



BOARD MEETING MINUTES

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

- November 3: https://youtu.be/8skLyA123_4
- November 4 (part 1 of 2): <https://youtu.be/99iEOFDmJmc>
- November 4 (part 2 of 2): <https://youtu.be/tiKYq-09Cjw>

DATE November 3, 2022

TIME 9:00 a.m.

ATTENDEES

Members Present:

- Max Disposti, Chair, Public Member
- Christopher Jones, Vice Chair, LEP Member
- Susan Friedman, Public Member
- Justin Huft, LMFT Member
- Abigail Ortega, LCSW Member
- Kelly Ranasinghe, Public Member
- John Sovec, LMFT Member
- Wendy Strack, Public Member
- Dr. Annette Walker, Public Member

Members Absent:

- Ross Erlich, Public Member
- Yvette Casares Willis, Public Member

Staff Present:

- Steve Sodergren, Executive Officer
- Marlon McManus, Assistant Executive Officer
- Gena Beaver, Discipline and Probation Manager
- Christina Kitamura, Administrative Analyst
- Sabina Knight, Legal Counsel

Other Attendees:

- Jessica Wall, Administrative Law Judge
- Anahita Crawford, Deputy Attorney General
- Chris Pirrone, Legal Counsel
- Karen Okicich, DCA Office of Professional Examination Services (OPES)

Heidi Lincer, OPES
Olivia Trejo, DCA Office of Human Resources
Christine Guerrero, Petitioner
Gregory Pospisil, Petitioner
Mini Fanega, Petitioner
Public participation via WebEx platform and in-person

OPEN SESSION

I. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 9:22 a.m. Roll was called, and a quorum was established.

II. Suggestions for Future Agenda Items

Hector Ramirez: Suggested a future topic to look at accessibility to care and “the idea of what a stakeholder is.”

III. Public Comment for Items Not on the Agenda

None

Administrative Law Judge Jessica Wall presided over the following petition hearings. Deputy Attorney General Anahita Crawford presented the facts of each case on behalf of the People of the State of California.

IV. Christine S. Guerrero, LCSW 80840, Petition for Early Termination of Probation

Christine Guerrero represented herself. After she was sworn-in, Ms. Guerrero presented her request for early termination of probation and information to support the request. She was cross-examined by Ms. Crawford and Board members. Witnesses testified on behalf of Ms. Guerrero: Christian Alzubi, LMFT; Jeanine Arellano Davis; Roxanne Romell. The record was closed after witnesses testified.

V. Gregory A. Pospisil, LMFT 51293, Petition for Early Termination of Probation

Gregory Pospisil represented himself. After he was sworn-in, Mr. Pospisil presented his request for early termination of probation and information to support the request. He was cross-examined by Ms. Crawford and Board members. The record was closed after cross-examination.

VI. Mini Fanega, LMFT 50567, Petition for Early Termination of Probation or Modification

Mini Fanega represented herself. After she was sworn-in, Ms. Fanega presented her request for early termination of probation or modification and information to support the request. She was cross-examined by Ms. Crawford and Board members. The record was closed after cross-examination.

CLOSED SESSION

The Board entered closed session immediately following the hearings.

VII. 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.

VIII. Pursuant to Section 11126(a)(1) of the Government Code, the Board will Meet in Closed Session to Evaluate the Performance of the Executive Officer.

IX. Pursuant to Section 11126(c)(1) of the Government Code, the Board will Meet in Closed Session for a Presentation by the Office of Professional Examination Services regarding the evaluation of the Association of Marriage and Family Therapist Regulatory Boards Clinical Examination.

X. Recess Until 9:00 a.m., Friday, November 4, 2022

The Board recessed at 5:15 p.m.

DATE November 4, 2022

TIME 9:00 a.m.

ATTENDEES

Members Present: Max Disposti, Chair, Public Member
Christopher Jones, Vice Chair, LEP Member
Susan Friedman, Public Member
Justin Huft, LMFT Member
Abigail Ortega, LCSW Member
Kelly Ranasinghe, Public Member
John Sovec, LMFT Member
Wendy Strack, Public Member (9:00 a.m. – 1:30 p.m.)
Eleanor Uribe, LCSW Member
Dr. Annette Walker, Public Member (9:00 a.m. - 12:15 p.m.)

