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Child Custody Meeting

The Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS), hosted a stakeholder meeting pertaining to the Center for Judicial Excellence's (Center) concerns regarding child custody matters on September 21, 2018 in Sacramento, CA.

Over the past two years, the Center has expressed its apprehension in relation to the handling of child custody complaints to the BOP and more recently, the BBS and the Department of Consumer Affairs (DCA). In response, the enforcement processes from both boards were provided to the Center to cultivate an understanding regarding current complaint procedures. The Center has communicated that it continues to have unresolved concerns.

Subsequently, the boards hosted the stakeholder meeting with the purpose of:

1. Providing an overview of both the BOP and BBS enforcement processes
2. Discussing the Center's concerns and proposed solutions to be submitted prior to the stakeholder meeting via an online survey
3. Discussing any additional public input

In preparation for the stakeholder meeting, an online survey notification was sent out as an opportunity for the Center, as well as other stakeholders, to articulate current child custody concerns and ensure a focused and informed meeting. In addition, the Center submitted a proposal with a list of possible solutions for consideration at the meeting.

Due to space limitations, attendance was limited. The meeting was facilitated by DCA SOLID Planning at DCA Headquarters II, 1747 N. Market Blvd., Ruby Room, Sacramento, CA 95834, from 9:00 a.m. to 12:00 p.m.

Attendees

Attendee	Organization Represented
1. Andi Liebenbaum	Judicial Council of California – Family Law
2. Connie	CA Protective Parents
3. Gloria Castro	California Department of Justice, Office of the Attorney General
4. Josh Tosney	Senate Judiciary Committee
5. Kathleen Russell	Center for Judicial Excellence
6. Robby Sumner	Assembly Business and Professions Committee
7. Robin	Law Office
8. Sarah Huchel	Senate Business, Professions and Economic Development Committee
9. Antonette Sorrick	California Board of Psychology
10. Ashley Castleberry	California Board of Psychology
11. Lucille Acquaye-Baddoo	California Board of Psychology
12. Nicole Walker	California Board of Psychology
13. Sandra Monterrubio	California Board of Psychology
14. Stephen Phillips, JD, PsyD	California Board of Psychology
15. Mark Marson	California Board of Behavioral Sciences
16. Marlon McManus	California Board of Behavioral Sciences
17. Tracy Montez	Department of Consumer Affairs (DCA) Executive Office
18. Karen Nelson	DCA Board and Bureau Services
19. Norine Marks	DCA Legal Affairs
20. Sabina Knight	DCA Legal Affairs
21. Dennis Cuevas-Romero	DCA Legislation
22. Stephanie Whitley	DCA Division of Investigation

Acronyms

Acronym	Definition
BBS	Board of Behavioral Sciences
BOP	Board of Psychology
CASA	Court Appointed Special Advocate
CFCC	Court for Families and Children in Courts
DCA	Department of Consumer Affairs
DOI	Division of Investigation
DOJ	Department of Justice
MBC	Medical Board of California
OAG	Office of the Attorney General
OAH	Office of Administrative Hearings

Evaluators Oversight

During the meeting, attendees discussed evaluator types and the organizations that may have oversight or jurisdiction over evaluators.

Evaluator	Jurisdiction	Notes
Psychologists	BOP	
Psychologist Assistants	BOP	
Clinical Social Workers	BBS	
Marriage and Family Therapists	BBS	
Professional Clinical Counselors	BBS	
Psychiatrists	MBC	
Supervised visitation monitors		No oversight identified
Parenting coordinators		No oversight identified
Transporters		No oversight identified
Special masters		No oversight identified
Mediators (series with different names)		No oversight identified
Child Protective Services (CPS)	Counties and/or BBS	Gap between counties and BBS. A county may not require licensing, for example Santa Clara and Los Angeles.

Concerns Summarized

I. Summary based on Center for Judicial Excellence's letter disseminated prior and during the meeting:

1. Screen Child Custody Subject Matter Experts (SMEs)
2. Mandate child abuse/domestic violence for SMEs
3. Annual reporting to legislature
4. Mandate detailed dispositions be included at close of investigations
5. Fines for licensees' poor record-keeping/refusal to cooperate
6. All county CPS workers be licensed
7. Conduct regular state audits of BOP and BBS
8. Grant no immunity for court-appointed evaluators/experts
9. Eliminate consent form
10. Vertical enforcement for urgent child custody cases involving public harm
11. Create a public protection taskforce
12. Conduct stakeholder meetings 4x a year
13. Educate public on clear and convincing evidence

