

BBS BOARD MEETING NOTICE

August 19, 2016

I. Chair Report

Christina Wong will serve as Chair of the Policy and Advocacy Committee.

II. Executive Officer's Report

a. Budget Report

The Board's budget for FY 2015/2016 was \$10,351,000. June 30, 2016 marked the end of the fiscal year. FY 15/16 expenditures received to date total \$10,193,944 or 98% of the Board's budget.

As of June, 2016 the Board has collected \$9,097,141.08 in total revenue.

2016/2017 Budget

The Board's FY 2016/2017 budget is projected to be \$12,679,000. This figure includes the additional 8.5 staff positions for the licensing and examination units. Additionally, this figure includes the Board's share of cost (\$123,000) for two budget change proposals sought by the Department of Justice (DOJ) Attorney General's Office (AG). These proposals seek to add additional staff resources in the AG Licensing Section and implement the AG reporting requirements pursuant to Senate Bill 467.

The Board reported 10 vacancies as of July 1.

b. Operations Report

Licensing Program Application volumes increased in the fourth quarter. The increase is attributed to new applications for registration as an intern/associate due to graduation, as well as the ongoing and increasing number of Law and Ethics Examination applications

Examination Program The Board administered 5,486 examinations in the fourth quarter. Of this number, 4,006 were Law and Ethics examinations. 753 candidates participated in the Association of Social Work Board (ASWB) national examination. Eleven examination development workshops were conducted from April to June.

Administration Program The Board received 10,451 applications in the fourth quarter, a 43% increase since last quarter

Enforcement Program The Enforcement staff received 270 consumer complaints and 232 criminal convictions in the fourth quarter. 482 cases were closed and 20 cases were referred to the Attorney General's office for formal discipline. 27 Accusations and 2 Statement of Issues were filed this quarter. The number of final citations for the fourth quarter is 39. The average number of days to complete Formal Discipline was 828 days.

Continuing Education Audits In January 2016, the Board resumed auditing licensees for compliance with the continuing education requirements. From January to June, a total of 217 licensees were randomly selected for the audit. A total of 76 licensees failed the audit (25%). The top three reasons for failing the audit are as follows.

- Failed to take the required 6 hour Law and Ethic course
- Missing first time requirements
- Continuing Education course was taken from an unapproved provider

Outreach Activity Board staff either physically attended the following events or participated via a phone conference: Orange County MFT Consortium/CAMFT Intern Faire, CSCSW meeting, CALPCC Conference in San Jose, NASW Lobby Days in Sacramento, Sacramento MFT Consortium Meeting, CAMFT Annual Conference in Los Angeles, Orange County Consortium Meeting, Inland Empire Consortium Meeting, Fresno MFT Consortium Meeting, CSCSW Meeting in San Jose, NBCC State Licensure Board Symposia, Central Coast MFT Consortium Meeting, Orange County CAMFT Chapter Meeting, and the Sacramento CAMFT Chapter Meeting.

The Board's summer 2016 newsletter will be published in August.

III. Strategic Plan Update

Management and staff continue to address the strategic goals and objectives.

IV. Supervision Committee Update

The Supervision Committee held its final meeting on August 18, 2016. Staff anticipates that the law changes proposed by the Supervision Committee will be considered by the Policy and Advocacy Committee on September 30, 2016, and presented to the full Board for consideration at the November 2016 meeting. Staff would run legislation and regulations during 2017 in order to begin implementing the proposed changes.

Topics from the final Supervision Committee meeting were:

- Revisions to the legal definition of the term "applicant."
- Documentation required when the supervisee was a volunteer employee, but was reimbursed for expenses on a 1099 form.

- Revisions to the *Guide to Supervision* for each license type.
- Requirements for temporary substitute supervisors.

(To see CAMFT's minutes from each Supervision Committee meeting, visit www.camft.org/advocacy.)

V. Examination Restructure Update

CAMFT reported that we are receiving a large number of calls about applicants waiting beyond 60 days for their exam notifications. The BBS acknowledged that some applicants wait well beyond the 30 or 60 days and even up to a couple months before it is even discovered that they have not been included in the conversion. The BBS explained that, unfortunately, the only way to even discover that applicants are waiting is through a manual process. It is expected that at the end of August, all of the data will have been reviewed, thanks to the addition of staff on this project, and the problems will be resolved. Applicants who have waiting for longer than 30 or 60 days should email the BBS so they can process the conversion right away and the BBS website will be updated to reflect this process.

