Thursday, February 15, 2018

Stephen Phillips, JD, PsyD, Board President, called the open session meeting to order at 9:06 a.m. A quorum was present and due notice had been sent to all interested parties.

Members Present
Stephen Phillips, JD, PsyD, President
Nicole J. Jones, Vice-President
Lucille Acquaye-Baddoo
Sheryll Casuga, PsyD
Michael Erickson, PhD
Seyron Foo
Jacqueline Horn, PhD

Others Present
Antonette Sorrick, Executive Officer
Norine Marks, DCA Legal Counsel
Sandra Monterrubio, Enforcement Program Manager
Cherise Burns, Central Services Manager
Stephanie Cheung, Licensing Manager
Jason Glasspiegel, Central Services Coordinator
Natasha Lim, BreEZe and Licensing Coordinator
Liezel McCockran, Continuing Education and Renewals Coordinator
Curtis Gardner, Probation Coordinator

Agenda Item #2: President’s Welcome
Dr. Phillips welcomed the attendees to the Board’s quarterly meeting and read the Board’s mission statement. Dr. Phillips stated that because of the Board’s movement towards a paper-light system, Board members would be viewing the meeting packets using their laptops instead of paper copies.

Agenda Item #5: Budget Report
Mr. Mark Ito provided a detailed explanation of each attachment in the budget report for the Board. Mr. Foo asked for the guidelines of the loan repayment plan. Mr. Ito stated that we look at the months in reserve and that it depends on the projected fund balance which is assessed yearly. Ms. Jones asked if the Board anticipates requesting more budget change proposals (BCPs). Mr. Ito explained that with previous BCPs, the Board did not have to request additional funds; however, moving forward, if the Board requests additional BCPs, then the Board would have to request the funding as well. Ms. Sorrick
reiterated that we did not request additional funds for the Manager position and three Licensing positions. She stated that there is an increase of complaints in Enforcement but Board staff has acquired a limited term Associate Governmental Program Analyst (AGPA) to help manage the workload. If complaints continue in an upward trend, that may be the next BCP the Board seeks. Dr. Phillips asked what the primary source of revenue is for the Board of Psychology. Mr. Ito stated that without looking at the budget line items, it is safe to say that most of the revenue comes from licensing fees.

Agenda item #3: Public Comment for Items not on the Agenda. Note: The Board May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)]

Dr. Phillips explained that public comment is the opportunity for members of the public to make comments on items not on the agenda. He reminded the Board that they could not discuss or take action on any of the comments received.

No public comment was received.

Agenda Item #4: Approval of Board Meeting Minutes: November 16-17, 2018

Dr. Horn and Dr. Phillips provided changes to staff.

It was M(Horn)/S(Erickson)/C to approve the minutes as modified.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

Agenda Item #8: Petition for Early Termination of Probation – David Jimenez, PhD

Administrative Law Judge Marcy Larson presided. Deputy Attorney General Jannson Tan was present and represented the People of the State of California. David Jimenez, PhD, was present and represented himself.

Agenda Item #9: Petition for Early Termination of Probation – Kenneth Kaisch, PhD

Administrative Law Judge Marcy Larson presided. Deputy Attorney General Jannson Tan was present and represented the People of the State of California. Kenneth Kaisch, PhD, was present and represented himself.

Agenda Item #10: Petition for Early Termination of Probation – Christopher Sanders, PhD

Administrative Law Judge Marcy Larson presided. Deputy Attorney General Jannson Tan was present and represented the People of the State of California. Christopher Sanders, PhD, was present and was represented by Jonathan Turner, JD.
Agenda Item #11: Closed Session

The Board met in closed session pursuant to Government Code Section 11126(c)(3) to discuss disciplinary matters including the above petition, petitions for reconsideration, stipulations, and proposed decisions.

Friday, February 16, 2018

Stephen Phillips, JD, PsyD, Board President, called the open session meeting to order at 9:13 a.m. A quorum was present and due notice had been sent to all interested parties.

Members Present
Stephen Phillips, JD, PsyD, President
Nicole J. Jones, Vice-President
Lucille Acquaye-Baddoo
Sheryll Casuga, PsyD
Michael Erickson, PhD
Seyron Foo
Jacqueline Horn, PhD

Others Present
Antonette Sorrick, Executive Officer
Norine Marks, DCA Legal Counsel
Sandra Monterrubio, Enforcement Program Manager
Cherise Burns, Central Services Manager
Stephanie Cheung, Licensing Manager
Jason Glasspiegel, Central Services Coordinator
Natasha Lim, BreEZe and Licensing Coordinator
Liezel McCockran, Continuing Education and Renewals Coordinator

Agenda Item #12: Public Comment for Items not on the Agenda. Note: The Board May Not Discuss or Take Action on Any Matter Raised During this Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code sections 11125 and 11125.7(a)]

Dr. Phillips expressed his gratitude to the Senate Business and Professions Committee, especially Senator Jerry Hill and Sarah Huchel, for letting the Board use the room at the State Capitol. Dr. Phillips explained that public comment is the opportunity for members of the public to make comments on items not on the agenda. He reminded the Board that they could not discuss or take action on any of the comments received.

Catherine Campbell, California Protective Parents Association, asked the Board what they are doing for the "Me Too" movement and what training psychologists are required to take beyond the Professional Therapy Never Includes Sex brochure.
Kathleen Russell, Center for Judicial Excellence, talked about the harm that children experience by being forced to live with abusive parents. She also asked for the Board to agendize a discussion of the DCA Complaint Prioritization Guidelines and what the Board is doing to implement them. She also asked about the prioritization for complaints that are filed against licensees with multiple similar complaints.

Kimberly Sweidy, member of the public, asked that psychologists remove themselves from the legal community because she believes they are doing more harm.

**Agenda Item #6: Executive Officer’s Report**

Ms. Sorrick provided the Board with a staff update. She stated that the Enforcement Technician promoted to a Staff Services Analyst in the Licensing Unit. Ms. Sorrick stated that there are currently 23.3 positions at the Board and there are four vacancies. She also stated that staff has already started conversations with the Budget Office to make the limited term Enforcement Analyst a permanent position due to the upward trend in complaints the Board has received.

**Agenda Item #7: DCA Executive Update**

Christopher Castrillo, Deputy Director of Board and Bureau Services, and Karen Nelson, Assistant Deputy Director, provided the Board with an executive update. Ms. Nelson recently joined DCA's executive team, so she provided the Board a brief introduction of herself. Ms. Nelson stated that the participants in the first ever Future Leadership Program will be graduating March 7, 2018. Mr. Castrillo spoke about having an open dialogue with all boards and bureaus and that his team is currently working on having work groups with boards and bureaus.

**Agenda Item #13: Enforcement Report**

Ms. Monterrubio provided the Board with an overview of Enforcement activity. She stated that the Department of Consumer Affairs (DCA) and BreEZe Data Governance staff decided to combine Q1 and Q2 data; therefore, the Performance Measures will be reported at the upcoming May Board Meeting. Ms. Monterrubio also stated that the Enforcement Unit is actively looking to recruit three vacancies; an Enforcement Technician, AGPA, and a Special Investigator. She stated that the next Expert Training will be held in Oakland in April, and experts must physically attend the training. Ms. Monterrubio provided the Board with Enforcement Unit statistics: there were 643 complaints received, the Board has issued 27 enforcement citations, 32 cases have been referred to the Office of the Attorney General, and staff is currently monitoring 50 probationers.

Catherine Campbell, California Protective Parents Association, expressed to the Board her concern about complaints against psychologists, specifically for psychologists in family courts. Ms. Campbell expressed that children are living with their abusers while waiting for these complaints to be processed.
Ms. Monterrubio stated that most of our cases are reviewed by subject matter experts who determine if psychologists have acted outside the standard of care.

Kathleen Russell, Center for Judicial Excellence, asked the Board what prioritization guidelines are being used and what that entails.