Members Absent: Ross Erlich, Public Member
Yvette Casares Willis, Public Member

Staff Present: Steve Sodergren, Executive Officer
Marlon McManus, Assistant Executive Officer
Rosanne Helms, Legislative Manager
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel

Other Attendees: MaryKathryn Jones, Department of Consumer Affairs' (DCA)
Executive Office
Karen Okicich, DCA Office of Professional Examination Services
(OPES)
Dr. Heidi Lincer, OPES
Dr. Robert Calvert, OPES
Dr. Tracy Montez, DCA
Stacey Hardy-Chandler, Association of Social Workers Board
(ASWB)
Dale Atkinson, ASWB Counsel
Bob Blackwood, Pearson VUE
Ross Lallian, Department of Health Care Access and Information
Public participation via WebEx platform and in-person

OPEN SESSION

XI. Call to Order and Establishment of Quorum

Max Disposti, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 9:03 a.m. Roll was called, and a quorum was established.

The following items were taken out of order: XV was heard after XVI, and XX was heard after XXIII.

XII. Introductions

Board members, staff and attendees introduced themselves.

XIII. Consent Calendar

- a. Possible Approval of the May 5-6, 2022, Board Meeting Minutes
- b. Possible Approval of the August 11-12, 2022, Board Meeting Minutes

Public Comment: None

Motion: Approve the May 5-6, 2022 and August 11-12, 2022 Board Meeting minutes.

Disposti moved. Walker seconded.

Public Comment: None

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich				x	
Susan Friedman			x		
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Eleanor Uribe	x				
Dr. Annette Walker	x				
Yvette Casares Willis				x	

Motion carried: 9 yea, 0 nay, 1 abstention

XIV. Board Chair Report

a. Board Member Attendance

Eleanor Uribe has been appointed to the Board as a licensed clinical social worker (LCSW) member.

Board member attendance reports for fiscal years 2021-2022 and 2022-2023 were presented.

b. Future Board Meetings

Proposed 2023 meeting dates were announced: February 2-3, May 4-5, August 17-18, and November 16-17.

c. Future Agenda Items

A list was provided outlining suggested agenda items from previous meetings.

d. Staff Recognitions

The following staff were recognized for their service:

- Chris Catalano: 5 years of state service (2 years at BBS)
- Alex Juarez: 10 years of state service (1 year at BBS)
- Dawn Herrera: 25 years of state service (14 years at BBS)

XV. Department of Consumer Affairs Update

MaryKathryn Jones from the Department of Consumer Affairs' (DCA/department) Executive Office, provided the update:

- Announced new Deputy Director of Board and Bureau Relations, Melissa Gear
- DCA's first Diversity, Equity, and Inclusion Committee to guide the department in its equity strategy initiatives and action plans
- Strategic Plan development and/or updates to advance equity and drive outcomes
- COVID-19 safety measures and practices for public meetings
- Board member guidelines for travel arrangements and flight changes
- DCA's partnership with the Department of General Services for unclaimed property program

XVI. Discussion and Possible Action Regarding the Acceptance of the Association of Marriage and Family Therapist Regulatory Boards Clinical Examination for California Licensure

The Board requested that DCA's Office of Professional Examination Services

(OPES) review the Association of Marital and Family Therapy Regulatory Boards' (AMFTRB) Marital and Family Therapy National Examination (MFT National Examination). OPES performed this review to evaluate the suitability of the MFT National Examination for use in California licensure of marriage and family therapists.

The findings were discussed during the Board's November 3, 2022 closed session. The Review of the MFT National Examination was provided.

Board Member Comments

- The Board must consider the disparate impact that could occur from integration of a national exam. The Board cannot make an informed decision without that data.
- It is not clear whether an exam is the best thing to address racial disparities in receiving mental health care or who's providing mental health care and wants to consider whether the Board wants to have a clinical exam in this state.
- The Board needs to look at the gaps in the information provided to the Board; it cannot make an informed decision without having relevant information.
- We're not measuring objective pieces; we're measuring proximity to whiteness and the ability for therapists to use traditionally white approaches to therapy. What the exam looks like right now is not what therapy looks like in the real world.

