

BBS Board Meeting Notes

Cathy Atkins, JD

Deputy Executive Director

May 11, 2018

1. Board Chair Report

Chair, Deborah Brown, thanked the Board and Executive Officer, Kim Madsen, for their contributions. Renee Lonner, who is retiring off the Board, expressed her appreciation for her experience. Betty Connolly was confirmed as the new Board Chair, and Max Disposti as Vice Board Chair.

2. Executive Director's Report

The Board's budget for Fiscal Year (FY) 2017/2018 was recently updated from \$11,657,00 to \$12,047,00. The Board's Fund Condition for FY 2017/2018 reflects a 5.9 month reserve.

As of April, 2018, the BBS received 601 AMFT registration applications, 401 ASW registration applications, and 244 APCC registrations.

The processing periods for both registrations and license applications slightly decreased between 2017 and 2018.

The MFT Examination pass rate increased to 69% for 1/18-3/18, versus 59% for 10/17-12/17. In March 2017 Subject Matter Expert (SME) recruitment was initiated and resulted in a great response with over 336 applications received as of September 25, 2017. Of the 336 applicants, 231 met the desired qualifications. There are now have over 434 qualified SME's committed to participating in the various examination development workshops. Subject Matter Expert (SME) recruitment is ongoing and interested licensees, including new licensees (licensed 5 years or less) are encouraged to apply via the Board's website.

To date in 2018, the Enforcement staff received 358 consumer complaints and 250 criminal convictions. A total of 595 cases were closed and 51 cases were referred to the Attorney General's office for formal discipline. 60 Accusations and 20 Statement of Issues were filed this quarter. The number of final citations for 2018 to date is 66. The average number of days to complete Formal Discipline was 748 days.

The BBS continues in their continuing education audit. In 2018, LMFTs had a fail rate of 30%, LCSW at 18%, and LPCC at 1%. The top reasons a licensee failed were failure to complete the coursework, failure to complete the HIV/AIDS course, and completing courses from unapproved providers.

3. Substance Abuse Uniform Standards

The Board was briefed on the status of implementation of SB 1441 (Ridley-Thomas 2018).

4. Committee Updates

Kim Madsen updated the Board on the work of the Exempt Setting Committee including discussion of concerns about practicum placements, the Setting Survey results, and temporary staffing agencies.

Kim Madsen updated the Board on the work of the License Portability Committee including out-of-state licensing requirements (current license for 2 years, qualifying degree, fingerprinting, L&E exam, 12 hours of law and ethics, and 15 hours of coursework in California Culture.)

Both these Committees will meet again on June 8, 2018.

5. 2018 Legislation

AB 456 (Thurmond): Healing Arts: Associate Clinical Social Workers: This bill would extend the Board's "90-day rule" to applicants for registration as an associate clinical social worker (ASW). Currently, the 90-day rule allows applicants for registration as a marriage and family therapist intern or a professional clinical counselor intern to count post degree hours of supervised experience before receiving a registration number, as long as they apply for their intern registration within 90 days of the granting of their qualifying degree. This bill also requires post-graduation/pre-degree hours to be gain via a live-scanned place of work after 2020. The Board voted to support this legislation.

AB 767 (Quirk-Silva): Master License Business Act: This bill creates a master business license system under the Governor's Office of Business and Economic Development (GO-Biz). It would allow a person who needs to apply for more than one business license to submit a single master application through GO-Biz, which would then distribute the application information to the various relevant licensing entities. The Board voted to support this legislation.

AB 2088 (Santiago): Patient Records: Addenda: This bill would include minors in the allowance that any patient that inspects his or her patient records may provide a written addendum to the record for any item or statement that he or she believes is incomplete or incorrect. Currently, this provision is only allowed for adult patients. This bill is sponsored by CAMFT, and was supported by AAMFT-CA and CALPCC. The Board voted to support this legislation.