II. Summary based on the responses from survey disseminated to invitees:

1. 24-hour hotline to register a complaint
2. Outline child custody complaint process and make it public
3. Establish a citizen's board
4. Domestic violence
5. Personality disorders
6. High-conflict divorce cases
7. Parent alienation
8. Narcissistic parent
9. Manipulative parents
10. Trauma
11. Cluster B personality disorders
12. Listening to child
13. Properly assessing child
14. Identify abuse in litigation
15. Ethics training
16. Properly assess, diagnose, and treat mental health issues
17. Qualified professionals who spend time with children in all areas of play and art to validate abuse
18. Judge speak to plaintiff and defendant alone, then kids
19. Record everything
20. Teach providers to maintain transparency, integrity, dignity and respect
21. Use battered woman assessment tool
22. Dr. Childress assessment protocol
23. Neutral parent board to assign expert witnesses
24. Check list for abused person(s) under stress to report abuse
25. Hire third parties without involvement to review complaints
26. Stop the stigma

Jurisdiction + Priority Triage

Attendees discussed concerns on page 7 and the responsible organizations. Non-DCA attendees individually triaged concerns, “A” being highest priority and “D” being lowest priority, on a handout provided to them. The following charts demonstrate concerns in prioritized list based on triaging. Numbers under the triage columns represent the number of attendees that assigned it that priority. Triage notes represent notes left by attendees when triaging concerns.

Center for Judicial Excellence Letter		Jurisdiction	Discussion Notes	A	B	C	D	Triage Notes
A	Mandate child abuse/domestic violence for SMEs	BOP and/or BBS		6	2			Figure out gold standard providers
B	All county CPS workers be licensed	Legislature and/or political/labor unions		6	1		1	
C	Eliminate consent form	Judicial Council, BOP and/or BBS	Determine if consent exists in law for investigation to initiate. Explore patient privilege law.	5	1	1	1	
D	Screen Child Custody SMEs	BOP and/or BBS		4	3	1		
E	Conduct stakeholder meetings 4x a year	BOP, BBS and/or DCA	Provide public education regarding BOP and BBS complaint process.	4	3	1		Besides regular meeting?
F	Grant no immunity for court-appointed evaluators/experts	Legislature, Judicial Council/Courts	Explore gap of how PhDs in court cases fall through the cracks for BOP/BBS licensees, and judicial council/court interpretation of Civil Code 47 and relation to BOP/BBS.	4	1	1	2	
G	Conduct regular state audits of BOP and BBS	Legislature and/or bureau of state audits/Sunset review process		4		3	1	

	Center for Judicial Excellence Letter	Jurisdiction	Discussion Notes	A	B	C	D	Triage Notes
H	Fines for licensees' poor record-keeping/refusal to cooperate	BOP and/or BBS		3	3	2		Already available
I	Mandate detailed dispositions be included at close of investigations	DCA, BOP, and/or BBS		3	3	1	1	Subject to all/privilege/not feasible
J	Vertical enforcement for urgent child custody cases involving public harm	BOP, BBS, AGO and/or DOI		3	2	3		
K	Create a public protection task force	Legislature, BOP, BBS and/or DOJ	Refer to Legislature's work with State Bar.	2	4	1	1	Within boards?
L	Annual reporting to legislature	BOP, BBS, and/or DCA		2	3	2	1	Already happens
M	Educate public on clear and convincing evidence	OAG, OAH, Judicial Council/CFCC, BOP, and/or BBS	Explore evidentiary burden. Clarify contradiction between section 2920.1 and case law around property right by licensee.	1	2	3	1	

Notes left in the meeting survey:

1. Bifurcate licensing agency + oversight agency create a form so evaluators can follow existing excellent laws/rules court pay for all appointed professionals + have fees capped.

Survey Concerns		Jurisdiction	Discussion Notes	A	B	C	D	Triage Notes
A	Listening to child	Judicial Council and/or Legislature	Legislature can provide child with a direct path to court.	5	1			
B	Domestic violence	Legislature and/or Judicial Council	Explore education/training evaluators have in domestic violence. Refer to Rule 5.230. Standardize training and set standards for providers.	5				<ul style="list-style-type: none"> - Combine 4 – 11 from part II of page 7. - 5 - 12 need from part I of page 7 needs accreditation or other standards that can be uniform. - 4 - 15 from part II of page 7 are about training expertise, professional judgement/conduct of evaluators/SMEs. All "A"s refers to licensing and disciplinary training, professional development and independent expertise of evaluators b-c take-away is that that is the major concern/issue.
C	High-conflict divorce cases	Judicial Council	Cases are usually domestic violence and child sex abuse. Refer to 7, 8, 9 and 10 in part II of page 7.	5				DV, CSA
D	Parent alienation	Judicial Council	Explore computer printouts for the domestic/parent alienation/child sexual abuse concepts and the quality/validity of objective data that psychologists are providing to courts.	5				Prohibit doctrine
E	Trauma		Refer to 6 in part II of page 7.	5				
F	Record everything	Legislature and/or Judicial Council	Court reporters/transcription/video.	4	2			Court reporters
G	Narcissistic parent		Refer to 6 in part II of page 7.	4	1			

