

# **BACKGROUND PAPER FOR THE BOARD OF BEHAVIORAL SCIENCES**

**Joint Oversight Hearing, March 14, 2016**

**Assembly Committee on Business and Professions  
and**

**Senate Committee on Business, Professions and Economic Development**

## **BRIEF OVERVIEW OF THE THE BOARD OF BEHAVIORAL SCIENCES**

The Board of Behavioral Sciences (BBS) is charged with the regulation of four mental health professions. In 1945, the Board of Social Work Examiners was established as a mechanism to identify only those competent professionals in the field of social work. Later, in 1963, the Marriage, Family, and Child Counselor Act was established and the Board of Social Work Examiners became duly responsible for regulation of both professions. In 1970, with the addition of Licensed Educational Psychologists, the name of the board was officially changed to the Board of Behavioral Science Examiners. In 1997, its current title of the BBS was established. In 2010, clinical counselors were added under the BBS's jurisdiction. The BBS's last sunset review was in 2012. All tables and statistical information contained in this report were provided by the BBS.

Today, the BBS licenses and regulates Licensed Clinical Social Workers (LCSWs), Licensed Marriage and Family Therapists (LMFTs), Licensed Educational Psychologists (LEPs), and Licensed Professional Clinical Counselors (LPCCs). Additionally, the BBS registers Associate Clinical Social Workers (ACSWs), Marriage and Family Therapist Interns (MFT Interns), Professional Clinical Counselor Interns (PCC Interns), and until June 30, 2015, registered continuing education (CE) providers.

The BBS licenses and regulates more than 100,000 licensees. In addition, the BBS regulates approximately 16,262 MFT Interns and 12,215 ACSWs. Each profession has its own scope of practice, entry-level requirements, and professional settings, with some overlap in certain areas. Below are a few examples of settings in which licensees may work; however, licensees may work in other settings that lawfully provide mental health services.

- LMFTs are employed in mental health agencies, counseling centers, and private practice. They utilize counseling or therapeutic techniques to assist individuals, couples, families, and groups with a focus on marriage, family, and relationship issues.
- LCSWs are employed in health facilities, private practice, and state and county mental health agencies. LCSWs utilize counseling and psychotherapeutic techniques to assist individuals, couples, families, and groups.
- LEPs work in schools or in private practice and provide educational counseling services such as aptitude and achievement testing or psychological testing. LEPs may not provide

psychological testing or counseling services that are unrelated to academic learning processes in the education system.

- LPCCs are the newest regulatory group under the BBS. LPCCs apply counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations.

The Board’s mission as reported in its *2015 Sunset Review Report* is to:

*Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practice. The [BBS's] vision is to ensure that Californians are able to access the highest-quality mental health services. To this end, the [BBS] develops and administers licensure examinations; investigates consumer complaints and criminal convictions; responds to emerging changes and trends in the mental health profession legislatively or through regulations; and creates informative publications for consumers, applicants, and licensees.*

The BBS's current mission statement as stated in the 2014-2017 Strategic Plan, is as follows:

*Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practice.*

## Board Membership and Committees

Board membership (board) is comprised of 13 members; 6 professional and 7 public members. Effective January 1, 2012, the composition of the board increased from 12 to 13 members with the addition of a dedicated LPCC member. There are six professional members appointed by the Governor. Five of the public members are appointed by the Governor, one public member is appointed by the Senate Committee on Rules and one member is appointed by the Speaker of the Assembly. Board members receive a \$100-a-day per diem. The board meets a minimum of four times per year. All board and Committee meetings are subject to the Bagley-Keene Open Meetings Act. Since its last sunset review, the BBS has not had to cancel any meetings due to a lack of quorum. There is currently one board member vacancy. The following is a listing of the current members and their background:

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority
<b>Christina Wong, LCSW - Chair</b> Ms. Wong was appointed by Governor Brown as a LCSW member in May 2011. Since 2002, Ms. Wong has been employed by Glenn County Health Services and currently serves as Health Services Program Coordinator.	5/18/2011 <b>07/02/2013</b>	6/01/19	Governor
<b>Deborah Brown, Public Member - Vice Chair</b> Ms. Brown was appointed by Governor Brown as a public member in August 2012. Ms. Brown has been a teacher for the Yosemite Unified School District since 1994.	8/23/2012 <b>07/02/2013</b>	6/01/2017	Governor
<b>Samara Ashley</b> Ms. Ashley was appointed by Governor Schwarzenegger as a public member in January 2010. She has served as director of government affairs for the Port	1/21/2010 <b>07/12/2013</b>	6/01/2017	Governor

of Long Beach since 2007.			
<b>Dr. Scott Bowling</b> Dr. Bowling was appointed by Governor Brown as a Public Member in September 2014. Mr. Bowling has been president and chief executive officer at the Exceptional Children's Foundation since 1999. He was associate director at New Horizons from 1989 to 1999. Bowling is a member of the Culver City Chamber of Commerce Board of Directors.	11/11/2014	6/01/2018	Governor
<b>Dr. Leah Brew, LPCC</b> Dr. Brew was appointed by Governor Brown as an LPCC member in August 2012. Dr. Brew is currently an LPCC and serves as the Department Chair and Associate Professor in the Department of Counseling at California State University, Fullerton. As part of her 11 years as a faculty member, Dr. Brew has served on other professional boards such as the President of California Association for Licensed Professional Clinical Counselors, President of the Western Association for Counselor Education and Supervision, and Graduate Representative for the national Association for Counselor Education and Supervision.	8/18/2012	6/01/2016	Governor
<b>Dr. Peter Chiu</b> Dr. Chiu was appointed by Governor Brown as a public member in October 2013. He has been an adjunct clinical professor at Stanford University Medical School since 2009 and Hearing Board member of the Bay Area Air Quality Management District since 2013.	10/30/2013 <b>06/03/2015</b>	6/01/2019	Governor
<b>Elizabeth "Betty" Connolly, LEP</b> Ms. Connolly was appointed by Governor Brown as a LEP member in August 2012. Ms. Connolly has been with the El Dorado County Office of Education for over 30 years, first as a School Psychologist and later as a Program Specialist and Principal. She currently works as the Director of Student Programs for Special Services.	8/22/2012	6/01/2016	Governor
<b>Sarita Kohli, LMFT</b> Ms. Kohli was appointed by Governor Brown in June 2011 as an LMFT member. Ms. Kohli has been working in community mental health for over twelve years. Currently, she serves as Director of Mental Health Programs at Asian Americans for Community Involvement (AACI) in San Jose, overseeing outpatient Mental Health programs and the Center for Survivors of Torture. Ms. Kohli is in the Addressing Health Disparities Leadership Program of the National Council of Community Behavioral Health, a national leadership program for developing leaders from ethnically diverse communities.	6/07/2011 <b>06/13/2014</b>	6/01/2018	Governor
<b>Patricia Lock-Dawson</b> Ms. Lock-Dawson was appointed by Governor Schwarzenegger as a public member in January 2010. She has served the city of Riverside as planning commissioner since 2007 and director of the Santa Ana River Trail and Parkway Partnership for Riverside County Supervisor John Tavaglione since 2005. Additionally, Lock-Dawson has been principal of PLD Consulting since 2003.	1/13/2010 <b>07/12/2013</b>	6/01/2017	Governor
<b>Renee Lonner, LCSW</b> Ms. Lonner was appointed by Governor Schwarzenegger as a LCSW member in January 2007. From 1992-2008, she served as the clinical director and chief clinical officer for Robert T. Dorris & Associates, a management consultation firm. Ms. Lonner has maintained a private practice specializing in individual, marital and family psychotherapy since 1976.	1/17/2007 <b>07/06/2010</b> <b>07/25/2010</b>	6/01/2018	Governor
<b>Karen Pines, LMFT</b> Ms. Pines was appointed by Governor Brown as a LMFT member in April 2011. She previously served as a member of the BBS from July 24, 1999 to July 31, 2006. During her tenure with the Board, she served three terms as the Board's Chair and one term as the Board's Vice Chair. In addition to her previous Board service, Ms. Pines has also served as public member for the Physical Therapy Board and is an adjunct professor at Pepperdine University, Graduate School of Education and Psychology.	4/5/2011 <b>07/02/2013</b>	6/01/2017	Governor

<p><b>Dr. Christine Wietlisbach</b>  Dr. Wietlisbach was appointed by the California State Senate as a public member in January 2010. Dr. Wietlisbach has over 20 years of experience in the health and higher education fields. She is a practicing occupational therapist at Eisenhower Medical Center, and a faculty member at Loma Linda University. In April 2011, she was granted her Doctor of Occupational Therapy degree with a dual emphasis in Hand Therapy and Administration/Practice Management. She also has a master's degree in Public Administration. Dr. Wietlisbach recently completed two terms as a governor-appointee to the California Board of Occupational Therapy.</p>	2/04/2010 <b>05/2011</b> <b>07/16/2015</b>	6/01/2019	Senate
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The BBS has one standing committee, the *Policy and Advocacy Committee*. The focus of this committee is on proposed legislation, proposed regulations, and legislative and regulatory changes. The committee is comprised of four board members. In addition, the BBS utilizes Ad-Hoc committees as necessary to address specific topic areas such as: 1) Continuing Education Review; 2) Out of State Education Committee; 3) Examination Program Review Committee; and, 4) Supervision Committee. The BBS reported that the *Supervision Committee* is currently the only active Ad-Hoc committee.

