



CENTER *for* JUDICIAL EXCELLENCE

March 5, 2018 ~ Joint Sunset Review Hearing Department of Consumer Affairs Testimony Kathleen Russell, Executive Director

For 12 years, the Center for Judicial Excellence has been committed to creating judicial accountability in all California courts, and to protecting the rights and safety of children and other vulnerable populations in the family court system. We've spent years educating all relevant oversight entities including two DCA entities, the Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS), about a severe health crisis in our family courts because these two Boards are charged with PROTECTING the public from harm.

Two DCA Boards, the BBS and the BOP, along with the Commission on Judicial Performance (CJP) and the State Bar Association, are charged with disciplining unethical professionals who violate the law and standards of care while working with quasi-immunity in our state family courts, where more than 75% of Californians appear without counsel because they cannot afford an attorney.

Countless innocent kids are being forced into lifetimes of sexual slavery or ongoing physical abuse by a parent as a direct result of BOP and BBS licensees utilization of "junk science," which the American Psychological Association, the American Bar Association and all credible legal, medical and law enforcement entities have stated should never be allowed in a court of law.

At least 53 California children have been murdered by a divorcing or separating parent in the past decade, often after BOP and BBS licensees deemed the murderers safe parents that the children should spend time with. **53 Murdered Children- that's about 3 mass shootings like the one at Marjory Stoneman Douglas High School- many of these were preventable homicides if child safety had been the top priority of DCA licensees instead of junk science.**

How many more kids must die before the DCA wakes up and takes action to ensure that the Boards you oversee stop these harmful licensees? These are extremely serious cases, quite often involving the life and death - or the rape - of a child. These Boards have a duty to protect the public from misconduct, but they are failing miserably, with discipline rates that mirror those that warranted a JLAC audit of the Commission on Judicial Performance.

Far too many mental health professionals, especially PhD's, LCSWs and LMFTs, are severely harming the public and are not being disciplined for it, or the investigative process drags on for far too many years while these licensees are afforded the ability to continue to harm dozens of families. This must end. A woman from Riverside County recently reported to our organization that she has collected 23 different families who've been destroyed by the illegal behavior of just one BBS licensee, and this licensee continues to receive court appointments to harm more and more children.

Another BBS licensee from Sacramento has escaped discipline for more than two decades, despite dozens of well-documented complaints explaining that she yells at children, grabs them by the ear, flat out lies in her reports to the courts, and has essentially trafficked dozens of children away from the protection of a safe parent and into the waiting arms of a sexually or physically abusive parent, always for large sums of court-ordered fees.

We've been educating the Board of Psychology about the family court crisis at four of their last five meetings during the past year. They've agreed to change their complaint procedures in custody cases and have eliminated the "chilling" requirement for written consent forms from all parties in order to investigate a licensee. The Board of Psychology re-opened cases that had been closed for lack of these signed consent forms, and they are now utilizing their administrative subpoena power to access licensees' records in order to investigate professional misconduct. This is an important first step. We have requested that the Board of Behavioral Sciences adopt a similar policy immediately to ensure that it is fulfilling its mission to protect California consumers from its licensees who are harming the public.

2017 Complaint Prioritization Guidelines Not Being Utilized

In the February 27, 2017 Background Paper for the Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions Oversight Hearing, the Dept. of Consumer Affairs (DCA) reported to this Joint Committee that it had issued **Complaint Prioritization Guidelines** to its Boards and Bureaus to utilize in prioritizing their respective complaint and investigative workloads that establish three categories of complaint identification: urgent, high, and routine.

The cases that we deal with on a daily basis fall squarely into the urgent category, that is, "acts that could result in serious patient harm, injury or death and involve, but are not limited to, gross negligence, incompetence, drug/alcohol abuse, sexual misconduct while treating a patient, physical/mental abuse, conviction of a crime, etc."

The BOP and BBS appear to be ignoring these Guidelines, since the number of urgent complaints we are tracking remain unresolved after many years. We also wish to raise concerns about licensees with multiple “urgent” complaints against them, since these licensees pose the gravest potential risk to the public at large, particularly children.

At it’s September 2017 Board Meeting in Berkeley, the BOP Enforcement Manager reported that 21 licensees had 2-5 complaints pending against each of them, totaling 50 complaints, and one licensee has four complaints pending, and another has five complaints. A feature article from the cover of a May 2017 *Washington Post Magazine* details the trauma that one of these multiple complaint-licensees is inflicting on children from all over the United States- not just California.

We strongly urge the DCA to update or revise its Prioritization Guidelines for all Boards and Bureaus to ensure that the investigations of licensees with multiple urgent complaints be prioritized above all others.

Furthermore, to help speed the resolution of urgent complaints at the BOP and BBS involving the physical, sexual and emotional safety of children, **we strongly urge the DCA insist the BOP and the BBS adopt a Vertical Enforcement and Prosecution model for ALL urgent cases involving children, similar to that being used by the Medical Board of California, in which the MBC investigator and OAG attorney work together on a case from the outset, rather than OAG waiting for referral of a case following an investigation.**

The grave concerns we are raising are nearly identical to those the Legislature has discussed and acted on regarding the State Bar Association. An oversight agency cannot effectively license a profession on the one hand while disciplining it on the other. Overseers get far too cozy with the industry they are licensing to aggressively and effectively discipline those that violate the profession’s standards of care. These DCA Boards need to protect the public **BEFORE ONE MORE CHILD IS KILLED.**

We will return here again and again until this crisis is dealt with. Thank you.



Kathleen Russell
Executive Director