposal by conducting a 15-day public comment period, and to resubmit the regulatory proposal to OAL.

H. Status of Board Sponsored Legislation and Other Legislation Affecting the Board

Board staff is sponsoring the following legislative proposals:

SB 531 (Bates) Board of Behavioral Sciences Enforcement Process

This bill makes two separate amendments to the law governing the enforcement process: a) It modifies the Board’s requirements for an individual to petition for a termination of probation or modification of penalty. Under the proposal, the Board may deny a petition without hearing if the petitioner is not in compliance with the terms of his or her probation. b) It clarifies that the Board has jurisdiction to investigate and take disciplinary action even if the status of a license or registration changes or if the license or registration expires. The goal of these changes is to increase the efficiency of the enforcement process. This bill proposal was approved by the Board at its November 20, 2014 meeting.

Status: This bill is currently in the Senate for concurrence of amendments.

SB 620 (Block) Board of Behavioral Sciences: Licensure Requirements

This bill streamlines the experience requirements for LMFT and LPCC applicants. It eliminates the complex assortment of minimum and maximum hours of differing types of experience required for licensure (also known as the “buckets” of experience) and instead requires 1,750 hours of the experience to be direct clinical counseling hours.

The remaining required 1,250 hours may be non-clinical experience. The bill also makes amendments to LCSW law to allow LCSW applicants to count some direct supervisor contact hours, as well as some hours spent attending workshops, trainings, conferences, and seminars, toward their required experience. This bill proposal was approved by the Board at its November 20, 2014 meeting.

Status: This bill is currently in the Senate for concurrence of amendments.

AB 250 (Olberholte): Telehealth: Marriage and Family Therapist Interns and Trainees

This bill would clarify that MFT interns and trainees may practice via telehealth. At its May 21, 2015 meeting, the Board took a “support” position on this bill.

Status: Signed by Governor; Chapter 50, Statutes of 2015.

AB 690 (Wood): Medi-Cal: Federally Qualified Health Centers: Rural Health Clinics

This bill would allow Medi-Cal reimbursement for covered mental health services provided by a marriage and family therapist employed by a federally qualified health center or a rural health clinic. At its May 21, 2015 meeting, the Board took a “support” position on this bill.

Status: AB 690 is now a 2-year bill. The provisions of AB 690 were amended into another bill, AB 858, on May 28, 2015. AB 858 was moved off of the Senate Appropriations’ Suspense File and will be heard on the Senate floor.

AB 832 (Garcia): Child Abuse: Reportable Conduct

This bill would specify that voluntary acts of sodomy, oral copulation, and sexual penetration are not considered acts of sexual assault that must be reported by a mandated reporter, unless it is between a person age 21 or older and a minor under age 16. At its May 21, 2015 meeting, the Board took a “support if amended” position on this bill, and asked for an amendment to clarify that only non-abusive sexual conduct would not be reportable.

Status: The Board’s requested amendment was made, however this is a two-year bill.

AB 1001 (Maienschein): Child Abuse: Reporting

This bill clarifies that it is illegal for anyone, including a supervisor, to impede or interfere with the making of a mandated report of suspected child abuse or neglect. At its May 21, 2015 meeting, the Board took a “support” position on this bill.

Status: This is a two-year bill.

AB 1140 (Bonta): California Victim Compensation and Government Claims Board

This bill contains language that clarifies that a violence peer counselor may not perform services that fall under the scope of practice of any of the professions which the Board regulates, unless those services take place in an exempt setting.

At its June 12, 2015 meeting, the Board reviewed and took a “support if amended” position on this language, asking for one minor clarifying amendment.

Status: The Board’s requested language was amended into the bill on August 18, 2015.

AB 796 (Nazarian): Health Care Coverage: Autism and Pervasive Developmental Disorders

This bill modifies the definition of “qualified autism service professional” and “qualified autism service paraprofessional” to allow insurance coverage for types of behavioral health treatment other than applied behavior analysis. At its May 21, 2015 meeting, the Board opted to remain neutral on this bill.

Status: This is a two-year bill.

BBS Monitored Legislation

AB 1279 (Holden): Music Therapy

This bill seeks to define music therapy in statute and to provide guidance to consumers and agencies regarding the education and training requirements of a qualified music therapist. At its May 21, 2015 meeting, the Board opted to remain neutral on this bill.

Status: This bill is on third reading in the Senate.

SB 479 (Bates): Healing Arts: Behavior Analysis: Licensing

This bill establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology. At its June 12, 2015 meeting, the Board opted to remain neutral on this bill.

Status: This bill is in the Assembly Appropriations Committee.

SB 614 (Leno): Medi-Cal: Mental Health Services: Peer and Family Support Specialist Certification

This bill would require the State Department of Health Care Services to develop a peer and family support specialist certification program. At its May 21, 2015 meeting, the Board took an “Oppose unless Amended” position on this bill, requesting amendments that specified certain information in statute, rather than designating that information to be defined in regulations.

