Policy and Advocacy Committee Meeting Minutes
Department of Consumer Affairs
1625 N. Market Blvd., Trinity Room (Third Floor, Room 307)
Sacramento, CA 95834
(916) 574-7720

Thursday, April 19, 2018

Nicole Jones, Chairperson, called the meeting to order at 10:07 a.m. A quorum was present and due notice had been sent to all interested parties.

Members Present
Nicole J. Jones, Chairperson
Sheryll Casuga, PsyD
Michael Erickson, PhD

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

Agenda Item #2: Welcome from the Chair
Ms. Jones welcomed those in attendance and read the mission statement of the Committee.

Agenda Item #3: Public Comment(s) for Items not on the Agenda
No public comment received.

Agenda Item #4: Approval of Committee Minutes: May 15, 2017
Ms. Jones provided her edits.

It was M(Erickson)/S(Casuga)C to approve the minutes as amended.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

Agenda Item #5: Summary of Legislative Visits on Wednesday, February 14, 2018
Ms. Burns gave a recap of the Board’s process for legislative visits at the beginning of each legislative session. During this visit, the Board members and staff spoke to the Legislative members and their staff about the Board’s 2018 legislative proposal and 2017 legislative accomplishments. She stated that the packet given to legislators and their staff contained the information presented by the Board members.
Ms. Jones asked Dr. Erickson to share his experience. Dr. Erickson stated it was quite valuable to talk with the legislators and their aids. He indicated that it was a good use of time.

Discussion ensued regarding future legislative visits. Ms. Jones asked if there were other ways that we could maximize Board participation. Ms. Sorrick stated that we can survey the Board to see if they would prefer to come up before a Board Meeting or for a separate half day in January.

Agenda item #6: Sponsored Legislation for the 2018 Legislative Session: Review and Potential Action, Recommendations to the Full Board

a. AB 2968 (Levine) – 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 advised that on Tuesday, April 24, 2018, AB 2968 (Levine) will be heard in the Assembly Committee on Business and Professions.

Dr. Erickson asked to discuss the bifurcation of the language as discussed in the Board meeting. Ms. Burns provided a summary of the language.

Ms. Jones expressed her thanks to Dr. Erickson for going to testify at the Capitol on behalf of the Board.

Catherine Campbell, Executive Director, California Protective Parents Association, noticed that language was changed from patient to client, and asked why the language was changed. She also asked if the patient is a minor, is the client the parent and patient the child.

Ms. Burns stated that the word “client” was a broader term that includes all psychological services and that in her example, the patient would still be the child and not the parent.

Agenda item #7: Review and Consideration of Legislation: Review of Bill Analyses and Potential Action to Recommend Positions to the Full Board, Recommendations to the Full Board

a. Newly Introduced Bills – Review of Bill Analyses and Potential Action to Recommend Positions to the Full Board

1) Recommendations for Active Positions on Bills

A. AB 282 (Jones-Sawyer) – Aiding, Advising, or Encouraging Suicide: Exemption from Prosecution
Ms. Burns provided an overview of the bill.

It was M(Erickson)/S(Casuga)/C to recommend a support position to the full Board.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

**B. AB 1779 (Nazarian) – Sexual Orientation: Change Efforts**

Ms. Burns provided an overview of the bill.

Discussion ensued regarding the list of support for the bill.

Kathleen Russell, Executive Director, Center for Judicial Excellence, asked how this bill is different from AB 2943.

Ms. Burns explained how this bill extends the ban on sexual orientation change efforts to dependent adults as well as children. AB 2943 would make sexual orientation change efforts an unlawful business practice under the Civil Code.

It was M(Erickson)/S(Casuga)/C to recommend a support position to the full Board.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

**C. AB 2044 (Stone) – Child Custody: Safety of the Child**

Ms. Burns provided an overview of the bill. She advised that staff recommends the Committee discuss and consider whether or not to take a formal position on the bill. Ms. Burns spoke about the bill analysis. She stated that staff reached out to one of our enforcement experts who advised there are positives of the bill regarding training for judicial council, but that there could be unintended consequences from other provisions in the bill that are outside of the Board’s purview.

Dr. Erickson stated he has a positive sense about this bill, but has concerns regarding unintended consequences.

Discussion ensued regarding unintended consequences of the bill. The Committee also discussed alternate options the Committee can recommend to the Board including a letter of support in concept to the author.

Ms. Sorrick stated that the Committee may want to bring this bill to the full Board with a watch recommendation.

Discussion ensued regarding whether watching the bill was appropriate. Ms. Jones recommended that the Committee watch the bill but also to reach out to the author regarding the Committee’s concerns about unintended consequences with specific provisions of the bill.
Catherine Campbell, stated that her organization supports this bill because it goes towards child safety. Perpetrators of domestic violence are getting custody of children and evaluators are missing the abuse and giving perpetrators custody. She stated that we are living the unintended consequences and that children are still in the custody of abusive parents. In the past 10 years, we have had over 600 murders of children, including one that happened in Yolo county where the abusive parent killed the children.