AB 2143 (Calbalerro): Licensed Mental Health Service Provide Education Program: This bill would allow psychiatric mental health nurse practitioners and physician assistants who work in a psychiatric mental health setting to be eligible for the Mental Health Practitioner Education Fund loan repayment grant program. The Board discussed concerns that nurse practitioners and physician assistants would be gaining access to funds generated by licensed BBS regulated providers, instead of the nurse practitioners' and physician assistants' own contributions. The Board voted to oppose unless amended, specifically asking to clarify specific funding sources, as well as adding in Licensed Educational Psychologists.

AB 2296 (Waldron): LPCC/LCSW General Bill: This bill seeks to add licensed professional clinical counselors (LPCCs) and licensed clinical social workers (LCSWs) to areas of California law where other comparable licensed mental health professionals are included. It also makes some changes to LPCC education requirements regarding core content areas of study. The Board voted to support this legislation.

AB 2943 (Low): Sexual Orientation Change Efforts Unlawful Business Practices: This bill would make advertising, offering to engage in, or engaging in sexual orientation change efforts with an individual for

money an unfair or deceptive act under the Consumer Legal Remedies Act, allowing harmed consumers to bring legal action against violators to recover damages. After a lengthy discussion, the Board voted to support this legislation.

AB 2968 (Levine): Informational Brochure: This bill makes changes to sections of the Business and Professions Code (BPC) relating to the requirement that the Department of Consumer Affairs (DCA) create a brochure to educate the public about the prohibition of sexual contact in therapy. The Board voted to support this legislation.

SB 906 (Beall): Medi-Cal: Peer Certification: This bill requires the State Department of Health Care Services (DHCS) to establish a peer, parent, transition-age, and family support specialist certification program. It also allows DHCS to amend the state's Medicaid plan to include these providers as a provider type within the MediCal program. The Board voted to support this legislation.

SB 968 (Pan): Mental Health Counselors: This bill would require specified higher educational entities in California to hire one full-time licensed mental health counselor per 1,500 students enrolled at each of their campuses. After lengthy discussion, the Board voted to support the bill, if amended, adding in pre-licenseses.

AB 1436 (Levine): BBS Suicide Prevention Training: This bill would require, beginning January 1, 2021, applicants for licensure as a marriage and family therapist, clinical social worker, educational psychologist, or professional clinical counselor to demonstrate completion of at least six hours of coursework or supervised experience in suicide risk assessment and intervention. Current licensees would also be required to demonstrate completion of this coursework or supervised experience in their first renewal period after this date. After a lengthy discussion, and numerous public comments, the Board voted to support this legislation.

AB 2138 (Chiu and Low): Denial of Application and Criminal Convictions: This bill would make significant amendments to the Board's enforcement process, including limits on when a board can deny, revoke or suspend a license based on a conviction or other act and limits on the length of probation. It also limits the Board's timeframe to decide on a petition to modify probation to 90 days. After a lengthy discussion, the Board voted to oppose unless amended to take out the BBS.

AB 2608 (Stone): Foster Youth: This bill creates a new fund under the Mental Health Practitioner Education Fund loan repayment grant program specifically for loan repayment grants for LMFT and LCSW licensees and registrants who were formerly in California's foster youth care system. The program would be funded by levying an additional \$10 fee on LMFT and LCSWs each renewal cycle. The Board voted to oppose unless amended to remove requirement of foster care or prioritization, but instead take foster care status into account.

AB 2302 (Baker): Child Abuse: Mandated Reporters: This bill would make a mandated reporter's failure to report the sexual assault of a child a continuing offense. This means that the one-year statute of limitations would begin when law enforcement discovers the failure to report, instead of when the failure to report occurred. The Board voted to oppose unless amended to put limit coinciding with record keeping statute.

AB 3120 (Gonzalez Fletcher): Statute of Limitations on Childhood Sexual Abuse: This bill removes the time limit for beginning an action to recover damages due to childhood sexual assault. It would also

require a Board licensee to report to the Board that an action to recover damages due to childhood sexual assault has been filed against him or her, or that a judgement had been reached. The Board took no action.