The amendments the Board requested in statute are as follows:

- Inclusion of a clear definition of a peer and family support specialist;
- Inclusion of a defined scope of practice for a peer and family support specialist;
- Specification of the required hours of supervision for a peer and family support specialist, and identification of who may provide this supervision;
- Specification of the training requirements for a peer and family support specialist; and
- Addition of a fingerprinting requirement for peer and family support specialists.

This bill was amended on July 6, 2015. The amended version provides a definition of a peer and family support specialist, as the Board requested. However, the Board’s remaining requested amendments are either not addressed or are only partially addressed.

Status: This bill is in the Assembly Appropriations Committee.

I. Status of Board Rulemaking Proposals

Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse: Amend Title 16, CCR Section 1888

This is a regulatory proposal that the Department of Consumer Affairs (DCA) and the state Legislature have asked all healing arts licensing boards to pursue. It creates uniform standards for discipline that the boards must follow in cases of licensee or registrant substance abuse. This proposal was prompted by a concern at the Legislature that there is a lack of a consistent policy across DCA’s healing arts boards for handling cases that involve licensees or registrants who abuse drugs or alcohol. These regulations were approved by the Secretary of state on June 23, 2015 and take effect October 1, 2015.

Implementation of SB 704 (Examination Restructure): Amend Title 16, CCR Sections 1805, 1806, 1816, 1816.2, 1816.3, 1816.4, 1816.5, 1816.6, 1816.7, 1829, 1877; Add Sections 1805.01, 1822.5, 1822.6, 1830, 1878

This proposal would revise Board regulations for consistency with statutory changes made by SB 7041, which restructures the examination process for LMFT, LCSW, and LPCC applicants effective January 1, 2016. This proposal was originally approved by the Board at its meeting in February 2013, and published in its California Regulatory Notice Register on March 15, 2013.

However, the proposal was withdrawn in May 2013, as staff learned of implementation conflicts with the new BreEZe database system. For this reason, the effective date of the restructure was delayed until 2016. The final proposal was approved by the Board at its meeting in August 2014. It was published in its California Regulatory Notice Register on November 14, 2014. The public hearing was held on December 29, 2014, and the 45-day public comment period has ended. This proposal is now under review by the Department of Consumer Affairs.

Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families: Amend Title 16, CCR Sections 1820.5 and 1822; Add Sections 1820.6 and 1820.7

This proposal clarifies requirements for LPCCs to treat couples and families, and outlines a process by which LPCCs and PCC Interns would receive Board confirmation that they have met the requirements to treat couples and families. The final proposal was approved by the Board at its meeting in May 2014. It was published in the California Regulatory Notice Register on March 6, 2015. The public comment period has now ended, and the proposal is now under review by the Department of Consumer Affairs.

Standards of Practice for Telehealth: Add Title 16, CCR Section 1815.5

This proposal addresses the use of telehealth in the provision of psychotherapy, and clarifies questions, such as when a California license is needed, actions a licensee must take in order to protect the client in a telehealth setting, and that failure to follow telehealth requirements is considered unprofessional conduct. The final proposal was approved by the Board at its meeting in May 2015 and was published in the California Regulatory Notice Register on July 10, 2015. The 45-day public comment period ends on August 24, 2015, and the public hearing is scheduled for August 25, 2015.

J. Presentation and Discussion of the Use of the Title "Intern" vs. "Associate"

Ben Caldwell, AAMFT-CA gave a presentation regarding the professional title for MFT pre-licensurees and asked the Board to consider replacing the word "Intern" with the word "Associate" to describe post-degree MFTs who are registered with the state.

The Board voted to put this issue on the agenda for a future Policy and Advocacy Committee meeting.

K. Discussion and Possible Action Regarding English as a Second Language Accommodation for Examination Candidates

The Board does not currently offer accommodations for examinees who speak English as a second language. A growing number of Board examinees have approached the Board asking it

to consider allowing ESL testing accommodations. At its May 21, 2015 meeting, the Board directed staff to draft language that specifies criteria to be used when considering whether to grant extra examination time for ESL applicants and allows the Board discretion in making a decision.

Proposed ESL Accommodation Language

Staff has drafted language per the Board's direction. It would require applicants to state under the penalty of perjury that English is his or her second language. The language proposes three scenarios under which the Board may consider granting an applicant time-and-a-half on an examination:

- TOEFL-iBT Score of 85
- Documentation of an ESL Accommodation from the Qualifying Master's Degree Program
- Documentation of a Foreign Qualifying Master's Degree that was Presented Primarily in a Language Other than English

After discussing what the word "accommodation" really means and concerns about giving all applicants additional time, the Board declined to take action and directed staff to continue researching the issue.

L. 2016 Meeting Dates

- March 2-4, 2016 in Sacramento
- May 12-13, 2016 in Southern California, location TBD
- August 24-26, 2016 in Sacramento
- November 17-18 in Southern California, location TBD

Meeting Adjourned at 2:40 p.m.