**Staff**

The Executive Officer (EO) is appointed by the BBS. The current EO, Kim Madsen, was appointed in 2010. For FY 2014/15, the BBS had 51.2 authorized staff positions, and 1.6 blanket positions (which are positions that are permanent intermittent or limited term positions). In total, the BBS currently has 53 staff positions: 20 staff persons, including one manager, are dedicated to licensing and examination and 20 staff persons, including two managers, are dedicated to enforcement.

In FY 2014/15, the BBS reported that its staff increased by 14% from 44 to 50 positions. Three of the new positions were assigned to the licensing program. The remaining 4.5 positions were dedicated to the enforcement program. As of December 1, 2015 the BBS had three staff vacancies: 1) Management Services Technician (Examination Unit); 2) Office Technician (Licensing Unit); and 3) two Office Technicians (Cashiering Unit).

The BBS reported that it has entered into a Memorandum of Understanding with the Department of Consumer Affairs (DCA) to utilize temporary staff from another unit within the department. The BBS borrowed three positions from DCA, one Staff Services Analyst and two Program Technicians. These positions were borrowed in order to help address unspecified backlog issues at the BBS. The cost of these positions was not included in DCA pro rata costs. The BBS funds these positions through reallocation of its budget. The timeframe for the personnel loans is as follows: the first individual was with the BBS for 32 months (09/12 to 05/15); the second individual was with the BBS for 10 months (08/14 to 06/15); and, the third individual was with the BBS for 16 months (08/14 to 12/15).

In addition, the BBS also engages the services of the American Association of Retired Persons (AARP) Program candidates. These individuals work a limited number of hours and are paid through AARP.

Stagnant staffing levels, increasing application volumes, furloughs, hiring freezes, and the implementation of a new licensing program and database system, created an unprecedented backlog of applications for the licensure examination. As a result, many applicants experienced an eight to nine month delay in processing their application to take the licensure examination. The BBS reported that it recently eliminated its severe application backlog attributed to these simultaneous events.

## Fiscal and Fund Analysis

As a Special Fund agency, the BBS receives no General Fund (GF) support and relies solely on fees set by statute for licensing and renewals.

The BBS ended FY 2014/15 with a reserve balance of \$395,800, which equates to 4.7 months of operating costs. The BBS estimates a FY 2015/16 reserve balance of approximately \$520,400 equaling 6.1 months in reserve. The BBS's statutory reserve fund limit is 24 months. Maintaining an adequate reserve level of at least six months provides for a reasonable contingency fund so that the BBS has the fiscal resources to absorb any unforeseen costs, such as costly enforcement actions or other unexpected client service costs.

Current BBS projections do not indicate any future deficit. Accordingly, the BBS does not have plans to increase or reduce fees.

## Trends in Revenues

During the last four FYs, on average, the BBS's enforcement program accounts for 43% of expenditures, the examination program accounts for 28%, and the licensing program accounts for 29%. The administrative program includes costs for the executive staff, the board, administrative support, and fiscal services. The BBS does not have a Diversion Program.

The percentage of expenditures spent on DCA pro rata is as follows: 17% for FY 2011/12; 20% for FY 2013/14; 20% for FY 2014/15; and, projected 19% for FY 2015/16.

## License and Renewal Fees

Renewal fees, inactive license fees, and CE provider fees are all paid on a biennial basis. The due date for the renewal fees are based on the licensees' birth month. Registrations for interns and associates are renewed annually. All other fees for examinations and initial licenses are received and processed on an on-going basis. The table below provides a history of fee changes over the last ten years.

Fee data	Date Repealed	Date Added
Examination and re-examination fee for oral exam (LMFT & LCSW)	3/3/2004	
LMFT & LCSW oral examination appeal fee	3/3/2004	
LMFT & LCSW Clinical Vignette		3/3/2004
Delinquency of CE Provider		1/26/2008
LPCC (all)		5/24/2011

*\*Note: This table was taken from the BBS's 2015 Sunset Review Report*

## General Fund Loan

Since FY 2002/03 the BBS has made three loans to the GF: 1) \$6 million in FY 2002/03; \$3 million in FY 2008/09; and \$3.3 million in FY 2011/12; for a total loan of \$12.3 million dollars. The BBS has received one repayment in the amount of \$1.4 million in FY 2013/14, and is scheduled to receive the following: \$1.0 million in FY 2014/15, \$2.4 million in FY 2015/16, and \$6.3 million in FY 2016/17, for a total repayment of \$11.1 million. The remaining \$1.2 million is estimated to be paid in FY 2017/18 or later depending on the BBS's fund balance.

## Licensing

The BBS's total licensing population for its interns, registrants, and licensees is approximately 102,443 licensees (delinquent and active). The active population for each profession is as follows:

- LMFTs: 31,638  
MFT Interns: 16,262  
LCSWs: 19,027
- ACSWs: 12,215  
LPCCs: 1,245  
LEPs: 1,323  
CE Providers: 2,414. *As of June 2015, the BBS no longer licenses CE providers.*

The BBS reported that its licensing population has increased 32% since its last sunset review in 2012. Although LPCCs were added under the BBS's jurisdiction in 2010, the addition of this profession is not the sole reason for the increase in active licensees. The licensing population of LCSW's has shown the greatest increase in its licensing population since 2012.

The Licensing Program of the BBS provides public protection by ensuring licenses or registrations are issued only to those applicants who meet the minimum requirements of current statutes and regulations and who have not committed acts that would be grounds for denial.

The BBS reported that it is currently meeting or exceeding the targeted timeframe for processing applications. Applications for registration as a PCC Intern and initial licensure examinations are taking fewer than 60 days to process. All other applications are processed within 30 days. Upon approval of the application and supporting documents, a license is issued.

Steps implemented to reduce licensing process times include:

- Added additional staffing resources to its licensing unit
- Hired seasonal clerks and entered into a Memorandum of Understanding with the DCA
- Redesigned the business process

The BBS requires primary source documentation for educational transcripts and license verification from other states. In addition, all applicants are required to submit fingerprints through the Department of Justice (DOJ), which then provides the BBS's authorized personnel with access to information contained in the Criminal Offender Record Information Database (CORI). The BBS requires both a DOJ and a Federal Bureau of Investigation (FBI) criminal history background check on all applicants for licensure or registration. If an applicant has a criminal history, the DOJ will notify the BBS of the results between 14 and 30 days. Licensure applications are held until both the DOJ and FBI have issued fingerprint clearances.

In 2009, the BBS promulgated California Code of Regulations (CCR) Title 16 CCR Section 1815, which required all licensees and registrants who had not previously submitted fingerprints to complete a state and federal level criminal offender record search. The BBS reported that the fingerprinting project has been completed and all licensees and registrants have either complied with the requirement or the BBS pursued or will continue to pursue disciplinary action for non-compliance. To date, the

BBS has issued 83 citations for non-compliance with the fingerprint requirement and the BBS estimates that it will issue another 200-300 in the next few months as it now has a dedicated staff person to complete the project.

According to the BBS, as part of the licensing process, all applicants are required to declare, under penalty of perjury, whether they have ever been convicted of, pled guilty to or pled nolo contendere to any misdemeanor or felony. Applicants must also declare, under penalty of perjury, whether they have been denied a professional license or had license privileges suspended, revoked or disciplined, or if they have ever voluntarily surrendered a professional license in California or any other state.

If an applicant reports disciplinary activity, the BBS requires the applicant to provide a written explanation and documentation relating to the conviction or disciplinary action. In addition, the applicant must include any and rehabilitative efforts or changes made to prevent future occurrences.

The National Practitioner Databank (NPDB), which merged with the Healthcare Integrity Protection Databank in 2013, contains information provided by state regulatory agencies or other entities that are required to report disciplinary information. However, the BBS notes that not all entities consistently comply with reporting requirements. When a record is queried, either the BBS or the applicant is required to pay a fee. At this time, the BBS does not utilize the NPDB due to the limitations of information provided and the fees involved. To verify out of state applicants' licensure status, the BBS reported that it verifies licensing information through state regulatory boards. For verification of in-state licensure status, the BBS can check for prior disciplinary action through the Commission on Teacher Credentialing, the Consumer Affairs System, or the DCA BreEZe system.

Currently, the BBS does not have reciprocity with any other state. Any person licensed in another state must comply with California's education and examination requirements.

### **Military Inquiry**

The BBS reported that as of May 2015, all application eligibility information inquires as to whether or not the applicant is serving, or has ever served in the United States Armed Forces or the California National Guard. The BBS reported that it has not received an application in which military education, training, or experience had been submitted to meet licensing requirements. The BBS reported that if an applicant has military experience or education, those applications will be reviewed on a case-by-case basis to determine if the applicant meets the licensing or registration requirements. The BBS reported that applicants may include supervised experience obtained at an out-of-state military base. The experience may be accepted if it can be determined that the supervision was substantially equivalent, and upon verification that the supervisor is an equivalently licensed acceptable professional who has been licensed, in good standing, for at least two-years in his or her current jurisdiction.

### **Continuing Education**

All BBS-regulated licensees are required to obtain 36 hours of CE as a condition of biennial licensure renewal. An individual is only required to complete 18 hours of CE during his or her initial license renewal period.

Existing law provides exemptions from the current CE requirements: 1) an inactive license (BPC Sections 4984.8, 4989.44, 4997 or 4999.12); 2) being absent from California for at least one year

during the licensees' previous license renewal period the licensee due to his or her military service; 3) residing in another country; and, 4) the licensee or an immediate family member, including a domestic partner, where the licensee is the primary caregiver for that family member, had a physical or mental disability or medical condition. The physical or mental disability or medical condition must be verified by a licensed physician or psychologist.