Public comment

Ben Caldwell: There is no disparity data on the national exam and on the California clinical exam. AMFTRB does not publish it and OPES does not gather it. A research team has been looking into this using a survey of examinees and found patterns of racial disparity in outcomes on both exams. White examinees have a pass rate above 80%. Black examinees have about a 50% pass rate. Requested that the Board makes its decision regarding the exam, with equity and fairness.

Rebecca Gonzales, National Association of Social Workers, California Chapter (NASW-CA): NASW-CA has concerns regarding racial disparities.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT): CAMFT has concerns regarding racial disparities in the exams. CAMFT advocates for the move to the national exam, but that it be done with an assessment and review and discussion of concerns related to racial disparities.

Comments were received in regards to obtaining demographic data.

Jon Deline: Suggests that the Board look into other means to test for competency. Supports changing over to the national licensing exam because it could bring in more therapists.

Dr. Tracy Montez: Former Division Chief of Programs and Policy Review. Before her appointment as Executive Officer to the California Dental Board, she was part of the national exam review. California exam follows professional standards, one of which is fairness. OPES works to ensure that the exam is valid and reliable and fair. OPES is not permitted by government code to collect demographic information upon licensure. OPES must take steps to address any disparity or inequity through the development of the exam, which starts with the occupational analysis, ensuring that they have a substantive sample. OPES utilizes a diverse group of subject matter experts and has an editor review. OPES is happy to explore how to collect that data in a manner that is appropriate given government codes and separate from licensing decisions, which is why that government code exists. Also warned of other associations that collect the data, especially on a voluntary basis, that sometimes the data can be skewed.

Additional Board Member Comments

- Concerns regarding racial disparities in the national exam and the California exam
- More data is needed.
- There is not enough information and data to make a decision.
- Questioning about the utilizing exams altogether
- To not make a decision regarding the national exam, and address government code prohibiting the collection of demographic information for licensure
- Opposition to using the AMFTRB exam. AMFTRB has not been transparent.

Motion: Decline use of AMFTRB clinical exam for California licensure and direct staff to continue working with OPES to address all concerns brought up in closed session and additional concerns in today's discussion.

Sovec motioned. Ranasinghe seconded.

Public Comment

Montez: The Board has a strong licensing exam. The department is aware of the conflicting code and the ability to collect data and how to be responsive. DCA is working on how it can collect this data in a fair manner that does not impact licensing decisions but being responsive in exam development.

Atkins, CAMFT: Urged the Board to not end the discussion regardless of what exam is pursued. Also urged the Board to be open-minded if and when AMFTRB returns with responses to questions raised by the Board.

Karen Okicich, OPES: Not certain that the questions posed to AMFTRB is due to non-transparency or because the data was not available. OPES is willing to work with the Board and with AMFTRB to get the questions answered.

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich				x	
Susan Friedman	x				
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack	x				
Eleanor Uribe	x				
Dr. Annette Walker	x				
Yvette Casares Willis				x	

Motion carried: 10 yea, 0 nay

XVII. Presentation By the Department of Consumer Affairs Office of Professional Examination Services Regarding Remote Proctoring of Examinations

Remote Proctoring and Licensure Examinations: Mitigating the Risks presented by Dr. Robert Calvert, OPES Research Data Specialist and Dr. Heidi Lincer, OPES Chief.

XVIII. Presentation By Ross Lallian Regarding the Department of Health Care Access and Information

Ross Lallian, Health Workforce Development Research and Evaluation Chief, Department of Health Care Access and Information (HCAI) gave a presentation centered around healthcare workforce data collection.

AB 133 created the California Health Workforce Research Data Center. HCAI reports on the following to the Legislature each year:

- Education and employment trends
- Supply and demand, and gaps in the educational pipeline
- Inform state policy to address workforce issues
- Workforce program outcomes and effectiveness

Data is collected from various sources and includes:

- Supply and demand for workers
- Geographical distribution of workers
- Diversity of workforce
- Educational capacity to produce workers

HCAI partnered with DCA to implement a workforce data tool integrated into the license renewal process. The data collection tool went live in July 2022, and the data is voluntary.