Ms. Monterrubio stated that when Board staff receive multiple complaints against an individual, Board staff will expedite the complaints and ask the Division of Investigation to work those cases together and faster if possible.

Kimberly Sweidy, member of the public, expressed to the Board her concern about the training of expert reviewers. Ms. Sweidy also stated that there is a disconnect between what the Board is doing and what the public believes the Board is doing.

Ms. Jones mentioned that it would be helpful to have a legend to explain some of the items on the Enforcement Report and that it would also be helpful to see the percentage change on this data for the last five years.

Mr. Foo clarified that it does not cost money to file a complaint, the Board does not charge the consumer for filing a complaint.

Agenda Item #14: Enforcement Committee Report and Consideration of Committee Recommendations

a) Amendments to 16 CCR Section 1395.2 – Disciplinary Guidelines
b) Propose Amendments to Complaint form
c) Proposed Amendments to Case Acknowledgement and Closure Letters

Dr. Phillips stated that the above items have been continued from the agenda until after the next Enforcement Meeting.

Ms. Acquaye-Baddoo stated that every complaint is taken seriously and is thoroughly investigated. She also stated that the Enforcement Committee is currently working on the Disciplinary Guidelines and apologized for the length of time the review is taking.

Catherine Campbell, California Protective Parents Association, stated that she appreciated the Board for reviewing these but wasn’t sure if these changes were open for public review. She also expressed her concern regarding the fact that a person who has had his or her psychology license revoked could reapply and get a license again. She stated that some people should not be able to get a license again, specifically those who have put children in danger.

Ms. Sorrick explained to the Board the process of changing the Disciplinary Guidelines. She explained that once the Committee provides a draft, it will be brought to the Board for approval. Once approved, it will go through the regulatory process which can take six to eight months. Ms. Sorrick stated that during the process there will be several opportunities for the Board and public to be involved in the draft language.
Discussion ensued regarding the reasoning as to why the Enforcement Committee is not open to the public. It was stated that it is a unique committee due to the confidential nature of the issues discussed at these meetings. Discussion of using a stakeholder process, like the one used for Pathways to Licensure, for the Disciplinary Guidelines was discussed as a way to increase transparency of this process.

**Agenda Item #16: Licensing Report**

Ms. Cheung provided a review of the Licensing Report. She provided the Board with application processing times and stated that Board staff is working hard on closing the gap that occurred due to losing staff last year.

**Agenda Item #17: Continuing Education and Renewals Report**

Ms. McCockran provided the Board with a review of the Continuing Education and Renewals Report. She stated that there is no longer a Citations backlog and CE audits have resumed for May and June 2016. She stated that an average of 327 psychologists were processed per month in the last 13 months. Ms. McCockran noted that the number of psychologists renewing online was rising every month.

Dr. Jo Linder-Crow, Executive Officer for the California Psychological Association, asked how long will it be until we are caught up with CE audits to 2017. Ms. McCockran stated she anticipates being caught up to 2017 by end of summer.

**Agenda Item #18: Licensing Committee Report and Consideration of Committee Recommendations**

a) Pathways to Licensure:

1) **Proposed Amendments to Business and Professions Code:**

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**§§ 25, 28, & 2915.5 (Training in Human Sexuality, Child, Elder, and Dependent Adult Abuse Assessment and Reporting, and Aging and Long-term Care):**

- § 27 (Disclosure of Information);
- § 2903 (Licensure Requirements);
- §§ 2909, 2909.5, 2910, & 2911 (Exemptions);
- § 2913 (Psychological Assistant);
- § 2914 (Applicant's Requirement);
- § 2915 (Continuing Professional Development);
- §§ 29 & 2915.7 (Continuing Education: Chemical Dependency and Alcoholism and Aging and Long-term Care)
- §§ 2940 & 2941 (Application and Examination Fees);
- §§ 2942, 2943, & 2944 (Examination Time and Subjects);
- § 2946 (Reciprocity and Temporary Practice);
- § 2948 (Issuance of License); and
- § 2960 (Grounds for Disciplinary Action)

2) **Proposed Amendments to Title 16 of the California Code of Regulations:**

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- § 1380.3 (Definitions);
Ms. Sorrick stated that at the last Licensing Committee Meeting, the Committee looked at changing the Pathways to Licensure. There are currently four pathways to licensure, and Board staff recommended a single pathway that would require all trainees to register as psychological assistants with the Board to accrue their supervised professional experience. The Committee decided more data was needed before a decision could be made. Board staff recommended sending out a survey to schools, consumer groups, government agencies and Board staff for data.

Dr. Elizabeth Winkelmann, California Psychological Association (CPA), asked if feedback from Registered Psychologists and their supervisors was being included. Ms. Cheung confirmed that Registered Psychologists and their supervisors are on the list to receive the survey.

Dr. Melodie Shaeffer, CPA and CAPIC, asked that the surveys be sent out to CAPIC sites. Ms. Cheung confirmed that CAPIC sites are on the list to receive the survey.

Dr. Marilyn Immoos, California Department of Corrections (CDCR), asked the Board if interns and trainees will be getting the surveys or is it primarily training directors? Dr. Horn confirmed that both trainees and training directors will be receiving the survey.

Ms. Sorrick stated that anyone who would like to receive the survey, can email the Board at BOPLicensing@dca.ca.gov with their name and contact information.

Discussion ensued regarding the survey. The survey is a modified Likert scale, asking open-ended questions. An example of a question on the survey is "How do you think the
proposal will impact you?” The Board asked for a report on the organizations receiving
the survey, total number of recipients and total number of responses.

b) Consideration of Licensing Committee Recommendations Regarding an Extension of
the 72-Month Registration Period Limitation for Registered Psychological Assistant
Pursuant to Section 1391.1(b) of Title 16 of the California Code of Regulations

Dr. Horn provided an overview of PSB #1’s request for an extension.

It was M(Foo)/S(Acquaye-Baddoo)/C to grant the request for an 18-month extension of
the 72-month limitation for the psychological assistant registration.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

Dr. Horn provided an overview of PSB #2’s request for an extension.

It was M(Foo)/S(Jones)/C to deny the request for a 16-month extension of the 72-month
limitation for the psychological assistant registration.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

Dr. Horn provided an overview of PSB #3’s request for an extension.

It was M(Foo)/S(Erickson)/C to grant the request for an 18-month extension of the 72-
month limitation for the psychological assistant registration.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

Discussion ensued regarding the reasons why the Committee recommends denying or
granting an extension request.

c) Consideration of Licensing Committee Recommendations Regarding an Extension of
the 30-consecutive Month Limitation to Accrue 1500 Hours of Post-Doctoral Supervised
Professional Experience Pursuant to Section 1387(a) of Title 16 of the California Code
of Regulations

Dr. Horn provided an overview of PSB #4’s extension request.

It was M(Foo)/S(Acquaye-Baddoo)/C to grant the request for a four-year extension to the
30-consecutive month limitation to accrue post-doctoral SPE.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

d) Consider and Possible Approval of Licensing Committee Recommendation
Regarding Supervision Agreement Plans for Supervised Professional Experience in
Dr. Horn explained that due to lack of training sites and qualified supervisors in areas such as applied psychological research and industrial-organizational psychology, trainees must submit a plan for SPE to the Board for approval.

It was M(Foo)/S(Acquaye-Baddoo)/C to approve the supervision agreement plan for supervised professional experience in the non-mental health area for the trainee as a psychological assistant.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

e) Retired Psychologist License: Consideration of revisions to proposed 16 CCR Sections 1381.9, 1381.10, and 1392 related to the issuance of a License in Retired Status

Ms. Sorrick explained that the language and forms were previously reviewed and approved by the Board. At the November 2017 Board Meeting, there was an inquiry regarding whether an individual on inactive status is eligible to apply for a retired status. The Committee agreed that a license in inactive status is eligible to apply for a retired status if that individual meet the requirements.