### **Continuing Education and Provider Approval**

In 2012, the BBS established the *Continuing Education Program Review Committee* (CE Review Committee) to conduct a comprehensive review of the BBS's CE Program. The Committee held a series of meetings with stakeholders to discuss improving the quality of CE, ensuring the coursework was relevant to the practice of BBS licensees, and ensuring compliance with the legislative intent of CE.

The CE Review Committee and stakeholders evaluated existing CE programs available through entities such as the National Association of Social Workers, Association of Social Work Boards, the National Board of Certified Counselors, the National Association of School Psychologists, and the American Psychological Association. The rigor and ongoing evaluation of CE providers and coursework exceeded the BBS's current program. Further, the resources necessary to establish a similar program within the BBS was not viable. As a result, the BBS proposed regulations to cease the BBS's CE provider program which required the BBS to approve CE providers

The CE Review Committee and stakeholders agreed that ceasing the BBS's current CE provider program would provide higher quality CE to BBS licensees. As a result, the BBS proposed significant changes to its CE program, which became effective January 1, 2015.

The BBS ended the renewal of CE providers on June 30, 2015. Effective July 1, 2015, licensees may only obtain continuing education from one of the following:

- 1) A BBS-approved continuing education provider with a current PCE provider number. (Note: as previously stated, these BBS-issued PCE provider numbers will no longer be renewable after July 1, 2015, existing provider numbers that have not expired by July 1, 2015 are valid until expiration)
- 2) An accredited or approved postsecondary institution that meets the requirements set forth in BPC Sections 4980.54(f)(1), 4989.34, 4996.22(d)(1), or 4999.76(d).
- 3) A BBS-recognized approval agency or a continuing education provider that has been approved or registered by a BBS-recognized approval agency. Listed below are the BBS recognized approval agencies:
  - i) National Association of Social Workers (NASW)
  - ii) Association of Social Work Boards (ASWB)
  - iii) National Board for Certified Counselors (NBCC)
  - iv) National Association of School Psychologists (NASP)
  - v) American Psychological Association (APA)
  - vi) California Association of Marriage and Family Therapists (CAMFT)
  - vii) California Psychological Association (CPA)



4) An organization, institution, association or other entity that is recognized by the BBS as a continuing education provider. Listed below are BBS-recognized continuing education providers:

- i) American Association for Marriage and Family Therapy (AAMFT)
- ii) American Association for Marriage and Family Therapy-California Division (AAMFT-CA)
- iii) California Association for Licensed Professional Clinical Counselors (CALPCC)
- iv) California Association for Marriage and Family Therapists (CAMFT)
- v) National Association of Social Workers-California Chapter (NASW-CA)
- vi) California Society for Clinical Social Work (CSCSW)
- vii) California Association of School Psychologists (CASP)
- viii) California Psychological Association (CPA)
- ix) California Counseling Association (CCA)
- x) American Counseling Association (ACA)

### Enforcement

The BBS reported that it receives approximately 2,000 consumer complaints and criminal notifications annually. The BBS reported that any increase in enforcement related activity is consistent with the BBS's licensing population. Since the BBS's last sunset review in 2012, consumer complaints and criminal conviction notifications have increased five percent and eight percent, respectively.

In 2010, the DCA developed standard performance measures (PM) for each of its regulatory entities to assess the effectiveness of their enforcement programs. The DCA established an overall goal to complete cases filed with the Attorney General (AG) within 12 to 18 months. Each regulatory entity is responsible for determining its performance targets.

The BBS reported that it is currently meeting six of its eight performance targets:

Performance Measure (PM)	Definition	Performance Target	Actual FY 2014/2015
PM 1 Volume	Number of complaints received.	*	*
PM 2 Cycle Time	Average number of days to complete complaint intake.	7 days	5 days
<b>PM 3 Cycle Time****</b>	<b>Average number of days to complete closed cases not resulting in formal discipline.</b>	<b>80 days</b>	<b>100 days</b>
<b>PM 4 Cycle Time****</b>	<b>Average number of days to complete cases resulting in formal discipline.</b>	<b>540 days</b>	<b>571 days</b>
PM 5 Efficiency (cost)	Average cost of intake and investigation for complaints not resulting in formal discipline.	**	**
PM 6 Customer Satisfaction	Consumer satisfaction with the service received during the enforcement process.	75% Satisfaction	***
PM 7 Cycle Time (probation monitoring)	Average number of days from the date a probation monitor is assigned to a probationer to the date the probation monitor makes first contact.	10 days	1 day
PM 8 Initial Contact Cycle Time (probation monitoring)	Average number of days from the time a violation is reported to the program to the time the assigned probation monitor responds.	1 day	**

\* Complaint volume is counted and is not considered a performance measure.

\*\* The BreZE system does not capture this data at this time.

\*\*\* Due to lack of consumer response, data is not available for this measure.

\*\*\*\* Not meeting current performance targets.

*\*Note: This table was taken from the BBS's 2015 Sunset Review Report*

In response to not meeting all of its PM, the BBS reported that it has implemented changes to its internal procedures that will assist in meeting PM 3 and PM 4 (referenced in the above table). Regarding PM 3, the BBS revised procedures related to non-jurisdictional cases. Further, the enforcement managers conduct regular meetings with staff to discuss caseloads and case aging to identify any barrier to complete the case in a timely manner.

DCA set the performance target for PM 4 at 540 days (18 months). Achieving this goal is dependent upon the staffing and workload of outside agencies, such as the AG's office and the Office of Administrative Hearings (OAH). Any workload or staffing issues at the AG or the OAH may be outside of the BBS's jurisdiction and control. The BBS reported that it continues to evaluate its internal processes in an effort to meet PM 4.

Recently, the BBS added two staff positions dedicated to actively monitor all cases referred to the AG office.

### **Complaint Prioritization**

The BBS developed its Complaint Prioritization Guidelines in 2009, using the DCA model guidelines for health care agencies. Although similar to the DCA model, the BBS modified the complaint categories to reflect subject areas which are unique to the BBS.

Using these guidelines, complaints are reviewed by BBS staff and categorized as follows:

Complaints categorized as “urgent” demonstrate conduct or actions by the licensee or registrant that pose a serious risk to the public’s health, safety, or welfare. These complaints receive the immediate attention of the Enforcement Manager to initiate the appropriate action.

Complaints categorized as “high” involve allegations of serious misconduct but the licensee’s or registrant’s actions do not necessarily pose an immediate risk to the public’s health, safety, or welfare.

Complaints categorized as “routine” involve possible violations of the BBS’s statutes and regulations, but the licensee’s or registrant’s actions do not pose a risk to the public’s health, safety, or welfare.

### **Mandatory Reporting Requirements and Statute of Limitations**

The BBS is subject to certain mandatory reporting requirements which include the following:

- BPC Section 801(b) requires every insurer providing professional liability insurance to a BBS-licensee to report any settlement or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by the licensee’s negligence, error or omission in practice, or by rendering of unauthorized professional services. This report must be sent to the BBS within 30 days of the disposition of the civil case.
- BPC Section 802(b) requires BBS licensees and claimants (or, if represented by counsel) to report any settlement, judgment, or arbitration award over \$10,000 of a claim or action for damages for death or personal injury caused by the licensee’s negligence, error or omission in practice, or by

rendering of unauthorized professional services. This report must be submitted to the BBS within 30 days after the written settlement agreement.

- BPC Section 803(c) requires the clerk of the court to report, within 10 days after judgment made by the court in California, any person who holds a license or certificate from the BBS who has committed a crime or is liable for any death or personal injury resulting from a judgment for an amount in excess of \$30,000 caused by his or negligence, error or omission in practice or by rendering of unauthorized professional services.
- BPC Section 803.5 requires a district attorney, city attorney or other prosecuting agency to report any filing against a licensee of felony charges and the clerk of the court must report a conviction within 48 hours.
- BPC Section 805(b) requires the chief of staff, chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic to file an 805 report within 15 days after the effective date which any of the following occurs as a result of an action taken by the peer review body of a LMFT, LCSW, or LPCC: 1) the licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason; 2) the licentiate's membership, staff privileges, or employment is terminated or revoked for medical disciplinary cause or reason; or, 3) restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.
- Penal Code Section 11105.2 establishes a protocol whereby the DOJ reports to the BBS whenever BBS-applicants, registrants or licensees are arrested or convicted of crimes. In such instances, the DOJ notifies the BBS of the identity of the arrested or convicted applicant, registrant or licensee in addition to specific information concerning the arrest or conviction.

Additionally, registrants and licensees are required to disclose at the time of renewal all convictions since their last renewal.

BPC Sections 4990.32 and 4982.05 specify that an accusation must be filed within three-years from the date the BBS discovers the alleged act or violation that is the basis for disciplinary action or within seven-years from when the alleged incident occurred, whichever occurs first. Cases regarding procurement of a license by fraud or misrepresentation are not subject to those same timeframe restrictions

Accusations regarding alleged sexual misconduct must be filed within three-years after the BBS discovers the alleged act or omission or within ten-years, whichever occurs first. In cases involving a minor patient, the seven and ten year limitation is tolled until the child reaches 18 years of age.

In the last three years, the BBS reported that it has only lost jurisdiction in one case, due to the limitation period. As a result, the BBS reported that it has implemented monitoring procedures to ensure that the statute of limitation deadline is identified and cases are monitored closely, including those cases which are sent to the AG.