XIX. Presentation By Board Staff Regarding the Legislative Process

This item was tabled.

XX. Executive Officer Report

- Budget Report**
- Personnel**
- Licensing Report**
- Exam Report**
- Enforcement Report**
- Education and Outreach Report**
- Organizational Development Report**

The Executive Officer's report was provided for review.

Public Comment: None

XXI. Discussion and Possible Action Regarding the Association of Social Work Boards (ASWB) 2022 Release of Exam Data

ASWB released demographic data related to their exams. The data showed major disparities in the pass rates.

Stacey Hardy-Chandler, CEO of ASWB and Dale Atkinson, counsel to ASWB presented ASWB's exam development process and addressed the report concerning its pass rates.

Public Comment

Gonzales, NASW-CA: NASW-CA is very concerned regarding the ASWB report findings. NASW-CA urged the Board to consider increasing evidence concerning the ineffectiveness of standardized testing in clinical exams and begin a conversation about equity and equitable pathways toward licensure. The data does not show a correlation between passage of clinical exams and safe practice. The exams do not protect the public; the exams hold up structural racism.

Caldwell: Suggested that perhaps the steps that ASWB and other developers are taking to reduce bias might be inadequate or that the exam structure (not just its specific content) may be flawed. There is a failure to identify bias, which raises concerns about the adequacy of processes and the moral defensibility of the exams.

Board Member Discussion Points

- Serious concerns regarding racial disparities in the exam
- Exams do not reflect what social work looks like
- Alternative options to standardized testing

Additional Public Comment

- Frustration regarding difficulties in passing the exam expressed by associates
- Concerns regarding disparities and implications that these results hold for developing and sustaining a diverse workforce
- Whether the exam is flawed, rather than the individual test items or the process of evaluating the test items

Motion: Direct staff to conduct research and an investigation on the disparate impact of administering the ASWB exam to California applicants and research other mechanisms of investigating demographic data in line with the existing law.

Ranasinghe moved. Disposti second.

Public Comment

No public comments relevant to the motion were offered.

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich				x	
Susan Friedman	x				
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Eleanor Uribe	x				
Dr. Annette Walker				x	
Yvette Casares Willis				x	

Motion carried: 8 yea, 0 nay

XXII. Discussion and Possible Action Regarding Draft Statutory Language for a Temporary Practice Allowance: Add Business and Professions Code (BPC) §§4980.011, 4996.16.1, 4999.23

The Telehealth Committee discussed this issue and the proposed language at its June 2022 meeting. That Committee directed staff to bring the proposed language to the Policy and Advocacy Committee for consideration.

The Policy and Advocacy Committee discussed this topic at its July 2022 meeting. Two concerns were discussed: 1. The draft proposal regarding out-of-state licensees’ self-attestation could lead to abuse. 2. Telehealth platforms could potentially exploit the system.

Staff amended the proposal, which was discussed at the Policy and Advocacy Committee meeting in October 2022. Staff was directed to bring the draft proposal to the full Board for consideration as a legislative proposal.

The proposed language was provided and discussed by the Board.

Motion: Direct staff to make any discussed changes, and any non-substantive changes, to the language proposed in Attachment A, and to pursue as a legislative proposal.

Ranasinghe moved. Jones seconded.

Public Comment

Atkins, CAMFT: CAMFT supports

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich				x	
Susan Friedman	x				
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Eleanor Uribe	x				
Dr. Annette Walker				x	
Yvette Casares Willis				x	

Motion carried: 8 yea, 0 nay.

XXIII. Discussion and Possible Action Regarding Proposed Amendments to the Business and Professions Code: Add BPC §4990.11 Regarding Online License Verification; and Amend BPC §4989.14 Regarding Supervision of Trainees

Staff identified two sets of amendments to consider for inclusion in the upcoming omnibus bill.

1. Add BPC §4990.11: Online License and Registration Verification
2. Amend BPC §4989.14(b): Inclusion of MFT Trainees in list of LEP Supervisees

Motion: Direct staff to make any discussed changes, and any non-substantive changes, and to pursue as a legislative proposal.