SB 399 (Portantino): PDD or Autism: This bill seeks to close some of the loopholes that insurance companies use to deny treatment for behavioral health treatment. It also revises the definitions of a “qualified autism service professional” and a “qualified autism service paraprofessional.” The Board voted to support if amended to add licensed educational psychologists.

6. BBS Sponsored Legislation Update

AB 93 (Medina): Healing Arts: This bill proposal represents the work of the Board’s Supervision Committee. Its amendments focus on strengthening the qualifications of supervisors, supervisor responsibilities, types of supervision that may be provided, and acceptable work settings for supervisees. The bill also strives to make the Board’s supervision requirements more consistent across its licensed professions.

AB 2117 (Arambula): Licensing Process Bill: The Board is proposing a bill to make some amendments to its licensing process. The bill will make amendments to specify how an expired registration may be renewed, and to supervised experience hours required for long term out-of-state license holders. It also makes some corrections to LCSW law regarding the California law and ethics exam and law and ethics coursework.

SB 1491 (Senate Business, Professions, and Economic Development Committee): This bill proposal, approved by the Board at its November 2, 2017 meeting, makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law.

7. BBS Rulemaking Proposals

Application Processing Times: This proposal would amend the Board’s advertising regulations in line with SB 1478 (Chapter 489, Statutes of 2016) which changes the term “intern” to “associate” effective January 1, 2018, and makes several technical changes. This proposal would also amend the regulation that sets forth minimum and maximum application processing time frames. This proposal, which was approved by the Board at its meeting in November 2016, has received final approval and took effect March 14, 2018.

Enforcement Process: This proposal would result in updates to the Board’s disciplinary process. It would also make updates to the Board’s “Uniform Standards Related to Substance Abuse and Disciplinary Guidelines (Revised October 2015),” which are incorporated by reference into the Board’s regulations. The proposed changes fall into three general categories: 1. Amendments seeking to strengthen certain penalties that are available to the Board; 2. Amendments seeking to update regulations or the Uniform Standards/Guidelines in response to statutory changes to the Business and Professions Code; and 3. Amendments to clarify language that has been identified as unclear or needing further detail. The proposal was approved by the Board at its meeting in February 2017, and began the DCA initial review process in July 2017. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

Contact Information; Application Requirements; Incapacitated Supervisors: This proposal would: 1) Require all registrants and licensees to provide and maintain a current, confidential telephone number and email address with the Board; 2) Codify the Board's current practice of requiring applicants for registration or licensure to provide the Board with a public mailing address, and ask applicants for a confidential telephone number and email address; 3) Codify the Board's current practice of requiring applicants to provide documentation that demonstrates compliance with legal mandates, such as official transcripts; to submit a current photograph; and for examination candidates to sign a security agreement; 4) Require certain applications and forms to be signed under penalty of perjury; 5) Provide standard procedures for cases where a registrant's supervisor dies or is incapacitated before the completed hours of experience have been signed off. The proposal was approved by the Board at its meeting in March 2017, and began the DCA initial review process in August 2017. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

Examination Rescoring: This proposal would amend the Board's examination rescoring provisions to clarify that rescoring pertains only to exams taken via paper and pencil, since all other taken electronically are automatically rescored. This proposal would also make clarifying, non-substantive changes to the Board's application abandonment criteria, and clarify the fee required for subsequent Associate Professional Clinical Counselor registrations. The proposal was approved by the Board at its meeting in November 2017, and began the DCA initial review process in April 2018. Upon completion of the DCA review, the proposal will be submitted to OAL for publishing to initiate the 45-day public comment period.

8. Future Agenda Items

Cathy Atkins, CAMFT, requested that the Board discuss how to address non-regulated individuals that are providing counseling or therapy services to the public.