Dr. Erickson asked if there are continuing education requirements for coming out of Retired status into an Active license. Ms. Marks stated that in Business and Professions Code 2988.5, a holder of a Retired license can apply for an Active license if that person furnishes electronic fingerprints and completes the continuing education or continuing professional development requirement.

Dr. Jo Linder-Crow, CPA, asked that the reference to Business and Professions Code 2988.5 be added to the proposed language. Ms. Marks agreed that it should be added for clarification.

Dr. Melodie Schaeffer, Division II CPA and CAPIC, stated that it is not explicitly stated that if a psychologist is on a Retired status for more than three years that he or she will not be able to apply for active status. Ms. Marks stated that it states this in the Business and Professions Code, and that individual would need to apply.

It was M(Foo)/S(Casuga)/C to approve the proposed language as written and direct staff to proceed with the rulemaking file.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

It was M(Jones)/S(Foo)/C to delegate authority to the Executive Officer to work with the Legal Office to make any technical or non-substantive changes and to initiate the rulemaking process.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no
The proposed language reads as follows:

§ 1381.10. Retired Status

(a) Pursuant to Section 2988.5 of the Code, a licensed psychologist who holds a current Active or Inactive license issued by the Board may apply for a license in retired status by submitting the Form PSY 900 (Rev. 10/20XX), which is hereby incorporated by reference.

(b) To apply to restore the license to active status if the license in retired status was issued less than three (3) years prior, the licensee shall:

(1) Submit Form PSY 905 (Rev. 7/20XX), which is incorporated by reference, and pay the biennial renewal fee and all additional fees as prescribed in Sections 2987, of the Code, and section 1397.69 of the California Code of Regulations at the time the request to restore to active status is received;

(2) Furnish to the Department of Justice, a full set of electronic fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search if the licensee has not been previously fingerprinted for the Board or for whom an electronic record of the submission of fingerprints does not exist in the Department of Justice’s criminal offender identification database.

(c) The Board will not grant an application for a license to be placed in a retired status more than twice. A licensee who has been granted a license in retired status twice, must apply for a new license in order to obtain a license in active status.


§ 1392. Psychologist Fees

(a) The application fee for a psychologist is $40.00.

(b) The fee for the California Psychology Laws and Ethics Examination (CPLEE) is $129.00.

(c) An applicant taking or repeating the licensing examination shall pay the full fee for that examination.

(d) The initial license fee and the biennial renewal fee for a psychologist are $400.00; except that if an initial license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.
(e) The biennial renewal fee for an inactive license is $40.00.
(f) The application fee for a retired license is $75.00.

Note: Authority cited: Sections 2930, 2987, 2988.5 and 2989, Business and Professions Code. Reference: Sections 2987, 2988, 2988.5 and 2989, Business and Professions Code.

§ 1397.69. Continuing Professional Development Audit Fee

[Effective January 1, 2013.]

This section shall be applicable to a license that expires on or after, or is reinstated or issued on or after, January 1, 2013.

For the administration of this article, in addition to any other fees due the Board, and as a condition of renewal or reinstatement, a $10 fee is to be paid to the Board by a licensee renewing in an active status or after inactive, or delinquent, or reactivating from a retired status.

Note: Authority cited: Sections 2915(g) and 2930, Business and Professions Code. Reference: Sections 2915(j) and 2988.5, Business and Professions Code.

Agenda Item #19: Examination: Subject Matter Expert (SME) Qualifications

Presentation

Ms. Burns stated that Ms. Snyder will make a presentation on this topic at the May Board Meeting.

Dr. Marilyn Immoos, CDCR, stated that her application to become an examination SME was denied due to conflict of interest. She asked if this is for all state employees and how she can participate. Ms. Marks stated that she is not familiar with the application or form, but she will follow up on this.

Agenda Item #20: Legislative Update

a) Board Sponsored Legislation

1) Omnibus Legislative Proposal to Amend Sections 337 and 728 of the Business and Professions Code Regarding the Brochure Addressing Sexual Contact Between a Psychotherapist and a Patient

Ms. Burns provided the Board with a brief history of the brochure “Professional Therapy Never Includes Sex”. She stated that staff is currently working with Assembly Member Levine to introduce a spot bill that will become our sponsored legislation. Additionally, Board staff is proposing additional amendments to harmonize the approved text with other statutory provisions.

The Board discussed the necessity and language of the proposal, the process of omnibus proposals, and provided grammatical edits and suggestions for clarification.
Ms. Burns stated that this proposal is adding a definition to cover new behaviors Board staff has been seeing in their enforcement complaints.

The Board discussed "sexual behavior" as described in the proposed language. There was also a conversation about whether the legislative language should include the concept of "unwanted" in the definition of sexual behavior. Dr. Phillips suggested to bifurcate the brochure language to create an in-depth definition of sexual behavior and the basis for discipline after feedback from stakeholders.

Mr. Joshua Templet, Health Quality Enforcement Section of the Office of the Attorney General, stated that the Board is currently equipped to prosecute sexual harassment and sexual behaviors. Dr. Phillips explained that some of these behaviors are so egregious that they deserve more serious attention and that the penalty hasn't always been commensurate with the behavior.

Mr. Templet advised the Board against automatic revocation if there had been proof of sexual behavior because it includes things that are not egregious enough for a person to lose his or her license. Ms. Marks stated that the automatic revocation is in relation to the Administrative Law Judge and that the Board always has the authority to decide whether a person's license will be revoked or will have probationary terms applied. This language does not remove the Board's prosecutorial discretion, regardless of the Attorney General's recommendations for prosecuting a case. Mr. Templet agreed.

Dr. Jo Linder-Crow, CPA, stated she was unaware that Board staff was looking for an author. She also stated that CPA staff provided the Board with their suggestions.

Ms. Monterrubio stated that many of the case examples presented to the Board were placed on probation. She stated that when a complaint is received, Board staff ensures there is enough proof to substantiate what the victim is alleging. Ms. Monterrubio stated a goal of this brochure is to notify the public of "grooming" behaviors.

Dr. Elizabeth Winkelman, CPA, provided the Board with her edits and suggestions for the proposed language. She asked if a license can be revoked for reasons other than sexual contact. Ms. Monterrubio stated that a license may be revoked due to reasons other than sexual misconduct.

Dr. Melodie Shaeffer, CPA and CAPIC, stated that she believes it is prudent to hold back and give this more thought in the creation of the language. She stated that being too specific would not be beneficial.

Ms. Acquaye-Baddoo stated that broad language is better; however, we want to make sure the new types of issues, such as sexting, are being addressed.

It was M(Horn)/S(Acquaye-Baddoo)/C to adopt the language, except for section 2960.1, and delegate staff to work with the prospective author.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no
It was M(Horn)/S(Casuga)/M to take action to move forward with looking at the issues of Section 2960.1.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

Ms. Sorrick suggested that the Chair of the Policy and Advocacy Committee discuss the language of section 2960.1 on the agenda for the next Committee meeting so it can be brought to the full Board at the August Board Meeting.

The proposed language reads as follows:

BUSINESS AND PROFESSIONS CODE - BPC
DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5]
( Heading of Division 1 amended by Stats. 1973, Ch. 77.)
CHAPTER 4. Consumer Affairs [300 - 337]
( Chapter 4 added by Stats. 1970, Ch. 1394.)
ARTICLE 6. Information [337- 337.]
(Article 6 added by Stats. 1970, Ch. 1394.)

337.
(a) The department shall prepare and disseminate an informational brochure for victims of psychotherapist-client sexual behavior and sexual contact and their advocates for these victims. This brochure shall be developed by the department in consultation with members of the Sexual Assault Program of the Office of Criminal Justice Planning and the office of the Attorney General.

(b) The brochure shall include, but is not limited to, the following:

(1) A legal and an informal definition of psychotherapist-client sexual behavior and sexual contact.