## **Unlicensed Activity**

Unless specifically exempted by statute, anyone practicing as a LMFT, LPCC, LCSW, or LEP must meet specified education, examination and experience requirements to become licensed to practice in California. The BBS reported that any complaint received by the BBS related to unlicensed activity is investigated. Investigations resulting in the confirmation of unlicensed activity may result either in the BBS issuing a citation and fine up to \$5,000 to the unlicensed individual, or referring the case to the AG or the local district attorney's office for the appropriate action.

## **Cite and Fine Authority**

Cite and fine orders provide an alternative mechanism for the BBS to take action against licensed or unlicensed individuals.

The BBS utilizes its cite and fine authority if an investigation substantiates a violation of the BBS's statutes and regulations. According to the BBS, citations and fines are issued for violations related to unlicensed practice, practicing with an expired license, record keeping or advertising violations, or failure to provide treatment records in accordance with the law.

Additionally, Title 16 CCR, Section 1886 specifies that the EO is authorized to determine when and against whom a citation will be issued and to issue citations containing orders of abatement and fines for violations by a LMFT, LEP, LCSW, LPCC, MFT Intern, ACSW, or PCC intern of the statutes and regulations enforced by the BBS.

The five most common violations where citations are issued are as follows:

- Misrepresentation of the type or status of a license or registration held.
- Misrepresentation of the completion of CE requirements.
- Failure to complete specified CE requirements.
- Failure to maintain patient confidentiality.
- Providing services for which licensure is required.

An individual to whom a citation has been issued can appeal their case at an informal office conference. An individual may be present alone, present with counsel, or be represented by counsel. Since the BBS's last sunset review, the BBS has averaged six informal office conferences each year; during the same time period the BBS received six requests for an administrative hearing to appeal a citation and fine.

Cite and fine orders are not considered formal disciplinary actions, but are public record. A licensee or registrant who fails to pay the fine cannot renew his or her license or registration until the fine is paid in full.

The average fine pre-appeal is \$1,730 and the average fine post-appeal is \$1,042.

## **Franchise Tax Board Intercept Program**

The BBS utilizes the Franchise Tax Board Intercept Program which allows tax refunds to be intercepted as payment for any outstanding fines. The BBS reported that many uncollected fines are a result of unlicensed activity and the BBS has limited information to pursue collection.

## **Cost Recovery**

Pursuant to BPC Section 125.3, the BBS is authorized to seek reimbursement from a licensee who has been disciplined through the administrative process. Reimbursement may include the cost for the investigation and prosecution of a case. The BBS seeks cost recovery regardless of whether a case is settled by stipulation or proceeds to an administrative hearing.

The BBS reported that probationers are afforded a payment schedule to satisfy a cost recovery order. However, cost recovery is a condition of probation. Non-compliance with this condition may result in the case being returned to the AG to seek revocation of a license or extend the term of probation until the cost recovery is made in full.

According to the BBS, cost recovery is not always collected in disciplinary cases that resulted in the surrender of a license. Often, one of the terms in the final order accepting the license surrender requires that the cost recovery must be paid in full, if the individual were to reapply for licensure. Often times, the individual does not reapply and the BBS does not obtain cost recovery.

The BBS seeks cost recovery in every formal disciplinary case, although an Administrative Law Judge (ALJ) may reduce the amount of cost recovery payable to the BBS.

## **Restitution**

Pursuant to Government Code (GC) Section 11519, the BBS may impose a probation term requiring restitution. In cases regarding violations involving economic exploitation or fraud, restitution is a necessary term of probation. The BBS may require that restitution be ordered in cases regarding Medi-Cal or other insurance fraud. In addition, restitution would be ordered in cases where a patient paid for services that were never rendered or the treatment or service was determined to be negligent. According to the BBS, restitution is not commonly ordered.

## **Public and Licensee Information and Access**

According to the BBS, its website is actively updated to provide information to its licensing population and the public regarding board-related activities and to provide consumers with information about licensees. The BBS publishes on its website its annual meeting calendar prior to its August meeting. When possible, the BBS provides access to its board meetings via webcast, and all prior webcasts of meetings are available on the website as well.

The scope and practice of each license type (i.e. LMFTs, LCSWs, LEPs, and LPCCs); along with information about licensure requirements are also available.

Licensure status verification is available through the BreEZe system. In addition, the BBS's website provides information about licensure requirements including education, completion of supervised work experience, and passage of the required examinations.

### **Additional Background Information**

For more detailed information regarding the responsibilities, operation and functions of the BBS, please refer to the BBS's *2015 Sunset Review Report*. The report is available on the Assembly Committee on Business and Profession's website at: <http://abp.assembly.ca.gov/reports>.

### **PRIOR SUNSET REVIEWS: CHANGES AND IMPROVEMENTS**

The BBS was last reviewed by the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business, Professions and Consumer Protection (Committees) in 2012. During the previous sunset review, the Committees raised 15 issues. Below, are actions which have been taken over the last four years to address the issues. For those issues which were not addressed, and which may still be of concern, they are discussed in the next section, *Current Sunset Review Issues for the Board of Behavioral Sciences*.

According to the BBS, the following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or regulatory changes made:

**Recommendation 1:** The BBS should advise the Committee of the current status of their *Strategic Plan* and whether there should be an update of the *Strategic Plan*.

**Board Response:** *In August 2013, the BBS initiated the process to update its Strategic Plan. The current Strategic Plan in effect through 2017 was adopted on November 21, 2013.*

**Recommendation 2:** The BBS should inform the Committee of the current status of their implementation of the law. Specifically, what actions has the BBS taken to implement the 5 "pending" regulations including the regulations which would implement SB 1441 and AB 2699?

**Board Response:** *The BBS has completed the rulemaking process for four of the five regulatory packages referenced in the 2012 Sunset Review. These packages are as follows:*

- *Enforcement Regulations to implement the [DCA] Consumer Protection Enforcement Initiative provisions that do not require statutory authority. These regulations became effective July 1, 2013.*
- *Regulations to Implement Senate Bill 363 (Emmerson) Chapter 384, Statutes of 2011, became effective on October 1, 2013.*
- *Enforcement Regulations to revise the BBS's Disciplinary Guidelines became effective July 1, 2013.*
- *The rulemaking package to implement Senate Bill 1441 (Ridley-Thomas) Chapter 548, Statutes of 2008, was approved by the Secretary of State on June 23, 2015 and took effect on October 1, 2015.*

*The fifth regulatory package, the Examination Restructure Regulations, was withdrawn in May 2013, as staff learned that the implementation date conflicted with the implementation of the BreEZe*

database system. Therefore, implementation of the BBS's examination restructure was delayed until January 1, 2016.

On November 14, 2014, the Examination Restructure rulemaking package was published in the California Regulatory Notice Register. The public hearing was held on December 29, 2014, and the 45-day public comment period ended. In December 2015 OAL did not approve the package citing a need for more clarity. The package was resubmitted with a 15 day comment period. OAL subsequently approved this package on December 30, 2015.

The BBS has not proposed a rulemaking package to implement the provisions of Assembly Bill 2699(Bass) Chapter 270, Statutes of 2010. That bill provided exemptions for licensees participating in Sponsored Free Health Care Events. These events often provide free medical, dental, or eye care services and utilize the services of state licensees or perhaps, licensees from other states.

Mental health services are not offered at these events. Attendees at these events may seek information regarding available resources for their current situation. Although a licensee may have this information, providing the information does not require licensure. Therefore, the BBS did not propose regulations to implement AB 2699. Furthermore, the BBS has not received a request for a licensure exemption for attendance at one of these events.

**Recommendation 3:** The BBS should provide an update to the Committee on the current status of the LPCC category including information about training programs, licensed LPCCs and any challenges to implementing this new license category. The BBS should also indicate if any legislation needs to be proposed in order to help the BBS more effectively oversee this facet of the profession and serve the professional interests of licensees.

**Board Response:** *The BBS faced multiple challenges to implement this new licensure program: limited resources, hiring constraints; and 15 months to develop the infrastructure necessary for a new program. Despite these challenges and through the extraordinary efforts of existing BBS staff, the LPCC program was established.*

Since the last review, the LPCC Grandparent application deadline ended on December 31, 2011. Qualified applicants who applied using this pathway and completed the licensure process are now licensed. With the end of the LPCC Grandparent pathway, all applicants must apply using the traditional pathway to licensure. As of June 30, 2015, there are 1,260 LPCCs and 1,102 LPCC Interns.

The BBS continues its work to refine the LPCC program through regulation and legislative proposals. These proposals either clearly define a statutory requirement or revise existing statutes to remove unnecessary barriers to licensure.

**Recommendation 4:** The BBS should provide an update to the Committee on the current status of the use of the NBCC licensing examination for LPCCs.

**Board Response:** *The BBS continues to use the National Clinical Mental Health Counseling Examination (NCMHCE) to license LPCCs in California. This national examination is offered by the National Board of Certified Counselors (NBCC). The use of this national examination for licensure in California provides the opportunity for licensure portability for not only California licensees; but also for LPCC licensees from other states who wish to practice in California.*

*The BBS has not experienced any significant challenges to use this examination. Exam candidates schedule their examinations directly with NBCC after the BBS has approved their application for the examination. Score reports and statistics from NBCC are provided in a timely manner. Additionally, NBCC resolves testing concerns quickly and ensures all candidates requesting testing accommodations pursuant to the ADA are provided with the appropriate accommodation.*

**Recommendation 5:** The BBS should provide rationale to explain why they do not utilize a national data bank to check the background of applicants for licensure.