Sovec moved. Disposti seconded.

Public Comment: None

Roll call vote

Member	Yea	Nay	Abstain	Absent	Recusal
Max Disposti	x				
Ross Erlich				x	
Susan Friedman	x				
Justin Huft	x				
Christopher Jones	x				
Abigail Ortega	x				
Kelly Ranasinghe	x				
John Sovec	x				
Wendy Strack				x	
Eleanor Uribe	x				
Dr. Annette Walker				x	
Yvette Casares Willis				x	

Motion carried: 8 yea, 0 nay.

XXIV. Discussion of any Comments Received During 45-Day Public Comment Period on Proposed Revisions to Examination Waiting Periods; Corporations; and Accreditation Rulemaking Proposal to Amend Title 16, California Code of Regulations §§1805.05, 1850.6, 1850.7 and 1854; and Repeal §1832; and Possible Adoption of Amended Text

No comments were received during the 45-day public comment period; therefore, this item was cut from the agenda.

XXV. Telehealth Committee Update

At its June 2022 meeting, the Telehealth Committee discussed the following:

- Developing a telehealth best practice document
- Temporary practice allowance in law for out-of-state licensees whose clients are visiting in California or whose clients are transitioning to reside in California.

December 9th is the next scheduled meeting.

XXVI. Licensing Committee Update

The Licensing Committee (Committee) will be revived in 2023. It last met in November 2021.

The Committee will meet on January 13, 2023. Topics to be discussed include workforce development, pastoral counseling, and life coaching.

XXVII. Update on Board-Sponsored and Monitored Legislation

AB 1758 Board of Behavioral Sciences: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Supervision of Applicants for Licensure via Videoconferencing

Status: Signed by the Governor and became effective on August 29, 2022

AB 1759 Board of Behavioral Sciences: Licensees and Registrants: Marriage and Family Therapy, Educational Psychology, Clinical Social Work, and Professional Clinical Counseling

Status: Signed by the Governor.

SB 1495 Professions and Vocations

Status: Signed by the Governor.

AB 988 (Bauer-Kahan) Mental Health: 988 Crisis Hotline

Status: Signed by the Governor.

AB 2222 Student Financial Aid: Golden State Social Opportunities Program

Status: Vetoed

AB 2666 Behavioral Health Internship Grant Program

Status: Vetoed

SB 923 Gender-Affirming Care

Status: Signed by the Governor

SB 966 Federally Qualified Health Centers and Rural Health Clinics: Visits

Status: Signed by the Governor

SB 1002 Workers' Compensation: Licensed Clinical Social Workers

Status: Signed by the Governor

XXVIII. Update on Board Rulemaking Proposal

Continuing Education and Additional Training Requirements

Status: Approved by the Office of Administrative Law and takes effect July 1, 2023

XXIX. Suggestions for Future Agenda Items

Ortega: 1) Protection of client confidentiality on social media, therapists talking about clients (not using identifying information but discussing case details); 2) implication of having a DUI (licensees) – preventative measures, education.

Ranasinghe: Present a plan for mental health month for May, National Minority Mental Health Awareness in June, National Therapist Day on September 25th and National Suicide Awareness in September.

XXX. Public Comment for Items not on the Agenda

Atkins, CAMFT: 1.) CAMFT will bring concerns regarding processing delays for associate registrations and licensing. 2.) CAMFT will reach out to DCA with concerns/suggestions of funding additional positions for BBS for researching exams, reduction in processing times, etc.

Joseph Fisher: Expressed frustration regarding the 6-year rule.

Paige Clark, California Alliance of Child and Family Services: 1.) Concerned that recently graduated staff are experiencing delays in processing times of their registrations. 2.) Would like to explore alternate pathways to licensure or an equivalency process for applicants who may be deficient by a single course in their application and if applicants can demonstrate equivalent experience.

Alexandra Lewis: Addressed concerns regarding the associate application process and the length of time it takes to process applications. Suggests that the Board extend the 90-day post-graduation period for those who have submitted applications.

XXXI. Adjournment

The Board adjourned at 3:24 p.m.