BBS Board Meeting Notes

November 30, 2018

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The following relevant excerpts and summaries are taken from the Board of Behavioral Sciences’ (BBS) Board November 30th materials:

Executive Director’s Report
The Board’s budget for Fiscal Year (FY) 2018/2019 is $11,537,000. The budget for fiscal year 2018/2019 is $11,537,000. The Board’s Fund Condition for FY 2018/2019 reflects a 5.3 month reserve.

As of November 2018, the BBS has 13,136 AMFT Registrants and, 37,464 LMFTs. As of September 2018, the BBS received 1214 AMFT registration applications, 1271 ASW registration applications, and 465 APCC registration applications.

The processing periods as of September 2018: AMFT Registration - 12 days; LMFT Examination - 31 days; ASW Registration - 9 days; LCSW Examination - 31 days; APCC Registration - 16 days; and, LPCC Examination - 13 days.

The Board discussed the MFT licensing exam rate, including a downward trend from 65% during the 4th quarter (April-June) to 62% during the 1st quarter (July-September).

During the first quarter, the Enforcement staff received 432 consumer complaints and 421 criminal convictions. A total of 777 cases were closed and 48 cases were referred to the Attorney General’s office for formal discipline. 29 Accusations and 16 Statement of Issues were filed this quarter. The number of final citations for the fourth quarter was 41.

The BBS reviewed their national outreach with NBCC and AMFTRB to discuss and improve license portability. Telehealth practice was a key issue discussed-included necessity of license to practice in all states, as well as absence of telehealth standards and rapidly changing technology.

The Executive Officer also reviewed personnel update and Strategic Plan update.

Occupational Analysis of LPCC Practice in California
The Board requested that the Department of Consumer Affairs’ Office of Professional Examination Services (OPES) conduct an occupational analysis (OA) of licensed professional clinical counselor (LPCC) practice in California. The purpose of the OA is to define practice for LPCCs in terms of the actual job tasks that new licensees must be able to perform safely and competently at the time of licensure. The results of this OA provide a description of practice for the LPCC profession that can then be used to review the National Clinical Mental Health Counseling Examination developed by the National Board for Certified Counselors. A full review of the analysis to date can be found on the BBS website at bbs.ca.gov.

Proposed Legislation: 2019 Omnibus Bill
The BBS recommended omnibus legislation covering language clarification related to the application of legal and ethical standards, integrated programs, treatment planning, statutes and regulations, temporary employment agencies, aging and long term care, spousal and partner abuse, and reinstatement of license/registration.

The Board voted to approve the suggested legislative proposals where changes are non-substantive.

Temporary Staffing Agencies
The BBS reviewed possible addition of law related to the placement of associates, trainees and applicants by temporary agencies to contracting agencies. CAMFT has historically supported the addition of this clarification but has expressed concerns on the transparency of who is employer within these changes for purposes of liability issues. CAMFT testified the request that BBS show discretion to the trainee or registrant if the lack of clarity ever results with a pre-licensee’s hours being jeopardized.

The Board voted to approve the suggested legislative proposal.

Private Practice Definition
The Exempt Setting Committee and Policy and Advocacy Committee have reviewed and discussed the definitions of different types of practice settings that offer mental health services, with the primary goals of protecting consumers and clarifying current law. In exempt settings, unlicensed/unregistered individuals who are not pursuing a license are permitted to provide psychotherapy services. Those settings are:

- Nonprofit and charitable entities (a 501(c)(3) or a church/religious organization that meets certain federal requirements)
- Schools (whether public, private, for-profit or non-profit)
- Governmental agencies.

In addition, there are a variety of for-profit business entity types that may be set up for the purpose of providing mental health services. Current law does not contain definitions for other “non-private practice” types of for-profit entities that do not meet the criteria for what is normally considered a “private practice” or “exempt setting.” The types of for-profit business entities include:

- Companies owned, in full or in part, by an individual who is not a licensee
- Partnerships (multiple owners, can be licensees or non-licensees)
• General stock corporations such as:
  - Telecare (employee-owned)
  - Health Net of California which owns MHN, an employee assistance program

• Public benefit corporations

• Flexible purpose corporations

Types of for-profit companies may include, but are not limited to:

• Mental health clinics

• Substance abuse recovery programs

• Medical settings such as hospitals, medical groups, nursing homes, hospices, dialysis clinics Certain types of for-profit companies are regulated by the State of California.

The type of oversight varies, from lightly to heavily regulated. Nearly all of the for-profit company types listed in the above bullet points are settings regulated either by the state Department of Public Health or Department of Health Care Services (e.g., certain nonresidential substance abuse treatment programs can operate without a state license).

The BBS reviewed the proposed definitions, and discussed the continuing development of a definition for the entities that are distinct from exempt entities and private practices. CAMFT testified the request that BBS continue to review and define with not only consumer protection in mind, but job creation and protection for pre-licensees working in the for-profit, non-private practice entities.

The BBS will continue to advise their progress on development of clarifying language.

**Licensed Educational Psychologists as Supervisors of Associates**

The California Association of School Psychologists (CASP) is pursuing a legislative proposal to allow Licensed Educational Psychologists (LEPs) to act as supervisors of associate marriage and family therapists (AMFTs), associate clinical social workers (ASWs), and associate professional clinical counselors (APCCs) while they are providing educationally related clinical mental health services in educational settings. CASP gave a presentation to the Board on their proposal.

CASP explained that many school districts are using associates to provide educationally-related mental health services (ERMHS). State law (via the Education Code) requires ERMHS service providers to be supervised by someone with a pupil personnel services credential, and LEPs already have this credential and the appropriate training in the education system. Prior BBS Committees agreed that there was potential value in allowing LEPs to supervise associates in educationally-related mental health settings as long as clinical services were being performed, although perhaps the amount of supervised experience hours allowed to count toward licensure should be limited.

CAMFT testified that they are in conversations with CASP on how to support pre-licensees within educational work settings, while ensuring consumer protection, qualified supervision and protecting licensee portability.

CASP responded to questions by the Board about the proposal and will bring it back to the BBS at is developed with other stakeholders.

**2018 Legislation**

The BBS provided an update on Board monitored legislation, as well as Board sponsored legislation:

**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. This bill was signed by the Governor.

**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 supervise 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. This bill was signed by the Governor.

**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. This bill was signed by the Governor.

**Future Meetings in 2019**


Policy and Advocacy Committee meetings in 2019: February 8, 2019, April 5, 2019, August 2, 2019, and October 11, 2019.

**Catherine L. Atkins, JD, is a staff attorney and the Deputy Executive Director at CAMFT. Cathy is available to answer members’ questions regarding legal, ethical, and licensure issues.**