VI. Discussion and Possible Action Regarding Proposed Revisions to the BBS Logo

The Board and the public disliked the proposed revisions to the BBS logo. More options will be presented at a future meeting.

VII. Discussion and Possible Action Regarding Establishing a Board Policy to Remove Board Newsletters from the Board Website After 5 Years

The Board noted their requirement to publish information on their website (licensee's or registrant's number and address of record, other information including suspensions revocations and other related enforcement actions).

The Board also noted that they shall not publish on the Internet, the final determination of a citation and fine of \$1500 or less for more than five years from the date of issuance. After five years, the Board must remove the action from its website. Currently, BreEZe is designed to perform this function automatically.

In 2015 the Board resumed publication of its newsletter, which includes disciplinary actions, including citations and fines of less than \$1,500.

To address the concerns of citations and fines of \$1500 living on the Board website longer than five years, via the newsletters, the Board voted to remove the newsletters from the website after five years and allow for members of the public to request the archived newsletter.

VIII. Discussion and Possible Action Regarding the Addition of Taking and Passing the Law and Ethics Examination as a Probation Term

During the May Board Meeting, Board Members suggested that in lieu of requiring probationers to take a Law and Ethics course as a condition of probation, the probationer could take and pass the Law and Ethic examination.

The Board's October 2015 Disciplinary Guidelines specify "take and pass licensure examination(s) as a probation condition for the following violations.

- Sexual Misconduct (Anything other than as defined in B&P Section 729)
- Intentionally/Recklessly Causing Physical or Emotional Harm to Client
- Gross Negligence/Incompetence
- Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee/Registrant
- Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties, and Functions of License
- Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License/Competence
- Discipline by Another State or Governmental Agency
- Misrepresentation of License/Qualifications (if violation warrants this condition)
- Failure to Maintain Confidentiality

The Board discussed the addition of the Law and Ethics examination as a probation term in the Disciplinary Guidelines. The Board voted to add this as a term of probation.

IX. Discussion and Possible Action Regarding Section 100 Rulemaking Proposal to Make Non-substantive Changes to California Code of Regulations, Title 16, Division 18

California Code of Regulations (CCR) Title 1, Section 100 allows an agency to add to, revise or delete regulatory text without following the specified rulemaking procedures if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of a CCR rights provision. Due to past statutory changes, technical and non-substantive amendments to current regulations are needed.

The Board approved the proposed changes and directed staff to make any non-substantive changes to the attached amendments and submit a regulation package.

X. Status of Board-sponsored Legislation and Update on Other Legislation Affecting the Board; Possible Action

BOARD SPONSERED LEGISLATION

1. AB 1917 (Obernolte): Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants

This bill modifies the education required to become an LPCC or an LMFT as follows:

1. It amends the coursework and practicum required of LPCC applicants in order to ensure that the degree was designed to qualify the applicant to practice professional clinical counseling.

2. It amends the law to define education gained out-of-state based on the location of the school, instead of based on the residence of the applicant.

Status: This bill was signed by the Governor. (Chapter 70, Statutes of 2016)

2. SB 1478 (Senate Business, Professions, and Economic Development Committee): Healing Arts (Omnibus Bill) This bill proposal makes minor, technical, and non-substantive amendments to add clarity and consistency to current licensing law. The proposal to change the marriage and family therapist and professional clinical counselor “intern” title to “associate,” approved by the Board at its November 20, 2015 meeting, is also included in this bill.

Status: This bill is on third reading in the Assembly. Staff expects additional amendments requested by the Board, as well as double-joining language to resolve conflicts with AB 1917, will be made before the end of the legislative session.

3. Proposed Legislation in Response to North Carolina State Board of Dental Examiners v. Federal Trade Commission Supreme Court Decision; SB 1194, SB 1195 or Similar Bill

The Board discussed this bill and voted to support the language and bring any substantive changes to the Board.