(2) A brief description of common personal reactions and histories of victims and victim's families.

(3) A client's bill of rights.

(4) Options Instructions for reporting psychotherapist-client sexual behavior and sexual contact relations and instructions for each reporting option.

(5) A full description of administrative, civil, and professional associations complaint procedures.

(6) A description of services available for support of victims.

(c) The brochure shall be provided to each individual contacting the Medical Board of California, Osteopathic Medical Board of California, the Board of Psychology, and
affiliated health boards, or the Board of Behavioral Sciences regarding a complaint involving psychotherapists' client-patient sexual behavior and sexual contact relations.

BUSINESS AND PROFESSIONS CODE - BPC
DIVISION 2. HEALING ARTS [500 - 4999.129]
( Division 2 enacted by Stats. 1937, Ch. 399. )
CHAPTER 1. General Provisions [500 - 865.2]
( Chapter 1 enacted by Stats. 1937, Ch. 399. )
ARTICLE 10.5. Unprofessional Conduct [725 - 733]
( Article 10.5 added by Stats. 1979, Ch. 348. )

728.
(a) Any psychotherapist or employer of a psychotherapist who becomes aware through a client-patient that the client-patient had alleged sexual intercourse or alleged sexual behavior or sexual contact with a previous psychotherapist during the course of a prior treatment shall provide to the client-patient a brochure developed promulgated by the department that delineates the rights of, and remedies for, client-patients who have been involved sexually with their psychotherapists. Further, the psychotherapist or employer shall discuss with the client-patient the brochure prepared by the department.

(b) Failure to comply with this section constitutes unprofessional conduct.

(c) For the purpose of this section, the following definitions apply:
(1) “Psychotherapist” means a physician and surgeon specializing in the practice of psychiatry or practicing psychotherapy, a psychologist, a psychological assistant, a registered psychologist, a trainee under the supervision of a licensed psychologist, a clinical social worker, a marriage and family therapist, a licensed professional clinical counselor, a psychological assistant, an associate marriage and family therapist registered intern or marriage and family therapist trainee, an intern-associate professional clinical counselor or clinical counselor trainee, and a licensed educational psychologist as specified in Chapter 16 (commencing with Section 4999.10), or an associate clinical social worker.

(2) “Sexual contact” means the touching of an intimate part of another person.

(3) “Sexual behavior” means inappropriate contact or communication of a sexual nature. This definition does not include the provision of appropriate therapeutic interventions relating to sexual issues.

(4) “Intimate part” and “touching” have the same meaning as defined in subdivisions (g) and (e), respectively, of Section 243.4 of the Penal Code.

(5) “The course of a prior treatment” means the period of time during which a client-patient first commences treatment for services that a psychotherapist is authorized
to provide under his or her scope of practice, or that the psychotherapist represents to
the client-patient as being within his or her scope of practice, until the psychotherapist-
client-patient relationship is terminated.

Agenda Item #15: Review and Consider Draft "Therapy Never Includes Sexual
Behavior" Brochure – Update

Ms. Monterrubio stated that Board staff has been working with the Medical Board of
California and the Board of Behavioral Sciences to update the title and content of the
brochure. The Board and staff went through page by page and discussed any suggested
amendments.

It was M(Jones)/S(Horn)/C to accept the changes made at this Board Meeting and to
provide the approved draft to DCA for review.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

The proposed language reads as follows:

Professional-Therapy Never Includes Sexual Behavior

Dear Reader:

As a reader of "Professional-Therapy Never Includes Sexual Contact," you may be a
California consumer concerned about the conduct of your therapist. You may be a
licensed therapist, or training to become a therapist. In any case, it's good to know more
about the high standards of professional conduct expected—and required—in the
therapy relationship.

Consumers are looking for professionals they can trust. Therapists value the trust of
their patients. When this mutual trust is violated by sexual exploitation, everyone loses.
The patient loses an opportunity for improved health and becomes a victim. The
therapist stops being a healer and becomes a victimizer. And the profession itself loses
when the good reputation of the many is diminished by the illegal conduct of a few.
The California Department of Consumer Affairs is dedicated to working with its professional licensing board partners to protect and educate consumers. If you are a victim of sexual abuse by a therapist, it's important for you to report your experience to the board that licenses your therapist.

This booklet offers guidance and resources for consumers. For more consumer guidelines and information, you may contact the appropriate licensing board or professional association, or contact the Department of Consumer Affairs at 1-800-952-5210 or www.dca.ca.gov.

California Department of Consumer Affairs

Publishing Information

The 2014 edition of "Professional Therapy Never Includes Sexual Contact" is published by the California Department of Consumer Affairs. This publication is a joint project of the California Board of Psychology, the California Board of Behavioral Sciences and the Department of Consumer Affairs' Office of Publications, Design & Editing.

This booklet is available in the "Publications" section of the Department of Consumer Affairs' Website at www.dca.ca.gov.

Single copies of the publication are available at no charge from the boards listed above and from Publications Office, California Department of Consumer Affairs, P.O. Box 989004, West Sacramento, CA 95798-0004.

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Acknowledgments

The Department of Consumer Affairs, the Board of Psychology and the Board of Behavioral Sciences wish to thank former Senator Diane Watson, whose Senate Task Force on Psychotherapist and Patient Sexual Relations prompted the development of "Professional Therapy Never Includes Sex" in 1990.

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California law requires that the Department of Consumer Affairs provide an informational brochure for victims of psychotherapist-patient sexual contact and their advocates.

California's lawmakers, licensing boards, professional associations and ethical therapists want such inappropriate sexual behavior stopped. This booklet was developed to help patients who have been sexually exploited by their therapist. It outlines their rights and options for reporting what happened. It also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a "Patient Bill of Rights," and answers some frequently asked questions.
INTRODUCTION

Professional psychotherapy never includes sex. It also never includes verbal sexual advances or any other kind of sexual contact or behavior. Sexual contact of any kind between a therapist and a patient is unethical and illegal in the state of California. Additionally, with regard to former patients, sexual contact within two years after termination of therapy is also illegal and unethical.

Sexual behavior between a therapist and a patient/client can also be harmful to the patient/client. Harm may arise from the therapist's exploitation of the patient/client to fulfill his or her own needs or desires, and from the therapist's loss of the objectivity necessary for effective therapy. All therapists are trained and educated to know that this kind of behavior is illegal and unethical inappropriate and can result in the revocation of their professional license.
Therapists are trusted and respected, and it is common for patients to admire and feel attracted to them. However, a therapist who accepts or encourages the expression of these feelings through sexual behavior with the therapist-client these normal feelings in a sexual way - or tells a patient/client that sexual involvement is part of therapy - is illegal, unethical, and it violates the therapeutic relationship, and engages in conduct that may be illegal and unethical, using the trusting therapeutic relationship to take advantage of the patient. Once sexual involvement begins, therapy for the patient ends. The original issues that brought the patient to therapy are postponed, neglected, and sometimes lost. This kind of abusive behavior can cause harmful, long-lasting, emotional and psychological effects to the client.

Many people who endure this kind of abusive behavior from therapists suffer harmful, long-lasting emotional and psychological effects. Family life and friendships are often disrupted, or sometimes ruined.

California's lawmakers, licensing boards, professional associations and ethical therapists want such inappropriate sexual behavior stopped. This booklet was developed to help patients who have been sexually exploited by their therapists, it outlines their rights and options for reporting what happened. It also defines therapist sexual exploitation, gives warning signs of unprofessional behavior, presents a "Patient Bill of Rights," and answers some frequently asked questions.