	Survey Concerns	Jurisdiction	Discussion Notes	A	B	C	D	Triage Notes
H	Cluster B personality disorders	Judicial Council	Refer to 6 in part II of page 7.	4	1			
I	Properly assessing child	Judicial Council	Refer to 6 in part II of page 7.	4	1			
J	Manipulative parents		Refer to 6 in part II of page 7.	4		1		
K	Use battered woman assessment tool	Judicial Council, Courts, BBS, BOP	Explore other assessment tools for example Campbell lethality assessment.	4			1	Part of evaluation training, etc.
L	Identify abuse in litigation	Judicial Council	Refer to 6 in part II of page 7.	3	1			
M	Judge speak to plaintiff and defendant alone, then kids			3			2	- In a mediator capacity not, trial judge. - Parents = D, Child = A
N	Personality disorders	Judicial Council	Explore education/training oversight and enforcement/follow-up. Refer to Rule 5.220	2	3			
O	Qualified professionals who spend time with children in all areas of play and art to validate abuse	Legislature, CASA, and/or family law/child welfare		2	1	1		Have all advocate for child
P	Outline child custody complaint process and make it public	DCA, BOP and/or BBS		2			5	

	Survey Concerns	Jurisdiction	Discussion Notes	A	B	C	D	Triage Notes
Q	Ethics training	Respective governing agencies	Ethics training for evaluators	1	3	1		Already done
R	Properly assess, diagnose, and treat mental health issues	Licensing boards		1	2	2		
S	Teach providers to maintain transparency, integrity, dignity and respect		Refer to 15 in part II of page 7.	1	2	2		
T	Hire third parties without involvement to review complaints		Refer to Legislature involvement with State Bar. Explore the creation of a firewall between licensing and enforcement agencies.	1	2	1		Refer to number 3 in part II of page 7. Not feasible/privileges
U	Neutral parent board to assign expert witnesses	Court		1		1		
V	Dr. Childress assessment protocol			1			3	
W	Establish a citizen's board	DCA and/or Legislature			4		2	Boars are supposed to represent public interest.
X	Check list for abused person(s) under stress to report abuse				1	1	1	
Y	24-hour hotline to register a complaint	DCA, BOP and/or BBS	Educate public on web access and create 24-hour hotline.			2	5	Already done
Z	Stop the stigma					1	1	

Attendee Questions

Attendees were encouraged to write down questions for the presenters during the meeting on an index card and submit them to be addressed in this report.

BBS Complaint Process

1. How are subject matter experts trained?
With the assistance of the Board's Deputy Attorney General Liaison, the BBS provides training to its Subject Matter Experts (SME). SME's are trained on the enforcement process, expert review/opinion, effective testifying basics, confidentiality of investigative materials, etc.
2. What happens if your licensee is uncooperative returning over records?
The BBS could take administrative or disciplinary action against the licensee for violation of California Code of Regulations section 1823(a).
3. Does the board send mediator complaints to the court or the mediator's employer?
Frequently, the BBS is notified by the Complainant to not send their complaint to any other person or entity. The BBS does advise the Complainant to direct their concerns to Family Court Services.

BOP Complaint Process

1. Why is the non-complaining parent contacted?
In accordance with Business and Professions Code, section 129 (f), the board is mandated to notify the non-complaining party.
2. How does the complaint history inform the process of investigation? Do you investigate a first complaint different from the third?
Reviewing a licensee's complaint history informs the analyst of any trends or reoccurring allegations with the Subject of the complaint. The complaint history also shows whether any prior complaints were found to have merit and if the board took action against the licensee, which could strengthen the board's case if the allegations/violations are similar. Reviewing the complaint history will also alert the analyst of any active investigations against the licensee, and the analyst can then determine if the open cases should be investigated in tandem. If a licensee's complaint history does not reveal reoccurring violations that were determined to have merit, the investigation process will not change.

BBS and BOP Complaint Process

1. Has there been any consideration of managerial review of a random sample of dismissed cases to make sure they were dismissed correctly?
The BOP Enforcement Manager reviews all staff recommendations before a case is referred to an Expert, DOI, OAG, or closed.

2. Does the consent form exist in standardized procedures for investigations? If so, change it. If not, why are they using it?

The consent form (Release form) is a standard requirement for every complaint that involves the rendering of professional services due to doctor-patient/client confidentiality. The BOP feels it cannot change the requirement for a Release form because mental health records are extremely confidential, even in the performance of psychological evaluations. The only way would be for legislative/congressional member to drive a change of the state and federal laws that require providers to only disclose records/information when the patient/client gives permission.

Center for Judicial Excellence

1. Any thought given to legislature change to outlaw or limit reunification camps?
Please see the attached document (Keeping Teens Safe Act) and proposed language that we worked on last year but did not introduce.

We would love to work with other stakeholders on such a bill in the coming session, if we could come up with language that all could agree on.

I am also attaching an unpublished appellate decision (Reunification Case Law) which essentially implores the Legislature to clarify Family Code Section 3026 as to which reunification services should be prohibited in family law proceedings, which you can see in the highlighted section on page 14 of the decision.