**Board Response:** *The Healthcare Integrity and Protection Databank is the national databank relating to disciplinary boards. The accuracy, completeness, and timeliness of the information are dependent upon states and other required reporters fulfilling their statutory duty to report. A recent review of the national databank website revealed that not all 50 states are reporting. A fee per query is required to access this information. The fee is processed whether or not the query is accurately submitted or not.*

*In lieu of using the national databank, the BBS verifies out-of-state applicant's licensure status through the state regulatory boards in which the applicant is licensed. This verification process also provides disciplinary history, if any exists. Additionally, the BBS requires all applicants to submit fingerprints and receive a criminal background clearance prior to issuing a license or registration. Both California records DOJ and the FBI databases are checked.*

*Combined, these two requirements for out-of-state applicants provide the BBS with reliable information to make decisions about an individual's application.*

*The BBS may consider using the national databank as an adjunct to its existing process in the future. However, the limitations of the databank and the associated fees should be evaluated to determine what additional benefit the BBS gains by using this service.*

**Recommendation 6:** The BBS should provide updated data reflecting the current timeframe for issuing licenses and outline a plan to meet the performance targets outlined by the BBS.

**Board Response:** *As previously discussed, due to the efforts of the additional staff received in FY 2014/2015 and temporary staff, the BBS has eliminated its application backlog. Processing times are now reasonable. Examination eligibility and PCC Intern applications are processed within 60 days. All other applications are processed within less than 30 days.*

**Recommendation 7:** Even though the BBS has assured that NARTH has been removed from the list of approved CE Providers, and would have to apply for a new initial approval in order to become a CE Provider, the BBS should assure that it has sufficient authority to review the course content of both initial and renewal provider applications, and to deny the approval or renewal of those applicants who offer courses which teach inappropriate methods or practices. The BBS should report to the Committee its current assessment of changes that may need to be made to the requirements for CE Providers, and advise the Committee on any legislative changes that should be made. The BBS should further work with the stakeholders in the profession and in the Legislature to make the appropriate procedural, regulatory or legislative changes to its CE program.

**Board Response:** *In response to the concerns regarding the BBS's limitations under its current CE program, the BBS established the CE Review Committee in November of 2011. During 2012, the CE*



*Review Committee conducted a series of meetings with stakeholders and interested parties to assess the BBS's current CE program and to develop recommendations to improve the BBS's CE program.*

*The review encompassed researching various CE and accreditation models throughout the state and country. The CE Review Committee members, stakeholders, and interested parties were afforded the opportunity to provide comments about the current program and the proposed changes. The work of the CE Review Committee was completed in late 2012, and the recommendations to revise the BBS's program were presented to board members for approval in 2013.*

*The CE Review Committee recommended significant changes to the BBS's program. Specifically, the CE Review Committee recommended ceasing the BBS's provider approval program. The CE Review Committee further recommended that licensees instead be required to obtain CE from BBS-recognized approval agencies (national entities with established CE programs) or BBS-recognized providers such as professional associations.*

*On February 28, 2013, the BBS approved the proposed revisions to the program and directed staff to initiate the rulemaking process. On September 16, 2014, the OAL approved the changes which became effective on January 1, 2015.*

**Recommendation 8:** The BBS should report the current status of vacancies and newly hired staff to the Committee. The BBS should review the nature of the remaining vacancies and report to the Committee its plan to fill the vacancies.

**Board Response:** *The vacancies identified in the 2012 Sunset Review Report were a result of the BBS receiving new staff positions at the same time a hiring freeze was in effect. The lifting of the hiring freeze allowed the BBS to fill vacancies in a timely manner. Since the 2012 Sunset Review, the BBS has experienced relatively little turnover.*

**Recommendation 9:** The BBS should review the nature of the vacancies in the licensing and cashiering unit and report to the Committee its efforts to hire staff. The BBS should outline the plan to improve customer satisfaction with staff and with the Website in the interim. The BBS should also provide suggestions about how the Committee might assist the BBS in operating at its full capacity thereby providing good customer service.

**Board Response:** *In 2012, the BBS began to see an improvement in its overall customer satisfaction rating. This trend continued in 2013. The improvement was attributed to the BBS's ability to fill its vacancies and improve processing times. The BBS discontinued the use of its survey in 2013 due to declining response rates. The BBS is developing a new customer survey which will be implemented in the second quarter of 2016.*

**Recommendation 10:** The BBS should detail the steps involved in reviewing the enforcement program and advise the Committee of the "duplicative and obsolete" processes that were eliminated. Have the changes made as a result of the enforcement program review resulted in any positive outcomes e.g. decreased work load and/or decreased consumer complaints? Also, what is the BBS's plan for continuing to handle the increased workload?

**Board Response:** *Following the 2010 review of its Enforcement Program, the BBS implemented several procedural changes to improve and increase efficiency. Some of these procedural changes included elimination of duplicate data entry and eliminating multiple reviews of non-jurisdictional cases prior to closing.*

*Additionally, the BBS received one manager position and four staff positions in FY 2014/15 for its Enforcement Program. The new positions allowed the BBS to reorganize the Enforcement Unit to provide consistent and ongoing oversight to the Enforcement Staff. These additional resources have allowed the BBS to keep pace with the increasing workload.*

**Recommendation 11:** The BBS should provide the Committee with an explanation of why the Board is not spending all funds under its authority.

**Board Response:** *The under-spending of BBS funds was a result of numerous factors; specifically, the Executive Orders to reduce spending, furloughs, staff vacancies, hiring freezes, and the delayed implementation of BreEZe. These unique events in combination led to the large reversions in the past four FYs.*

**Recommendation 12:** The Committee requests that the BBS provide an update about the status of the loans and when the funds are projected to be returned. Has the BBS received any report from the Department of Finance regarding the repayment of the loans?

**Board Response:** *The BBS received a \$1.4 million loan repayment in fiscal years 2012/13 and 2013/14. The BBS is scheduled to receive the following loan repayments; \$1 million (FY 2014/15), \$1.2 million (FY 2015/16), and \$2.4 million (FY 2016/17) for a total repayment of \$6 million. Should the BBS receive all of the scheduled loan repayments the BBS will have an outstanding loan balance of \$6.3 million to the GF.*

**Recommendation 13:** The BBS should utilize webcasting at future Board meetings in order to allow the public the best access to meeting content and to stay apprised of the activities of the BBS and trends in the professions.

**Board Response:** *The BBS concurs with the Committee's 2012 recommendation. Since February 2012, the BBS has webcasted all quarterly BBS meetings with the exception of the May 16-17, 2012 meeting. Additionally, the BBS decided to webcast all Supervision Committee meetings. Committee meetings are not typically webcasted. However, due the nature of the Supervision Committee's work, the BBS wanted to ensure all stakeholders and interested parties throughout California were aware of the discussions and had the opportunity to comment.*

**Recommendation 14:** The BBS should update the Committee about the current status of their implementation of BreEZe. What have the challenges of implementing the system been? What are the costs of implementing this system? Is the cost of BreEZe consistent with what the BBS was told the project would cost?

**Board Response:** *BreEZe was released in October 2013. The initial days of BreEZe were relatively uneventful for the BBS and BBS staff. Since the release, BBS staff has identified "fixes" in the BreEZe system that would benefit BBS processes and reporting capabilities. Yet, none of the requested "fixes" adversely affect BBS operations.*

*In November 2014, the BBS implemented the online renewal feature. At the August 2015 Board Meeting, staff reported that from April 1, 2015 through June 30, 2015, 27% of the renewal applications were completed using the online renewal feature. As of October 1, 2015, licensees and registrants are now able to update their address and request duplicate or replacement certificates online. The BBS plans to add additional online features in future.*

**Recommendation 15:** Recommend that the LCSW, LMFT, LEP and LPCC professions and registration of ASW, MFT Interns, PCC Interns and Continuing Education Providers continue to be regulated by the current the BBS in order to protect the interests of consumers and be reviewed once again in four years.

**Board Response:** *The BBS concurs with the Committee's recommendations and comments.*

### **Major Changes Since the BBS's Last Sunset Review**

- Increase of licensing population.
- Received authority through a Budget Change Proposal (BCP) to hire six new staff.
- Increased the board member composition by one person, to include a LPCC member.
- Adopted the 2014-2017 Strategic Plan.

### **CURRENT SUNSET REVIEW ISSUES FOR THE BOARD OF BEHAVIORAL SCIENCES**

The following are unresolved issues pertaining to the BBS, or those which were not previously addressed by the Committees, and other areas of concern for the Committees to consider, along with background information concerning the particular issue. There are also recommendations the Committee staff has made regarding particular issues or problem areas which need to be addressed. The BBS and other interested parties, including the professions, have been provided with this *Background Paper* and can respond to the issues presented and the recommendations of staff.

#### **BUDGET ISSUES**

**ISSUE #1:** *Does the BBS have the funds to hire additional staff as requested in its FY2016/17 Budget Change Proposal?*

**Background:** The BBS projected to end FY 2015/16 with a reserve balance of approximately \$5 million which equates to 6.1 months and estimates ending FY 2016/17 with a reserve of approximately \$10 million which equates to 11.7 months. Since FY 2011/12, the BBS reported that it has seen a steady increase in its reserve balance, even with an outstanding balance on loans to the GF. For FY 2016/17, the BBS is "requesting special fund expenditure authorization in the amount of \$557,000 in FY 2016/17 and \$533,000 ongoing for 8.0 positions in the Licensing and Examination Units, the [BBS] is also requesting an increase in time base for a half time (.5) position in the Licensing Unit."