DEFINITION OF TERMS

Throughout this booklet, the terms "therapist," "therapy" and "patient/client" will be used. "Therapist" refers to anyone who is licensed to practice psychotherapy, or is training to become licensed, and includes:

- Psychiatrists (physicians practicing psychotherapy) Physicians and Surgeons (Psychiatrists)
- Psychologists
- Registered Psychologists
- Psychological Interns
- Psychological Assistants
- Licensed Clinical Social Workers
- Registered Associate Clinical Social Workers
- Licensed Marriage and Family Therapists
- Registered Associate Marriage and Family Therapists registered interns and trainees
- Licensed Professional Counselors
- Registered Associate Professional Counselors
- Licensed Educational Psychologists
- Registered Research Psychoanalysts

The terms "therapy," "therapist" and "patient" in this booklet also refer to educational psychology, educational psychologists and their clients. Though educational
psychologists do not practice psychotherapy, these licensed professionals work with clients, performing educational evaluations, diagnosis, and test interpretation.

"Therapy" includes any type of mental health counseling from any of the licensed or registered professionals listed above. "Client" or "Patient" refers to anyone receiving therapy or counseling, or other services.

According to California laws:

Any act of sexual contact, sexual abuse, sexual exploitation, sexual misconduct or sexual relations by a therapist with a patient is unprofessional, illegal, as well as unethical, as set forth in Business and Professions Code sections 726, 729, 2960(e), 4982(k), 4992.3(f), 4990.54(n), and 4999.90(k).

"Sexual contact" means the touching of an intimate part of another person, including sexual intercourse.

"Sexual behavior" means inappropriate contact or communication of a sexual nature. This definition does not include the provision of appropriate therapeutic interventions relating to sexual issues.

"Touching" means physical contact with another person either through the person's clothes or directly with the person's skin.

"Intimate part" means the sexual organ, anus, groin or buttocks of any person, and the breast of a female.

"License" includes certificate, registration or other means to engage in a business or profession regulated by Chapter 1, General Provisions, section 475 of the Business and Professions Code.

Sexual exploitation can include sexual intercourse, sodomy, oral copulation, or any other sexual contact between a therapist and a patient or a former patient under certain circumstances. Sexual misconduct includes a much broader range of activity, which may include fondling, kissing, spanking, nudity, verbal suggestions, innuendoes or advances. This kind of sexual behavior by a therapist with a patient is unethical, unprofessional and illegal.

CLIENT RIGHTS

You, as a client, have the right to:

- Request and receive information about the therapist's professional capabilities, including licensure, education, training, experience, professional association membership, specialization and limitations.
- Be treated with dignity and respect.
- A safe environment, free from sexual, physical, and emotional abuse.
- Ask questions about your therapy or other services from your provider.
- Decline to answer any question or disclose any information you choose not to reveal.
- Request and receive information from the therapist about your progress toward your treatment goals.
- Know the limits of confidentiality and the circumstances in which a therapist is legally required to disclose information to others.
- Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- Decline a particular type of treatment, or end treatment without obligation or harassment.
- Refuse electronic recording.
- Request and receive a summary of your file, including the diagnosis, your progress, and the type of treatment.
- Report unethical and illegal behavior by a therapist (see "What You Can Do").
- Receive a second opinion at any time about your therapy or your therapist's methods.
- Receive a copy of your file or have a copy of your file transferred to any therapist or agency you choose.

WARNING SIGNS

In most sexual misconduct abuse or exploitation cases, other inappropriate behavior comes first. While it may be subtle or confusing, it usually feels uncomfortable to the patient. Some clues or warning signs are:

- Telling sexual jokes or stories.
- "Making eyes at" or giving seductive looks to the patient.
- Discussing the therapist's sex life or relationships excessively.
- Sending obscene images or messages to the client.
- Sitting too close, initiating hugging, holding the patient or lying next to the patient. Unwanted physical contact.
- Excessive out-of-session communication (e.g., text, phone, email, social media, etc.) not related to therapy.

Another warning sign is "special" treatment by a therapist, such as:

- Inviting a patient to lunch, dinner, or other social and professional activities.
- Dating.
- Changing any of the office's business practices (for example, scheduling late appointments when no one is around, having sessions away from the office, etc.).
- Confiding in a patient (e.g., about the therapist's love life, work problems, loneliness, marital problems, etc.).
- Telling a patient that he or she is special, or that the therapist loves him or her.
- Relying on a patient for personal and emotional support.
- Giving or receiving significant gifts.
Signs of inappropriate behavior and misuse of power include:

- Hiring a patient/client to do work for the therapist, or bartering goods or services to pay for therapy.
- Suggesting or supporting the patient/client's isolation from social support systems, increasing dependency on the therapist.
- Providing or using alcohol (or drugs) during sessions.
- Any violation of the patient's rights as a consumer (see "Patient Bill of Rights," page 24).

Therapy is meant to be a guided learning experience, during which therapists help patients to find their own answers and feel better about themselves and their lives. A patient should never feel intimidated or threatened by a therapist's behavior.

If you are experiencing any of these warning signs, you have the right to file a complaint with the appropriate licensing board and consult with another therapist, trust your own feelings. Check on discuss the therapist's behavior with a different therapist, or with any of the agencies in "Where To Start." (see page 10). Depending on what you find out, you may want to find another therapist and report the inappropriate behavior to the proper licensing board.

WHAT IF IT'S ME? COMMON REACTIONS TO SEXUAL MISCONDUCT BY A THERAPIST

If a therapist has engaged in any sexual behavior or contact with you, you may experience some or all of the following feelings or reactions:

- Guilty and responsible responsibility - even though it is the therapist's responsibility to keep sexual behavior out of therapy.
- Mixed feelings about the therapist -- e.g., protectiveness, anger, love, betrayal.
- Isolated isolation and emptiness.
- Distrustful of others' feelings or intentions, or your own feelings.
- Fearful that no one will believe you, or understand what happened, or that someone will find out.
- Confused about dependency, control and power. Feeling victimized or violated.
- Experiencing traumatic symptoms, e.g., anxiety, nightmares, obsessive thoughts, depression, or suicidal or homicidal thoughts.

You may even have nightmares, obsessive thoughts, depression, or suicidal or homicidal thoughts. You may feel overwhelmed as you try to decide what to do or whom to tell.

It's essential that you face what happened. This may be painful, but it is the first major step in healing and recovering from the experience. You may have positive and negative feelings at the same time, such as starting to feel personal control, being afraid...
of what may happen in the future, remembering the experience, and feeling relieved
that the sexual relationship is over.

The second step in the healing process is to decide what YOU want to do next. Try to
be open-minded about your options.

Remember: It doesn't matter if you, the patient, started or wanted the sexual
involvement with the therapist. Therapists are responsible for keeping sexual intimacy
out of the therapy relationship and are trained to know how to handle a patient's sexual
attractions and desires.

WHERE TO START

You may need to (1) talk to someone who will understand what you're going through, (2)
get information on whether the therapist's behavior was illegal and/or unethical, and (3)
find out what you can do about it. Three places to get help are:

1. Licensing Boards—In the Department of Consumer Affairs, three different
boards license therapists. They can give general information on appropriate
behavior for therapists and your rights for reporting what happened, as well as
how to file a complaint (see page 13 for licensing board contact information).

2. Sexual Assault/Crisis Centers—These centers have staff trained in all types of
sexual abuse and exploitation. They can provide general information on
appropriate behavior for therapists, crisis services, your rights for reporting what
happened, and names of therapists and support groups that may be helpful. Centers are located throughout California. Look in your telephone book under "sexual assault center" or "crisis intervention service."

3. Professional Associations—Each licensed therapy profession has at least one
professional association. Associations can provide general information on
appropriate behavior for therapists, your rights for reporting what happened, and
how to file a complaint. They can provide names of therapists who may be
helpful (see pages 16-17 for association contact information).

WHAT YOU CAN DO

You can deal with your situation in several different ways. Take time to explore all of
your rights and options. It may help to decide what your goals are:

Reporting the Therapist - Perhaps you want to prevent the therapist from hurting other
patients. You may want to make it known that sexual exploitation is always wrong. If this
is your decision, you have several reporting options (see page 12). What happened to
you may be illegal and unethical and you should report it to the appropriate licensing
board as soon as possible in order for the board to take appropriate action within the
statute of limitations.