Kathleen Russell, expressed appreciation to Dr. Erickson in expressing the importance of this legislation. She thought she had previously made it clear to the Board that this bill directly relates to psychologists in California and is in the purview of the Board. She stated there have been 53 children murdered by a divorcing parent in the last decade in California, and the reality now is worse than any unintended consequences of the bill.

It was M/(Erickson)/S(Casuga)/C to watch the bill and delegate to staff and an available Committee member to have a phone call with the author’s office to relate the Committees concerns regarding unintended consequences and report back to the full Board.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

D. AB 2138 (Chiu) – Licensing Boards: Denial of Application: Criminal Conviction
Ms. Burns provided an overview of the bill. She stated that the bill was amended on April 2, 2018, and provided the amendments to the Committee.

Ms. Monterrubio explained the current process for the denial of licenses and the appeal process.

Ms. Jones asked if we can put some of the enforcement information that was just heard into the analysis.

Ms. Marks stated this bill would prohibit you from denying a license in certain categories that you might otherwise want to have your eye on.

It was M(Casuga)/S(Erickson)/C to recommend the Board to take an Oppose position.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

E. AB 2943 (Low) – Unlawful Business Practices: Sexual Orientation Change Efforts
Ms. Burns provided an overview of the bill. She advised this bill would categorize sexual orientation change efforts as an unlawful business practice throughout this state. Ms. Burns also listed the organizations that have taken a support or oppose position on the bill.
Ms. Sorrick stated that there was a brief discussion with Assembly Member Low during the Board’s legislative visit so we knew this bill was coming.

Dr. Jo Linder-Crow, Chief Executive Officer, California Psychological Association (CPA), stated they are in strong support of this bill.

It was M/(Erickson)/S(Casuga)/C to recommend the Board take a Support position.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

F. SB 1125 (Atkins) – Federally Qualified Health Center and Rural Health Clinic Services
Ms. Burns provided an overview of the bill.

It was M/(Casuga)/S(Erickson)/C to recommend the Board take a Support position.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

2) Recommendations for Committee to Watch Bills

A. AB 1436 (Berman) – Board of Behavioral Sciences: Licensees: suicide prevention training
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

B. AB 1659 (Low) – Healing Arts Boards: Inactive Licenses
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

C. AB 1893 (Maienschein) – Maternal Mental Health: Federal Funding
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

D. AB 1896 (Cervantes) – Sexual Assault Counselor-Victim Privilege –
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

E. AB 1968 (Low) – Mental Health: Firearms
Ms. Burns provided an overview of the bill.
The Committee agreed with staff’s recommendation to watch the bill.

F. AB 2018 (Maienschein) – Mental Health Workforce Planning: Loan Forgiveness, Loan Repayment, and Scholarship Programs
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

G. AB 2022 (Chu) – Pupil Health: On-Campus Mental Health Professionals
Ms. Burns provided an overview of the bill.

Amanda Levy, CPA’s Director of Government Affairs, stated that she believes the bill has been amended since and encouraged the Committee to look at recent amendments.

The Committee agreed with staff’s recommendation to watch the bill.

H. AB 2117 (Arambula) – Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

I. AB 2119 (Gloria) – Foster Care: Gender Affirming Health Care and Behavioral Health Services
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

J. AB 2143 (Caballero) – Licensed Mental Health Service Provider Education Program: Providers
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

K. AB 2156 (Chen) – Mental Health Services: Gravely Disabled
Ms. Burns provided an overview of the bill.

Amanda Levy, CPA, advised this bill will not be moving forward but similar language to this bill will be included in AB 1971.

Dr. Casuga stated changes to access will make it even harder for individuals who have an intellectual disability to receive services. She stated that sometimes the current law
is applied to individuals who do not have an intellectual disability, such as autism, and some facilities will not provide services to them.

Ms. Sorrick advised that staff can add the bill to the May meeting for the Board to discuss.

The Committee agreed with staff’s recommendation to watch the bill.

L. AB 2193 (Maienschein) – Maternal Mental Health
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

M. AB 2483 (Voepel) – Department of Consumer Affairs: Office of Supervision of Occupational Boards
Ms. Burns provided an overview of the bill.

Dr. Erickson asked if this bill relates to the Supreme Court decision involving the North Carolina Dental Board. Ms. Burns advised she is not sure but will look into it.

Ms. Sorrick asked if CPA took a position on the bill.

Ms. Levy was not sure but will look into it.

The Committee agreed with staff’s recommendation to watch the bill.

N. AB 2539 (Mathis) – California Physician Corps Program: Practice Setting
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

O. AB 2619 (Allen) – Severely Mentally Ill Children
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

P. AB 2780 (Bloom) – Family Law: Support Orders and Child Custody
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

Q. AB 2861 (Salas) – Medi-Cal: Telehealth: Substance Use Disorder Services
Ms. Burns provided an overview of the bill.
The Committee agreed with staff’s recommendation to watch the bill.

**R. SB 1371 (Morrell) – Occupational Licensing: List**
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

**3) Recommendations for Committee to Watch Spot Bills**

**A. AB 2442 (Santiago) – Mental Health**
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

**B. SB 1134 (Newman) – Mental Health Services Fund**
Ms. Burns provided an overview of the bill.

The Committee agreed with staff’s recommendation to watch the bill.