The BBS states that approval of this request will provide the BBS with sufficient resources to address the ongoing and steady increase of applications, help reduce and maintain processing times, request testing accommodations and avoid overall serious delays in the license and examination unit.

The BBS reported in its BCP request for 2016/17 that as of June 1, 2015, the BBS has over 102,000 licensees and registrants and that its populations has increased 29% over the last six years, and 16% in the last four years (2012/13). The increased licensing population impacts many aspects of the BBS including the volume of mail, applications, requests for address, name, and other administrative changes, number of files, certification of license request, along with phone and email requests. Additionally, the examination restructure is likely to increase the number of examination-related inquires and applications the BBS will need to address on an on-going basis.

In addition to the reason specified above, the BBS also notes in the 2016/17 BCP that the first LPCC graduates from California schools began in the spring of 2015. BBS estimates that LPCC graduates from California schools will increase PCC intern applications by approximately 1,500 to 2,000. Additionally, the BBS reported that increased populations in its other licensing categories will increase overall workload for the BBS.

**Staff Recommendation:** *The BBS should provide the Committees with an update on its fund condition and provide an explanation for the increase in its long term fund balance. In addition, the BBS should update the Committees as to whether or not it anticipates changes to the timeframe for the repayment of loans to the GF.*

## LICENSING ISSUES

**ISSUE #2:** *How will implementation of the examination restructure impact licensing and application processing? Does the BBS anticipate delays?*

**Background:** As a result of SB 704 (Negrete McLeod), Chapter 387, Statutes of 2011, the BBS implemented the "examination restructure" for applicants seeking licensure as a LMFT, LCSW, and an LPCC. SB 704 required that applicants for licensure be required to take and pass two examinations: 1) a California law and ethics examination; and, 2) a clinical examination, in place of the former clinical vignette and written examinations. SB 704 also required registered interns and associates (those who have not satisfied the supervised hours required for licensure) to take and pass the California law and ethics examination annually in order to renew their registration with the BBS. Part of the provisions of SB 704 provided for a delayed implementation for the examination restructure to take effect. As a result of the magnitude of the restructure, the BBS requested approval from the Legislature to delay the original implementation of the examination restructure in 2013 through two different bills, SB 1575 (Senate Business, Professions, and Economic Development Committee) Chapter 799, Statutes of 2012, extended the examination restructure implementation date from January 1, 2013, to January 1, 2014, and SB 821 (Senate Business, Professions, and Economic Development Committee) Chapter 473, Statutes of 2013, extended the implementation date from January 1, 2014 to January 1, 2016.

### **Implementation of the Examination Restructure**

Effective January 1, 2016, all applicants for licensure are required to take and pass a California law and ethics examination and a clinical examination, and all registrants are required to take and pass the California law and ethics examination at least once a year in order to renew their registration. According to the BBS, over 34,000 registrants will now be required to submit an application to take the California law and ethics examination annually.

For those registrants who do not pass the California law and ethics examination, they will be permitted to retake the examination every 90 days, up to four times per year. The BBS estimates that it will receive over 61,000 applications (initial examination application and retake applications) within this first year of the new examination restructure and over 31,000 applications ongoing.

As a result of the implementation of the examination restructure the BBS's anticipates an increased workload in the licensing and enforcement area.

Through a BCP in FY 2014/15, the BBS requested and was approved for additional staff. The BBS acquired an additional 7.5 positions (one of which was a two-year limited term position).

In addition, the BBS's submitted a BCP for FY 2015/16, which was also approved. It increased the time base for two half-time positions and added two new positions for the examination restructure, one of which is a two-year limited term position.

As a result of the examination restructure, the BBS has submitted another BCP for FY 2016/17 to request an additional eight staff positions (six of those positions are currently classified as temporary, seasonal or limited term staff). The BBS reported in its BCP, "Without the requested staff resources, the [BBS's] processing times will dramatically increase due to the implementation of the [BBS's] Examination Restructure and the increasing licensee and registrant population."

***Staff Recommendation:*** *The BBS should explain to the Committees what impacts it anticipates this year and future years as result of the examination restructure. In addition, the BBS should explain to the Committees what, if any, plans or procedures it has in place if its current BCP request for FY 2016/17 is partially approved or not approved at all. How does the BBS plan to address potential backlogs?*

***ISSUE #3: Supervised Hours Required for Licensure. How does the BBS verify that individuals have completed the required supervised hours? How does the BBS verify that licensed supervisors are not supervising or employing more than three BBS-registered interns or associates at one time? Has the BBS received complaints from registered interns and associates regarding this issue?***

**Background:** As part of the requirements for licensure, applicants for a LMFT, LCSW, and LPCC are required to obtain at least 3,000 hours of supervised work experience, as specified by each licensing practice act. BPC Sections 4980.45, 4996.24, and 4999.455 specify that a licensed professional (LMFT, LCSW, or LPCC) in private practice cannot supervise or employ, at any one time, more than a total of three individuals registered with the BBS as a MFT intern, PCC intern, or an ACSW. Title 16 CCR Sections 1821, 1833.1, and 1870 specify supervisors' responsibility. In order to be qualified as a LMFT, LCSW, or LPCC supervisor, the licensed professional is required to be licensed for two-years in good standing with the BBS, meet specified education requirements, and have sufficient experience, training, and education in the area of clinical supervision to competently supervise associates or interns. In addition, current regulations require both trainees and supervisors to have some level of responsibility in ensuring the record of supervised hours are signed and verified accurately and submitted to the BBS as required under specified sections of the BPC. It is unclear under current law how the BBS enforces the provision of law prohibiting a supervisor from employing or supervising, at any one time, more than three individuals registered with the BBS as an associate or an intern.

In addition, the BBS reported that it conducted two surveys related to its comprehensive review of registrant supervision. The Supervisee Survey was designed to collect demographic information and to determine the types and quality of supervision that registrants are receiving. The Supervisor Survey was designed to collect demographic information and gather opinions regarding current supervisory requirements. The BBS reported there were 527 responses to the Supervisee Survey and 427 responses to the Supervisor Survey. While only a fraction of the BBS's total licensing population responded, the diverse responses to the questions warrant further discussion.

Responses to a number of the questions on both of the surveys expressed participant concerns with the current supervisor program including: the ability for registrants or interns to find a qualified supervisor in the appropriate setting; the ability to complete required hours of supervision within the timeframe permitted; the ability to provide and receive feedback from both supervisor and supervisee; inadequate supervisor preparation; and the types of facilities where supervision is available.

Although the majority of supervisee respondents were able to obtain the required supervised experience hours needed for licensure, 15% of respondents had to register for additional registrations, (2 or 3 times) citing their inability to gain hours in the allotted amount of time, working part time while trying to obtain hours and finding the appropriate supervisor with the requirements to sign-off.

Survey responses also indicated that the majority of supervisors 69% were LMFTs, while only 18% were LCSW's and only 2% were LPCCs. Although LMFTs account for the majority of BBS-licensees, there is an upward trend in the number LCSW licensees in California. As noted in the BBS's *2015 Sunset Review Report*, the licensing population of LCSW's has shown the greatest increase in its licensing population since 2012. The survey results would suggest that there must be a shortage in LCSW supervisors available to the increasing license-seeking population.

One of the survey questions inquired as to whether or not a supervisor felt they were adequately prepared to be a supervisor, while 77% responded yes, 22% of available supervisors responded no. Although 22% represents a minority of the supervisor population, the reasons provided for being underprepared suggest potential issues with the current supervisor requirements which may need further exploration by the BBS. One respondent replied, "other than taking the required [CEs], there was nothing in place to teach me the hands on skills on providing direct supervision." Another replied, "even though I took the course on supervision, it wasn't geared for the populations nor the type of cases my agency saw." Lastly, one respondent stated, "the classroom or workshop provides great fundamentals, theory and opportunity to network. However, it does not adequately prepare for real life experiences. Further, of the survey questions asked if supervisors believe that the six hours of supervision training or coursework is sufficient for a new supervisor; 70% responded "no".

Although a fraction of the BBS's licensed or registered populations participated in the survey, the results provide important feedback for the BBS to review and encourage future dialogue about the current supervisor program and requirements.

**Staff Recommendation:** *The BBS should explain to the Committees its role in ensuring that supervisors are following the current law regarding the number of associates or interns they are authorized to supervise. In addition, the BBS should explain to the Committees, the role of the Supervision Committee and how the committee can help to address some of the concerns and issues raised during the survey process.*

## **ENFORCEMENT ISSUES**

**ISSUE #4:** *What is the BBS doing to meet Performance Measures set as a result of the Consumer Protection Enforcement Initiative (CPEI)?*

**Background:** Targets and expectations for the enforcement program were set in 2010 by the CPEI. The specific goal of the CPEI was to reduce the average length of time it takes health care boards to take formal disciplinary action from three years to 12 to 18 months. Key components of the CPEI

include administrative changes, ensuring the regulatory entities' enforcement programs are sufficiently staffed and have adequate technology to conduct their regulatory functions, and establishing and publishing precise performance targets. The CPEI introduced Performance Measures (PM) and set target cycle times for every stage of the enforcement process in an effort to streamline the enforcement process, and reduce backlogs.

The BBS reported in its *2015 Sunset Review Report* that it is currently meeting all of its performance targets with the exception of **PM 3** (cycle time for cases not resulting in formal discipline) and **PM 4** (cycle time for cases resulting in formal discipline). The BBS reported that it has implemented changes to its internal procedures that will assist the BBS in meeting the outstanding PMs.