It is important to note that reporting misconduct is time-sensitive. What can be done in
response to the report of misconduct usually depends on when the misconduct is
reported to and the length of time between the misconduct and when the report was
Such a time limit is called a "statute of limitations." As you consider your options, be aware of these time limits.

- **Your Recovery** — You may also want to explore and process what happened between you and the therapist. If you decide to do this, you can look into therapy or support groups (see pages 20-21).

- **Moving On** — You may wish simply to move on past this experience as quickly as possible and get on with your life. Remember — you have the right to decide what is best for you.

**YOUR REPORTING OPTIONS**

If you decide to report a therapist's behavior that you believe is unethical and illegal, there are four different ways to do so. All of these reporting options are affected by time limits, so you should consider reporting misconduct at the earliest appropriate opportunity. You may choose one or more of the options listed below. These options and their time limits are discussed in more detail on the following pages:

- **Administrative Action** — File a complaint with the therapist's licensing board. (See "More About Administrative Action, page 13.")
- **Professional Association Action** — File a complaint with the ethics committee of the therapist's professional association. (See "More About Professional Association Action, page 15.")
- **Civil Action** — File a civil lawsuit. (See "More About Civil Action," page 18.)
- **Criminal Action** — File a complaint with local law enforcement. (See "More About Criminal Action, page 19.")

**More About Administrative Action**

In California, there are four (4) three (3) boards that license and regulate therapists. Three California boards license and regulate therapists:

**Board of Behavioral Sciences**
1625 N. Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov
This board licenses and regulates licensed educational psychologists; licensed clinical social workers; registered associate clinical social workers; licensed marriage and family therapists; registered associate marriage and family therapist-interns; licensed professional clinical counselors; and registered-professional associate professional clinical counselors interns.

**Board of Psychology**
2005 Evergreen Street, Suite 1400
Sacramento, CA 95816
This board licenses and regulates psychologists, psychological assistants, and registered psychologists.

**Medical Board of California**
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815
(916) 263-2389
[www.mbc.ca.gov](http://www.mbc.ca.gov)

This board licenses and regulates allopathic (MD) physicians and surgeons, including psychiatrists and research psychoanalysts.

**Osteopathic Medical Board of California**
1300 National Drive, Suite 150
Sacramento, CA 95834-1991
(916) 928-8390
[www.ombc.ca.gov](http://www.ombc.ca.gov)

This board licenses and regulates osteopathic (DO) physicians and surgeons (psychiatrists).

The purpose of these licensing boards is to protect the health, safety and welfare of consumers. Licensing boards have the power to discipline therapists by using the administrative law process. Depending on the violation, the board may revoke or suspend a license, and/or place a license on probation with terms and conditions the licensed professional must follow. When a license is revoked, the therapist cannot legally practice.

In many cases, the California Business and Professions Code requires revocation of a therapist's license or registration whenever sexual misconduct is admitted or proven.

It is best to report any case of therapist-patient sexual exploitation as soon as possible, since delays may restrict the disciplinary options available to the board. Time limits require a licensing board to initiate disciplinary action by filing an "accusation" against a licensed professional accused of sexual misconduct:
- within three years from the date the board discovered the alleged sexual misconduct, or
- within 10 years from the date the alleged sexual misconduct occurred.

That means an accusation of sexual misconduct against a therapist can't be filed more than 10 years after the alleged incident. For complaints involving allegations other than sexual misconduct, the licensing board must file an accusation within seven years from the date of the alleged offense.

**How to File a Complaint—Process Works**
The licensing boards can give you information about the complaint filing process and discuss your situation with you. To file a complaint, you can request a complaint form.
write a letter, or start the complaint process online with the appropriate licensing board. With your complaint, be sure to include your name, address, and telephone number; the therapist’s name, address, and telephone number; a description of your complaint; copies of any available documentation (for example, letters, bill receipts, canceled checks, or pictures); and names, addresses and telephone numbers of any witnesses.

Each complaint is evaluated and investigated, and you and the therapist will be notified if the board has sufficient evidence to initiate disciplinary action. You and the therapist will be interviewed separately.

Most cases are settled by a stipulated agreement—the therapist typically admits to the violation(s) and accepts the disciplinary action, no hearing is held, and the patient does not have to testify. In the event that your case is not settled by a stipulated agreement, a hearing will be held by an administrative law judge, and you will be required to testify. When the judge makes a decision about the case, the board will then decide whether to accept this decision or to issue its own decision.

It is board policy to use only initials, rather than full names, to identify patients in public disciplinary documents. However, hearings are open to the public, and there is a possibility that confidentiality may be jeopardized during the investigation process or at the hearing itself. If you are concerned about this, discuss it with the licensing board investigator.

The disciplinary process may take about two years from the time a complaint is received to the time a final decision is made. Sometimes the process takes longer. Keep in mind that you cannot receive monetary compensation from the therapist by using this option, but you may affect the therapist’s ability to practice and thereby protect other patients from similar misconduct.

You can submit your complaint online or in writing using the forms on the board’s website to start the process. You should provide as much information as possible, but it is especially helpful to provide the following information, if available:

- Detailed description of the conduct you are reporting.
- Copies of materials that support your complaint, e.g., e-mails, text messages, correspondence between you and the therapist, photographs or other images you shared with or received from the therapist, etc.

The board will require a signed release form, authorizing the board to obtain your records from the therapist. These records are required for official use, including investigation and possible administrative proceedings regarding any violations of the law. Your complaint will be evaluated, investigated, and you will be notified of the outcome.

The following are possible outcomes of your complaint:

- Revocation or surrender of the therapist’s license: This results in the loss of license and right to practice.
- Probation: The therapist’s license may be placed on probation for a defined period of time, with terms and conditions that must be complied with, in order to continue to practice.
• Case closed and no action taken against the therapist’s license: the board could not substantiate a violation of the laws and regulations.

It is board policy to use only initials, rather than full names, to identify clients in public disciplinary documents. However, hearings are open to the public, and you may be asked to testify. All disciplinary actions are public information.

**More-About-Professional-Association-Action**

Many therapists join professional associations—organizations that provide education and guidance to members of a profession. Each association has ethics guidelines, and all such guidelines state that sexual involvement with patients is unacceptable and unethical.

If your therapist is a member of a professional association, you may file a formal complaint with the association. After investigating the complaint, the association may recommend disciplinary actions that may include removal of the therapist from its membership. Removing a therapist from the association will let other members know about the person’s unethical behavior, but it will not keep the therapist from practicing. Only a licensing board or court action can do that. In addition, the action will not result in monetary recovery for you (only a civil action can do that), and will not result in criminal action against the therapist.

Each association has different ways of filing complaints. Call or write the appropriate association for this information. To find out which association, if any, the therapist belongs to, call the therapist’s office and request this information; have a friend call the office or therapist for you; or check with the different associations.

**Professional Associations**

Most professional association ethics committees will typically review only those complaints that include allegations made within one year of the date of the alleged misconduct.

Contact the appropriate association for specifics on reporting professional misconduct, or to get more general information.