BOARD SUPPORTED LEGISLATION

1. AB 1001 (Maienschein): Child Abuse: Reporting: Foster Family Agencies This bill seeks to address a report that social workers who work for foster family agencies are sometimes prohibited by their supervisors from making mandated reports of child abuse. Foster family agencies are licensed by the Department of Social Services. The amendments in this bill give the Department of Social Services more authority to ensure

that foster family agencies follow mandated reporting requirements. At its May 13, 2016 meeting, the Board took a “support” position on this bill.

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

- 2. AB 1808 (Wood): Minors: Mental Health Services** This bill includes marriage and family therapist trainees and clinical counselor trainees in the list of professional persons who may perform mental health treatment or residential shelter services with a consenting minor 12 years of age or older under certain defined circumstances. At its May 13, 2016 meeting, the Board took a “support” position on this bill. This bill was amended on June 2, 2016, to require a trainee to notify his or her supervisor within 24 hours of treating such a minor. If the trainee believes the minor is a danger to self or others, the trainee must notify the supervisor immediately after the counseling session.
Status: This bill is on third reading in the Senate.

CAMFT noted that this bill has been amended to include social workers and psychologists.

- 3. AB 1863 (Wood): Medi-Cal: Federally Qualified Health Centers: Rural Health Centers** 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 13, 2016 meeting, the Board took a “support” position on this bill, and asked that LPCCs be included as well.

Status: In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 25 pursuant to Assembly Rule 77.

- 4. AB 2083 (Chu): Interagency Child Death Review** This bill would, at the discretion of the provider, allow medical and mental health information to be disclosed to an interagency child death review team. 160 At its May 13, 2016 meeting, the Board took a “support” position on this bill.
Status: This bill is on third reading in the Senate.

- 5. AB 2191 (Salas): Board of Behavioral Sciences** This bill would extend the Board’s sunset date until January 1, 2021. At its May 13, 2016 meeting, the Board took a “support” position on this bill.

Status: In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 21 pursuant to Assembly Rule 77.

- 6. AB 2199 (Campos): Sexual Offenses Against Minors: Persons in a Position of Authority** This bill would subject persons who engage in specified acts of a sexual nature with a minor to additional jail terms if they held a position of authority over the minor. Persons in a position of authority include the minor’s counselor or therapist. At its May 13, 2016 meeting, the Board took a “support” position on this bill.
Status: This bill is dead

- 7. AB 2507 (Gordon): Telehealth: Access** This bill would require a health care service plan or health insurer to cover patient services provided via telehealth to the same extent as services provided in-person. At its May 13, 2016 meeting, the Board took a “support” position on this bill.

Status: This bill is dead.

- 8. SB 1034 (Mitchell): Health Care Coverage: Autism** This bill would delete the sunset date on the law that requires health care service plans or insurance policies to provide coverage for behavioral health treatment for pervasive development disorder or autism. It would also make some relatively minor adjustments to this law in areas that have been identified as needing further clarification. At its May 13, 2016 meeting, the Board took a “support” position on this bill. This bill has been amended since the last Board meeting. Instead of deleting the sunset date, it now sets it at January 1, 2022, and other technical changes were made to the proposed language.

Status: This bill is dead.

BOARD IS MONITORING THE FOLLOWING LEGISLATION

- 1. AB 796 (Nazarian): Health Care Coverage: Autism and Pervasive Developmental Disorders**

This bill seeks ensure that individuals with pervasive development disorder or autism are able to receive insurance coverage for types of evidence-based behavioral health treatment other than applied behavior analysis. To accomplish this, it directs the Board of Psychology to form a committee to develop a list of acceptable behavioral health evidence-based treatment modalities. At its May 13, 2016 meeting, the Board decided to take a “neutral” position on this bill. Since the Board meeting, AB 796 has been amended. Instead of directing the Board of Psychology to form a committee, it now directs the Department of Developmental Services, with stakeholder input, to update the regulations to set standards of education, training, and experience for autism service professionals who practice behavioral health treatment other than applied behavioral analysis.

Status: Read second time and amended. Ordered to third reading.

- 2. AB 1084 (Bonilla): Social Workers: Examination** This was a spot bill which contained a provision that is already included in the omnibus bill. The Board did not take a position on this bill.

Status: This bill was amended to address a topic unrelated to the Board.