DCA established PM of 540 days to close cases resulting in formal discipline (PM 4); currently the BBS is taking 570 days to close those cases. For those cases which do not result in formal discipline, PM 3 targets 80 days to close a case; the BBS is taking 100 days. The BBS reported in its *2015 Sunset Review Report* that achieving PM 4 depends upon the resources available from outside agencies including the AG and the OAL; however, the BBS reported that it continues to review its internal process in an effort to meet PM 4.

The BBS reported that it receives on average over 2,000 consumer complaints and criminal conviction notifications annually. The BBS sees an increase in its enforcement workload consistent with the BBS's increasing licensee population. In FY 2014/15, the BBS acquired additional enforcement staff and reorganized staff to address enforcement-related issues.

**Staff Recommendation:** *The BBS should inform the Committees about the viable solutions to meeting its performance targets? When does the BBS anticipate meeting those targets?*

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**ISSUE #5:** *Why has the number of BBS-issued citations decreased significantly in the last two FYs?*

**Background:** BPC Section 125.9 authorizes the BBS to issue citations and fines for certain types of violations. Although citations are not considered formal disciplinary actions, they are a matter of public record. 16 CCR Section 1886 specifies that the EO of the BBS is authorized to determine when and against whom a citation will be issued, and to issue citations containing orders of abatement and fines for violations of the statutes and regulations enforced by the BBS.

The BBS reported that the five most common violations for which citations are issued include, misrepresentation as to the type or status of a license or registration held, misrepresentation regarding the completion of CE requirements, failure to complete specific CE coursework requirements, failure to maintain patient confidentiality, and providing services for which a license is required. Those citations issued for unlicensed practice are more challenging for the BBS to collect as the BBS has limited information about the individual (they are not licensed and their information is not on file with the BBS) and there is no recourse if they choose not to pay. BBS licensees who do not pay a citation cannot renew a license until the fine is paid in full.

The table below reflects the number of citations issued by the BBS for the last four FYs. The table shows that the number of citations issued by the BBS has steadily decreased since FY 2012/13. However, the BBS reported in *2015 Sunset Review Report*, that the BBS's overall enforcement workload has continued to increase. Since the BBS's 2012 sunset review, the receipt of consumer

complaints and criminal conviction notifications increased five percent and eight percent, respectively. However, the number of citations issued has steadily decreased, as referenced in the table below.

<b>CITATION AND FINE</b>				
	<b>FY 2011/12</b>	<b>FY 2012/13</b>	<b>FY 2013/14</b>	<b>FY 2014/15</b>
Citations Issued	92	105	39	24
Average Days to Complete	177	147	279	375
Amount of Fines Assessed	\$111,850	\$209,450	\$46,100	\$41,500
Reduced, Withdrawn, Dismissed	\$15,000	\$41,025	\$16,500	\$37,800
Amount Collected	\$71,244	\$28,650	\$20,850	\$17,150

*\*Note: This table was taken from the BBS's 2015 Sunset Review Report*

**Staff Recommendation:** *The BBS should advise the Committees about why there has been such a decrease in the number of citations issued by the BBS during the last two FYs, especially given that the BBS has experienced an increase in its enforcement workload.*

**ISSUE #6: Why does the BBS's overall enforcement workload continue to increase?**

**Background:** During the BBS's 2012 sunset review, it was reported in the *Background Paper* that the BBS's enforcement-related workload had increased 210% since its 2004 Sunset Review. At that time, Committee staff requested that the BBS detail the steps involved in reviewing the enforcement program, among other requests. In the BBS's *2015 Sunset Review Report*, it stated that it had received one manager position and four staff positions in FY 2014/15 for its Enforcement Program. According to the BBS, the new positions allowed the BBS to reorganize the Enforcement Unit to provide consistent and ongoing oversight to the Enforcement Staff. These additional resources have allowed the BBS to keep pace with the increasing workload.

Currently, the BBS reported that on average it receives over 2,000 consumer complaints and criminal conviction notifications each year and that its increased enforcement workload coincides with the increased licensing population. The BBS supports evidence of the increase by the number of applications denied, number of AG cases initiated, the number of Accusations and Statement of Issues filed, and the number of new probationers each year. Although the BBS reported that it is working to address enforcement-related workload issues through staffing and other means, it is unclear what the BBS is doing to ensure its licensees are not subject to enforcement-related delays, and ensuring consumer protection.

The BBS receives complaints from a variety of sources including the public, professional groups and "other sources" such as subsequent arrest notifications, internal, other DCA entities and anonymous. The following table identifies complaints from "other sources" as the highest number of complaints received annually.



Enforcement Statistics				
	FY 2011/12	FY 2012/13	FY 2013/14	FY 2014/15
<b>COMPLAINT</b>				
<b>Intake</b>				
Received	986	991	1,243	1,018
Closed	0	1	65	346
Referred to INV	949	992	1,206	642
Average Time to Close (days)	5	7	14	6
Pending (close of FY)	37	35	19	9
<b>Source of Complaint</b>				
Public	773	813	672	751
Licensee Professional Groups	4	8	18	8
Governmental Agencies	7	3	7	12
<b>Other</b>	<b>1,168</b>	<b>1,241</b>	<b>1,260</b>	<b>1,338</b>

*\*Note: This table was taken from the BBS's 2015 Sunset Review Report*

The BBS reported that it has one standing committee and utilizes Ad-Hoc committees as necessary. Currently, the BBS does not have a committee dedicated to enforcement-related matters. In 2006/07, the BBS had a *Consumer Protection Committee*, and in 2010/11, the BBS had a *Compliance and Enforcement Committee*. As mentioned above the BBS has seen an increase in enforcement related issues, yet there is not currently an enforcement related committee to help address the increase in enforcement-related issues.

In addition, BPC Section 4990.10 authorizes the BBS to conduct research in, and make studies of problems involved in the maintaining of professional standards among those engaged in the profession it licenses and publish its recommendations. As reported by the BBS, this is accomplished through legislative and regulatory proposals and developing outreach materials for consumers as well as licensees and registrants.

**Staff Recommendation:** *Given that the BBS has identified an increase in its enforcement-related workload, the Committees may wish to consider whether or not re-establishing an advisory committee dedicated to enforcement-related matters would be beneficial. An enforcement-related advisory committee may help identify those areas where the BBS can improve its enforcement program to better serve licensees and consumers. In addition, the BBS should update the Committees on whether or not it has utilized the authority granted in BPC Section 4990.10 to help maintain professional standards.*

## **TECHNOLOGY ISSUES**

### **ISSUE #7: How is the BreZE database system working for the BBS?**

**Background:** The "BreZE Project" was designed to provide the DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. The updated BreZE system was engineered to replace outdated legacy systems and multiple "work around" systems with an integrated solution based on updated technology.

According to the original project plan, BreZE was to be implemented in three releases. The budget change proposal that initially funded BreZE indicated the first release was scheduled for FY 2012/13, and the final release was projected to be complete in FY 2013/14.

In October 2013, after a one-year implementation delay, the first ten regulatory entities, including the BBS, were transitioned to Release 1 of the BreEZe system. As a result of significant cost and implementation concerns, among others, the DCA reported in late 2014 that the current vendor contract is no longer in place, and the regulatory entities that were scheduled for Release 3 will not transition to the current BreEZe system.

The BBS reported that the transition to BreEZe was challenging, but not impossible. Prior to the implementation of the BreEZe system, staff attended training through DCA SOLID and “in-house” training to become familiar with the new data system. The “in-house” training was provided to assist staff with their specific job duties.

To manage the transition to BreEZe, BBS management staff established a process during those early days that allowed staff to identify possible issues to existing business procedures due to the data system’s design and functionality. This process allowed staff and management to evaluate the issue, determine a possible solution to the issue, and to consider any impact the solution may have to procedures or the data system, and if appropriate, submit a request for change to DCA’s BreEZe team.

The BBS opted to phase in some of the online features of BreEZe. The BBS determined this strategy was the best method to manage the scope of change for staff and stakeholders. In November 2014, the BBS released the BreEZe online renewal feature. This release was relatively uneventful. The online renewal module has shown daily increasing usage.

Since the initial launch of BreEZe, staff continues to work with the DCA BreEZe team and the vendor to develop and enhance reports for licensing and enforcement purposes. Additionally, the BBS reported that it continues its work to identify issues in the data system and submits requests for changes, if appropriate.

Currently BBS staff is working with the DCA BreEZe team to implement the requirements for its examination restructure. This collaboration differs slightly from the work completed to initially implement the BreEZe database system. Specifically, the design plan is being developed by staff and the DCA BreEZe team, but not with the vendor.

The completed design plan has been submitted to the vendor to confirm the viability of the plan, obtain estimates for costs and time required to build the design, and support after the design is implemented. The examination restructure design is a pilot project for the BBS and DCA. However, this collaboration appears to be efficient and does provide some cost savings to the BBS.

***Staff Recommendation:*** *The BBS should update the Committees about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs of implementing the system, and are there any new costs associated with the project? Is the cost of BreEZe consistent with what the BBS was told the project would cost? Please explain how the BBS staff works with the DCA BreEZe team and the vendor to develop and enhance reports for licensing and enforcement purposes. How does the BBS identify issues in the data system and submit change requests? What is the timeframe for needed updates and do costs impact the ability to move ahead with an update? Does the BBS foresee any maintenance necessary? Additionally, the BBS should inform the Committees about any current or foreseeable challenges associated with updating BreEZe to comply with the examination restructure and the new application processing components.*

## ADMINISTRATIVE ISSUES

### **ISSUE #8: Audits of Continuing Education. Does the BBS have a process to audit continuing education?**

**Background:** Under current law, LMFTs, LCSWs, LEPs and LPCCs are required to obtain CE hours to renew a license. In order to renew a license, a licensee must certify to the BBS, on a designated form, that he or she has completed not less than 36 hours of CE in the topic areas required by each practice act. BPC Sections 4980.54(d), 4989.34(d), 4996.22(b), and 4999.76(b) provide the BBS with the authority to audit the records of the licensees to ensure compliance with the CE requirement.