**Psychiatrist, Physician**

American Psychiatric Association
1000 Wilson Blvd., Suite 1825
Arlington, VA 22209
(888) 357-7924
www.psychiatry.org

California Medical Association
1204 J Street, Suite 200
Sacramento, CA 95814
(916) 444-5532
www.emanet.org
California Psychiatric Association
4029 K Street, Suite 28
Sacramento, CA 95814
(916) 442-6196
www.calpsych.org

Licensed Psychologist

American Psychological Association
750 First Street, NE
Washington, DC 20002
(800) 374-2721
www.apa.org

California Psychological Association
1231 I Street, Suite 204
Sacramento, CA 95814
(916) 286-7979
www.cpapsych.org

Licensed Clinical Social Worker

National Association of Social Workers, California Chapter
1016 23rd Street
Sacramento, CA 95816
(916) 335-4565
www.nasw.org

California Society for Clinical Social Workers
6060 Sunrise Vista Drive, Suite 1300
Citrus Heights, CA 95610
(916) 560-9238
www.clinicalsocialworkersociety.org

Licensed Educational Psychologist

California Association of Licensed Educational Psychologists
P.O. Box 387
Aptos, CA 95004
www.calep.com

California Association of School Psychologists
1020 12th Street, Suite 200
Sacramento, CA 95814
Generally, civil lawsuits are filed to seek money for damages or injuries to a patient. For a sexual misconduct case, a patient may want to sue the therapist for injuries suffered and for the cost of future therapy sessions.

Under California law, you may file a lawsuit against the therapist or the therapist’s employer if you believe the employer knew or should have known about the therapist’s behavior. If the employer is a local or state public mental health agency for which the therapist works, you must first file a complaint with the agency within six months of the sexual misconduct. Consult with an attorney for specific advice.

If you think you want to file a lawsuit, it is important to consult an attorney as soon as possible, since there are different time limits for filing civil lawsuits. Most civil lawsuits must be filed within one year after the sexual misconduct occurred.
Once a lawsuit is filed, there is the possibility of media coverage, especially if the patient or therapist is well-known. While many cases are settled out of court, some do go to trial, and it can take years before your case is tried.

Patients Don't Always Win

You should be aware that some cases end up being decided in favor of the therapist, rather than the patient.

Finding an Attorney

Take time to choose an attorney to represent you. You may need to interview several. Here are some points to consider:

- Get a list of attorneys from your County Bar Association's referral service. You can also check with your local legal aid society for legal assistance.
- Contact a lawyer referral service certified by the State Bar of California. To find a certified lawyer referral service, look in the telephone book yellow pages at the beginning of the "Attorneys" listings, or visit the State Bar Web site at www.calbar.ca.gov.
- Check with the State Bar of California (www.calbar.ca.gov) to make sure the attorney has a clear license.
- While some attorneys are willing to wait to be paid based on the outcome of the suit (contingency basis), some will not.
- Be sure that the attorney has civil litigation experience in the area of medical and/or psychological malpractice.
- Make sure that you feel comfortable with your attorney and can trust and confide in him or her.

More About Criminal Action

Sexual exploitation of patients by therapists is wrong. The law makes it a crime for a therapist to have sexual contact with a patient. For a first offense with only one victim, an offender would probably be charged with a misdemeanor. For this charge, the penalty may be a sentence of up to one year in county jail, or up to $1,000 in fines, or both. Second and following offenses, or offenses with more than one victim, may be misdemeanors or felonies. The penalty in such felony cases can be up to three years in prison, or up to $40,000 in fines, or both.

This law applies to two situations:

- The therapist has sexual contact with a patient during therapy, or
- The therapist ends therapy primarily to start having sexual contact with the patient (unless the therapist has referred the patient to an independent and objective therapist who has been recommended by a third party therapist).

To file a criminal complaint against a therapist:

- Contact your local law enforcement agency. Many agencies in larger cities have sexual assault units that handle these complaints.
■ Contact your local victim/witness assistance program for help through the legal process. Look in your local telephone book under “District Attorney” or call 1-800-VICTIMS (842-8467).

Once a complaint is filed, it will be investigated by the law enforcement agency, which will give the results of the investigation to the district attorney’s office. The district attorney’s office will decide whether there is enough evidence to file criminal charges.

Time limits, or statutes of limitations, affect this reporting option. If you are considering this option, contact your local law enforcement agency. The agency’s authority to take action may expire as soon as one year from the date the alleged misconduct occurred.

WHERE TO GET HELP

Many patients who have been sexually exploited by therapists find it difficult to see another therapist for help and support. However, for most people, the issues that brought them to therapy were never worked on or resolved, and the sexual exploitation created even more issues to handle. If this is your situation, therapy may be an important tool in your healing process.

Therapy may be an important tool in your recovery. Before selecting a new therapist, here are a few suggestions to support that process: interview several until you find one you are comfortable with. Use the “Patient Bill of Rights” as a guide (see page 24). If you are unsure after one session, either consider a different therapist or set up a follow-up session to clarify your concerns. Do not feel pressured to stay with one therapist.

Finding a Therapist

Some ways of finding a therapist are:

- Ask someone you know and trust for a referral who has been in therapy, who feels good about the experience and who has changed in ways you consider positive.
- Calling your local sexual assault center or crisis intervention service (in the telephone book yellow pages). These centers can refer you to therapists experienced in dealing with those who have suffered sexual exploitation or abuse.
- Calling professional associations (see pages 16–17) and asking for referrals to therapists who specialize in helping those who have been sexually abused or exploited by therapists.
- Search online for a local sexual assault center or crisis intervention service. These centers can refer you to therapists experienced in dealing with those who have suffered sexual misconduct by a therapist.
- Contact professional associations and asking for referrals to therapists who specialize in helping those who have suffered sexual misconduct by a therapist.
- Seek a referral from your primary care physician or insurance provider.

After getting several names, call the appropriate licensing board (see page 13) or visit their Web site for on-line license verification and disciplinary actions. You can also call
the professional association (see pages 16-17) and ask if the therapists are licensed and if any disciplinary actions have been filed against them. Check with your county Superior Court to see if there is a record of any malpractice lawsuits filed against the therapists. Visit the board's website to verify the status of the therapist's license.

Self-Help Support Groups

There is an informal network of self-help support groups throughout California. While there might not be a group in your area specifically focused on sexual exploitation by therapists, there may be groups dealing with more general kinds of sexual abuse. To find out if there are any groups in your area, call your local sexual assault center or crisis intervention service (listed in the telephone book yellow pages).

FREQUENTLY ASKED QUESTIONS

- **Is it normal to feel attracted to my therapist?**

  Yes. It is normal to feel attracted to someone who is attentive, kind, and caring. This is a common reaction toward someone who is helping you. However, all therapists are trained to be aware of this and to maintain a professional therapy relationship that is beneficial to the patient/client.

- **What if I was the one who brought up having sex the client initiated sexual behavior?**

  That doesn't matter. The therapist is the one who is responsible for keeping ensuring that sexual intimacy or contact is not part of therapy.

- **Does this happen a lot?**

  A national study revealed that probably fewer than 10 percent of all therapists have had sexual contact with their patients and that 80 percent of the sexual exploiting therapists have exploited more than one patient. If a therapist is sexually exploiting a patient, they have probably done so before and are likely to do so again. In recent years, aggressive prosecution of offending therapists and passage of laws that facilitate the enforcement work of licensing boards have helped to significantly reduce the number of such cases reported to the licensing boards.

- **Why do some therapists sexually exploit their patients?**

  There are probably as many excuses as there are therapists who engage in such unprofessional conduct. But no excuse is acceptable for a therapist to abuse the therapeutic relationship and the trust of a patient for the therapist's own sexual gain. All therapists should know that this conduct is unethical and illegal.

- **Why do I feel scared or confused about reporting my therapist?**

  In most cases, the therapist is an important person in the client's life. Therefore, feelings of such as fear, confusion, protectiveness, shame or guilt are common.
Get as much information as possible about your options. Keep in mind that you are in control and can choose what to do.

- **What if the therapist retaliates against me, harasses me or files a lawsuit against me for reporting him or her?**

  Retaliation against a patient or harassment of a patient is illegal. Contact your local district attorney. If the therapist files a lawsuit against you, you will be required to defend yourself in the lawsuit. However, the law does provide immunity from monetary liability for reporting misconduct to a licensing board.