**b. Review of 2-Year Bills with Watch Position**
Ms. Burns asked the Committee if they wanted a review of each bill in this agenda item. Ms. Jones asked if the Committee had any questions regarding the bills in this agenda item. No questions were received from the Committee or public. The Committee agreed with staff’s recommendation to continue watching these bills.

**Agenda Item #8: Review and Consideration of Statutory Revisions to Section 2960.1 of the Business and Professions Code Regarding Denial, Suspension and Revocation for Acts of Sexual Contact**
Ms. Burns reminded the Committee of the decision made at the February Board meeting to bifurcate the legislative proposal which would have modified the Board’s requirement for when to disseminate the Board’s “Professional Therapy Never Includes Sex” brochure, and modify the Board’s provisions relating to discipline for acts of sexual contact with a client or former client. She advised the Board voted to move forward with modifying the brochure, but asked the Policy and Advocacy Committee to review the proposal to modify the provisions in 2960.1 of the Business and Professions Code. She advised the language provided in the memo is for the Committee’s discussion.

Ms. Jones asked Ms. Monterrubio her thoughts on whether this language is sufficient for enforcements needs.

Ms. Monterrubio advised she agrees with the language provided. She believes this language will help the Office of the Attorney General and Administrative Law Judges
during the hearings and proposed decisions, but allows the Board to maintain its ability
to modify the proposed decision of an Administrative Law Judge.

Discussion ensued regarding the need for the definition for sexual behavior to be broad
enough to be useful to the Enforcement Unit and the prosecution of these types of
cases.

Dr. Casuga stated that cultural differences aren’t considered in this law, and is
wondering how we can account for cultural variations.

Discussion ensued regarding the relevance of certain behaviors that may be considered
culturally appropriate within the therapeutic environment. Some discussion was had
regarding whether holding the hand of a crying patient or a similar act would be
appropriate based on the changes presented in 2960.1 and how these would be
handled in the complaint process.

Ms. Monterrubio advised if a complaint were received regarding hand holding, it would
be sent to a Subject Matter Expert for review, but the Enforcement Unit is usually
looking at a complaint with multiple incidents that occurred over a period of time.

Dr. Erickson asked how the changes to 2960.1 would change the range of discipline
that an Administrative Law Judge could recommend. Ms. Monterrubio stated that the
Administrative Law Judge could recommend under current law that the license be
subject to revocation or probation, and under the proposed language, the Administrative
Law Judge could only recommend revocation of the license, but reminded the
Committee that the Board retains full authority to modify the decision of the
Administrative Law Judge.

Ms. Jones asked if the intent of the language is to say that it is inappropriate contact
because there was a pattern or context to the behaviors, or specifically because it was a
boundary violation. Ms. Burns stated that we are seeing patterns of inappropriate
behaviors and it creates a nexus that usually leads to sexual contact.

Ms. Sorrick talked about the pros and cons to having a broad definition and asked if we
can tackle some of the concerns of what we mean by sexual behaviors in intent
language. She specified that we are not talking about a kiss on the cheek but seriously
egregious behaviors.

Discussion ensued regarding how and where to incorporate the examples of egregious
behaviors, and in what situations behaviors like hand holding might be appropriate.
Additionally, discussion ensued regarding what types of communications might qualify
as inappropriate and of a sexual nature.
Ms. Burns asked if using the language for sexual contact might help in clarifying this
issue where it would require that the behavior or communication was for the purpose of
sexual arousal, gratification, exploitation or abuse.

Discussion ensued regarding whether this additional language would effectively narrow
the definition of sexual behavior and communication for the Board’s purposes.

Dr. Elizabeth Winkelman, CPA’s Director of Professional Affairs, asked if it was possible
to revoke a license if the psychologist did not have sex with a patient. Ms. Monterrubio
stated that it is possible, and Ms. Marks clarified that a boundary violation does not hold
the same weight with an Administrative Law Judge as if it was sexual contact. Dr.
Winkelman stated it would be good to explain this issue in the stakeholder meeting, and
how this affects enforcement. She also stated that the Board should make sure that the
language regarding abuse and exploitation is consistent with other uses of this
language in the code.

It was M/(Erickson)S/(Casuga)/C to present the language as amended to the
stakeholder group meeting.

Vote: 3 aye (Casuga, Erickson, Jones), 0 no

Agenda Item #9: Regulatory Update

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

Ms. Burns reviewed the status of the Board’s regulatory packages.

Ms. Jones asked if staff could create a visual aid to assist with showing the status and
progression of the Board’s regulatory packages.

Ms. Burns advised this can be created.

Agenda Item #10: Update Regarding the California Child Abuse and Neglect
Reporting Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288,
and 11165.1.

Ms. Burns advised there has been no change since last reported.

Agenda Item #11: Recommendations for Agenda Items for Future Committee
Meetings.
None received

The Committee adjourned at 2:44 pm.

Signature on file

Chairperson Date