- 3. AB 1715 (Holden): Healing Arts: Behavior Analysis: Licensing** This bill establishes licensure for behavior analysts and assistant behavior analysts under the Board of Psychology. In addition, it would require behavior analyst interns and behavior analyst technicians to register with the Board of Psychology. The Board decided not to take a position on this bill, but directed staff to provide technical assistance to the author regarding specified issues of concern.
Status: This bill is dead.
- 4. AB 2606 (Grove): Crimes Against Children, Elders, Dependent Adults, and Persons with Disabilities** This bill would require a law enforcement agency to inform a state licensing agency if it receives or makes a report that one of the licensing agencies' licensees has allegedly committed certain specified crimes. At its May 13, 2016 meeting, the Board decided to remain neutral on this bill, and directed staff to contact the author's office to request technical changes. 162
Status: This bill is dead.
- 5. AB 2649 (Jones): Marriage and Family Therapist Intern and Professional Clinical Counselor Intern: Renaming** This Board is seeking these amendments in the omnibus bill. The Board did not take a position on this bill.
Status: This bill is dead.
- 6. SB 614 (Leno): Medi-Cal: Mental Health Services: Peer, Parent, Transition-Age, and Family Support Specialist Certification** This bill requires the State Department of Health Care Services to develop a peer, parent, transition-age, and family support specialist certification program. At its May 13, 2016 meeting, the Board took a "support if amended" position on this bill, asking for clarifications regarding the scope of practice of these support specialists, and asking that LPCCs be included in the list of professionals allowed to supervise them.
Status: This bill is currently on the Assembly inactive file.
- 7. SB 1101 (Wieckowski): Alcohol and Drug Counselors: Regulation** This bill creates the Alcohol and Drug Counseling Professional Bureau under the Department of Consumer Affairs for the purpose of licensing alcohol and drug counselors. At its May 13, 2016 meeting, the Board took a "support if amended" position on this bill, asking for clarifying amendments and language related to scope of practice.
Status: This bill is dead.
- 8. SB 1155 (Morrell): Professions and Vocations: Licensees: Military Service** This bill would require licensing board within the Department of Consumer Affairs to grant fee waivers for the application for and issuance of a license to persons who are honorably discharged veterans. The Board did not take a position on this bill.
Status: This bill is dead.

9. SB 1195 (Hill): Professions and Vocations: Board Actions: Competitive Impact

This bill seeks to ensure that boards under the Department of Consumer Affairs are in compliance with the recent Supreme Court ruling, *North Carolina State Board of Dental Examiners v. Federal Trade Commission*. This ruling stated that state licensing boards consisting of market participants in the industry regulated by the board can be held liable for violations of antitrust law unless their anti-competitive decision meets two 163 requirements. The anti-competitive action or decision must be based on a clearly articulated and affirmatively expressed state policy; and the board decision must be actively supervised by the state. At its May 13, 2016 meeting, the Board took a “support if amended” position on this bill, and asked that the definition of “competitive impact” be revised.

Status: This bill has died; however, DCA has indicated that a revised version of this bill will be introduced later in August.

10. SB 1334 (Stone): Health Practitioners: Reports This bill would require a health care practitioner providing medical services to a patient to make a mandated report if the patient informs him or her that they are seeking treatment due to being the victim of assaultive or abusive conduct. At its May 13, 2016 meeting, the Board took an “oppose unless amended” position, and asked that the Board’s licensees be excluded from the provisions of the bill.

Status: This bill is dead

XI. Status of Board Rulemaking Proposals

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

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.

These regulations took effect July 1, 2016.

b. English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2

English as a Second Language: Additional Examination Time: Add Title 16, CCR Section 1805.2 This proposal would allow the Board to grant time-and-a-half (1.5x) on a Board administered examination to an English as a second language (ESL) applicant, if the applicant meets specific criteria demonstrating limited English proficiency.

The final proposal was approved by the Board at its meeting in November 2015. It was published in the California Regulatory Notice Register on January 1, 2016. The 45-day

public comment period has ended, and the public hearing was held on February 15, 2016. This proposal is currently under review by the Department of Consumer Affairs.

XII. 2017 Board Meeting Dates

March 1-3, 2017 May 10-12, 2017 August 23-25, 2017 November 1-3, 2017

XIII. Adjournment

The meeting adjourned at 12:13pm