- **How can I prevent this from happening again?**

  1. Acknowledge your right to be free from sexual exploitation.
  2. When choosing a therapist, check with the licensing board (see page 13) to see if the therapist is licensed and if the license is under suspension or probation. Check on any complaints filed with a professional association. Review county Superior Court records to see if any malpractice lawsuit judgments are on file against the therapist.
  3. Question any action that may seem sexual.
  4. Remember that feelings of attraction are natural, therapy is supposed to be a means to explore and resolve feelings, without having to act them out.
  5. Feel free to end a relationship that no longer seems safe.

- **Can I file a complaint if there is or has been a civil case between myself and the therapist?**

  Yes, you may file a complaint at any time, whether the case is ongoing or concluded. A civil settlement cannot preclude you from filing a complaint against a licensee.

- **Is there a cost associated with filing a complaint?**

  No, filing a complaint is free and can be filed via telephone, email, mail, or online.

- **Can I file a complaint if I had a personal relationship with my therapist?**

  Yes.

- **Can I contact the therapist after I file a complaint?**

  In order to preserve the integrity of the investigation, it is strongly recommended that you do not initiate contact with the therapist once you have filed a complaint.

- **What if the therapist contacts me after I file a complaint?**

  Once you have filed a complaint, notify the board right away if the therapist contacts you.

**Can I file an anonymous complaint with a licensing board?**
Anonymous complaints are accepted, but they are almost impossible to investigate without the cooperation of the accuser.

**PATIENT BILL-OF-RIGHTS**

Patients have the right to:

- Request and receive information about the therapist's professional capabilities, including licensure, education, training, experience, professional association membership, specialization and limitations.
- Have written information about fees, payment methods, insurance reimbursement, number of sessions, substitutions (in cases of vacation and emergencies), and cancellation policies before beginning therapy.
- Receive respectful treatment that will be helpful to you.
- A safe environment, free from sexual, physical and emotional abuse.
- Ask questions about your therapy.
- Refuse to answer any question or disclose any information you choose not to reveal.
- Request and receive information from the therapist about your progress.
- Know the limits of confidentiality and the circumstances in which a therapist is legally required to disclose information to others.
- Know if there are supervisors, consultants, students, or others with whom your therapist will discuss your case.
- Refuse a particular type of treatment, or end treatment without obligation or harassment.
- Refuse electronic recording (but you may request it if you wish).
- Request and (in most cases) receive a summary of your file, including the diagnosis, your progress, and the type of treatment.
- Report unethical and illegal behavior by a therapist (see "Your Reporting Options," page 12).
- Receive a second opinion at any time about your therapy or therapist's methods.
- Have a copy of your file transferred to any therapist or agency you choose.

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Agenda Item #20: Legislative Update

b) Review and Consideration of Board Recommendations on Legislation:

1) Bill on Which the Board has Taken an Active Position

A. AB 244 (Cervantes) – Maternal Mental Health

Ms. Jones stated that this bill is Dead.

B. AB 710 (Wood) – Department of Consumer Affairs: boards; meetings

Ms. Jones stated that this bill is Dead.

C. SB 572 (Stone) – Healing Arts Licenses: Violations: Grace Period

Ms. Jones stated that this bill is Dead.

2) Watch Bills

Mr. Glasspiegel explained that “chaptered” means the bill was signed. He explained that the bills provided in the Board packet are chaptered and dead bills and that at the next Board Meeting the chaptered and dead bills will be removed and the new bills will be added.

Agenda Item #21: Legislative Items for Future Meeting. The Board May Discuss Other Items of Legislation in Sufficient Detail to Determine Whether Such Items Should be on a Future Board Meeting Agenda and/or Whether to Hold a Special Meeting of the Board to Discuss Such Items Pursuant to Government Code Section 11125.4

Ms. Jones asked to add bills dealing with the “Me Too” movement.

Mr. Glasspiegel stated that the Center for Judicial Excellence asked the Board to watch AB 244.

Agenda Item #22: Overview Presentation of the Legislative Process

Dr. Phillips stated that this agenda item will be moved to the May Board Meeting.
**Agenda Item #23: Regulatory Update, Review, and Consideration of Additional Changes (N. Jones)**

a) 16 CCR Sections 1391.1, 1391.2, 1391.5, 1391.6, 1391.8, 1391.10, 1391.11, 1391.12, 1392.1 – Psychological Assistants

b) 16 CCR Section 1396.8 – Standards of Practice for Telehealth

c) 16 CCR Sections 1381.9, 1381.10, 1392 – Retired License, Renewal of Expired License, Psychologist Fees

d) 16 CCR Sections 1381.9, 1397.60, 1397.61, 1397.62, 1397.67 – Continuing Professional Development

Mr. Glasspiegel stated that the above referenced items are pending the start of or in the initial review stage with DCA.

**Agenda Item #24: Outreach Update**

a) Strategic Plan

b) Communications Plan

c) Website

d) Social Media

e) Newsletter

Dr. Phillips stated that this agenda item will be presented at the May Board Meeting due to Ms. Bernal's absence.

**Agenda Item #25: President’s Report**

a) 2018 Meeting Calendar and Locations

The calendar was provided as part of the Board materials. No comments were made.

b) Committee Updates

Dr. Phillips stated that the EPPP 2 Task Force will be chaired by Dr. Casuga and Mr. Foo. He named the members of the taskforce.

Dr. Jo Linder-Crow, CPA, asked the Board about the invitation process and if there was still room to add people.

Ms. Sorrick stated that Board staff reached out to training programs and school organizations. She stated that this is an open meeting so anyone can participate.

Dr. Melodie Schaefer, CPA and CAPIC, asked if someone from Division 2 was involved. Ms. Sorrick stated she will follow up to see who was contacted.

**Agenda Item # 27: Recommendations for Agenda Items for Future Board Meetings. Note: The Board May Not Discuss or Take Action on Any Matter Raised During This Public Comment Section, Except to Decide Whether to Place the Matter on the Agenda of a Future Meeting [Government Code Sections 11125 and 11125.7(a)]**
Ms. Jones stated that she would like to see the child custody evaluation letters and how we are using DCA’s prioritization guidelines, and she asked that this be placed on a future Board agenda.

Dr. Jo Linder-Crow, CPA, asked what the Board’s perspective is on the PSYPACT. Dr. Phillips stated the Board submitted comments to ASPPB when it first came out. Dr. Linder-Crow asked for this to be placed on a future Board agenda.

**Agenda Item #26: Election of Officers**

For Board President:
- Ms. Acquaye-Baddoo nominated Dr. Casuga
- Mr. Foo nominated Dr. Phillips
- Ms. Jones nominated Mr. Foo

Dr. Casuga and Mr. Foo did not accept the nomination.

Ms. Jones inquired about the process of Board members indicating interest to serve. She shared that the Board previously discussed efforts to have licensed and public members represented in Board leadership. She asked Ms. Marks about the legality of Board members advocating for support outside of meetings and Ms. Marks explained that the Board should be mindful of violations of the Open Meeting Act. Ms. Marks also provided information on other Board’s creating nomination committee processes.

Ms. Marks said the motion was to have Dr. Phillips as Board President for the 2018 calendar year.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

For Vice President:
- Dr. Acquaye-Baddoo nominated Dr. Casuga
- Dr. Casuga nominated Ms. Bernal
- Dr. Erickson nominated Mr. Foo

Dr. Casuga did not accept the nomination.

Board discussed whether to vote now in Ms. Bernal’s absence or wait until the May Board Meeting. It was decided to wait until the May Board Meeting to vote on the office of Vice-President.

It was M(Foo)/S(Erickson)/C to wait until the May Board Meeting to have a vote for Vice-President and have Ms. Jones continue to be Vice-President until that time.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no

It was M(Foo)/S(Erickson)/C to adjourn.

Vote: 7 aye (Acquaye-Baddoo, Casuga, Erickson, Foo, Horn, Jones, Phillips), 0 no
Meeting adjourned at 5:04 p.m.

President

Date

5/15/2018