In the BBS's 2015 *Sunset Review Report*, the BBS reported that the number of audits completed in the last four years has been significantly impacted by staffing resources and other high priority issues, which has resulted in the BBS conducting very few CE audits since 2012. The table below reflects the number of audits conducted and the number of audits failed.

CE Audit Table				
	2011/12	2012/13	2013/14	2014/15
Audits Performed	131	50	31	0
Fails	23	8	7	N/A
Percent of Audits Resulting in Fail	18%	16%	23%	N/A

*\*Note: This table was taken from the BBS's 2015 Sunset Review Report*

Current law does not require the BBS to complete a specified number of CE audits annually; the BBS determines the number of audits to be completed.

According to the BBS, in order to conduct a CE audit of a licensee individuals to be audited are randomly required to submit copies of their CE certificates to demonstrate compliance with CE requirements, once submitted, BBS staff will review the certificates to confirm the CE was taken during the renewal period from a valid CE provider. Licensees who fail the CE audit are subject to a citation and fine as specified in 16 CCR Section 1887.1(b), which states that “a licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify completion of continuing education by producing a record of course completion, upon request by the board, is subject to disciplinary action under BPC Sections 4982(b), 4989.54(b), 4992.3(b), and 4999.90(b) of the Code.” Depending on the severity of the violation, fines for failure to comply with the CE requirements may be levied in an amount up to \$1,200.

**Staff Recommendation:** *LMFTs, LCSWs, LPCCs, and LEPs are required to complete 36 hours of CE in order to renew a license. The BBS recognizes that the number of CE audits has steadily decreased since 2011/12, but noted in its 2015 Sunset Review Report that it anticipates increasing CE audits beginning in 2015. The BBS should provide an update to the Committees on its current efforts to increase the number of annual CE audits.*

### **ISSUE #9: Audits of Continuing Education Providers. Does the BBS need to audit continuing education providers?**

**Background:** Prior to June 1, 2015, the BBS was responsible for the review and approval of CE providers. CE providers were required to submit an application and pay a fee in order to determine if the proposed coursework provided by the program was directly or indirectly related to the practice of

the specified mental health professions. As of FY 2014/15, the BBS reported an active population of 2,414 CE providers.

In 2012, the BBS assembled the CE Review Committee which conducted a comprehensive review of the BBS's CE Program. The CE Review Committee held a series of meetings with stakeholders to discuss improving the quality of continuing education, ensuring the coursework was relevant to the practice of licensees, and ensuring compliance with the legislative intent of CE.

Through the evaluation of existing CE programs available through entities such as the National Association of Social Workers, Association of Social Work Boards, the National Board of Certified Counselors, the National Association of School Psychologists, and the American Psychological Association, the CE Review Committee determined, "the rigor and ongoing evaluation of CE providers and coursework exceeded the BBS's current program. Further, the resources necessary to establish a similar program within the BBS was not viable."

As reported by the BBS, the CE Review Committee and participating stakeholders agreed that ceasing the BBS's current CE provider program would provide higher quality CE to licensees. As a result, the BBS proposed significant changes to its CE program, including no longer approving or disapproving CE providers. These changes became effective January 1, 2015. CE providers who had been approved by the BBS prior to June 1, 2015 will be permitted as CE providers until two-years after the expiration of their most recent renewal or original license with the BBS. Effectively, all BBS-approved CE providers will expire on June 1, 2017.

Instead of directly approving the CE provider, the BBS will recognize specific agencies' CE approval programs. Licensees will be required to acquire education from a CE provider approved by one of the following entities:

- National Association of Social Workers
- Association of Social Work Boards
- National Board of Certified Counselors
- National Association of School Psychologists
- American Psychological Association
- California Association of Marriage and Family Therapists
- California Psychological Association

The BBS's statutes and regulations never provided the authority for the BBS to audit its CE providers. The BBS anticipates that periodic audits of CE providers will be conducted by the BBS recognized approval agencies.

***Staff Recommendation:*** *Given that the BBS is no longer approving CE providers, and has conducted minimal audits of CE requirements for its licensees, the BBS should explain to the Committees its process and or plan for reviewing and updating its list of approved agencies to ensure that those entities are maintaining high standards for CE. In addition, the BBS should update the Committees on how it has helped to inform licensees about the transition.*

## **ISSUE #10: *Customer Service Satisfaction Surveys.***

**Background:** During the BBS's 2012 *Sunset Review*, the BBS's customer satisfaction surveys were raised as an issue. That report showed that the overall satisfaction rating with the services provided by the BBS staff had declined over the prior three years. In its 2015 *Sunset Review Report*, the BBS reported that while its average customer ratings for overall satisfaction and courtesy have improved since FY 2011/12, accessibility has remained low. However, the total number of respondents has decreased, which significantly undermines the validity of the surveys.

The BBS reported that From July 1, 2011 through September 30, 2013, survey responses decreased by 87%. The BBS attributes this to the staffing constraints which the BBS reported it experienced during California's budget crisis.

As the number of respondents decreased, the BBS reported that it became concerned with this trend and questioned the value of the information provided by so few respondents.

The BBS reported that it was using a survey tool that was more than five years old. In 2013, the BBS implemented the BreEZe data system and at the same time decided to discontinue the current survey and develop a new survey.

Due to insufficient staff resources and higher priority tasks, the BBS reported that it has not been able to develop a new customer satisfaction survey. However, the BBS reported that it will discuss the new customer survey at its March 2016 board member meeting. The BBS contends that once a survey is approved, implementation will be immediate. The BBS anticipates that the new survey will be available in second quarter of 2016.

**Staff Recommendation:** *The BBS should update the Committees about its current progress in developing a new customer satisfaction survey, and if it still anticipates discussing this issue at its March 2016 board member meeting. The BBS should inform the Committees as to the other pressing issues that have prevented the BBS from focusing on customer service.*

### **EDITS TO THE BBS PRACTICE ACT**

## **ISSUE #11: *Are there minor/non-substantive changes to the BBS's practice act that may improve the BBS's operations?***

**Background:** There may be a number of non-substantive and technical changes to the BBS practice act which may need to be made. The appropriate place for these types of changes to be made is in the Senate Committee on Business, Professions and Economic Development's (BP&ED) annual committee omnibus bills.

**Background:** Since the BBS's last sunset review in 2012, the BBS has sponsored or been impacted by more than 20 pieces of legislation which address all or parts of the BBS's duty, oversight authority, licensing requirements and educational standards, among others. There may be a number of non-substantive and technical changes to the practice acts which the BBS regulates which may need to be made.

Each year, the Senate BP&ED Committee introduces two omnibus bills. One bill contains provisions related to health boards/bureaus and the other bill contains provisions related to non-health

boards/bureaus. The Senate BP&ED Committee staff reviews all proposals, and consults with the Republican caucus staff and Committee member offices to determine the provisions that are suitable for inclusion in the committee omnibus bills. All entities that submit language for consideration are notified of the BP&ED Committee's decision regarding inclusion of the proposed language. Examples of technical clarifications are referenced below.

As a result of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. Numerous code sections pertaining to the LMFTs, LCSWs, LEPs and LPCCs have operative dates and inoperative dates which may no longer be applicable. As a result, the statutes regulating LMFTs, LCSWs, LEPs, and LPCCs may need to be updated to reflect recent amendments and provisions which were schedule to repeal.

For example, BPC Section 4999.54 pertains to applicants for licensure as an LPCC who submit an application for licensure between January 1, 2011 and December 31, 2011. This section dealt with grandfathering provisions which are no longer applicable. The appropriate place for these types of changes to be made is in the Senate Committee on Business, Professions and Economic Development's (BP&ED) annual committee omnibus bills.

***Staff Recommendation:*** *The BBS should submit their proposal for any technical changes to its practice act to the Senate BP&ED Committee for possible inclusion in one of its annual committee omnibus bills.*

**CONTINUED REGULATION OF THE PROFESSION BY THE  
CURRENT PROFESSION BY THE BBS**

***ISSUE #12:*** *Should the licensing and regulation of the BBS be continued and be regulated by its current membership?*

**Background:** The health and safety of consumers is protected by well-regulated professions. The BBS is charged with protecting the consumer from unprofessional and unsafe licensees. It appears as if the BBS has been an effective, and for the most part efficient, regulatory body for the professions that fall under its purview. However, the BBS needs to continue to work on improving its enforcement program, managing a more effective CE program, maintain high standards for the professions by ensuring active supervisors are not misrepresenting supervised employees and focus on reducing any application backlogs which may result from the fully implemented examination restructure. Given that the BBS has been working to increase staff to help improve efficiency, the BBS should be able to continue to fulfill its mandate, meet performance targets, and continue to protect consumers, the BBS should be granted a four-year extension of its sunset date.

***Staff Recommendation:*** *The committee recommends that the LCSW, LMFT, LEP and LPCC professions, and registration of ASW Interns, MFT Interns, and PCC Interns continue to be regulated by the BBS in order to protect the interests of consumers and be reviewed once again in four years.*