



Board of Behavioral Sciences



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Governor Edmund G. Brown Jr.
State of California
Business, Consumer Services and Housing Agency
Department of Consumer Affairs

BOARD MEETING Minutes September 12-14, 2018

Department of Consumer Affairs
Hearing Room
1747 N. Market Blvd.
Sacramento, CA 95834

Wednesday, September 12, 2018

Members Present

Betty Connolly, Chair, LEP Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Alexander Kim, Public Member
Gabriel Lam, LCSW Member
Vicka Stout, LMFT Member
Dr. Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Members Absent

Deborah Brown, Public Member
Massimiliano "Max" Disposti, Vice Chair, Public Member
Jonathan Maddox, LMFT Member

Staff Present

Kim Madsen, Executive Officer (*open session only*)
Steve Sodergren, Assistant Executive Officer (*open session only*)
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel

I. Call to Order and Establishment of Quorum

Betty Connolly, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 1:01 p.m. Christina Kitamura called roll and established a quorum.

II. Public Comment for Items Not on the Agenda

No public comments were presented.

III. Suggestions for Future Agenda Items

No suggestions were presented.

IV. Petition for Early Termination of Probation for Sharon Leslie Bain, AMFT 76222

Administrative Law Judge Marilyn Woodard opened the hearing. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. Sharon Bain represented herself.

Ms. Denvir presented the background of Ms. Bain's probation. Ms. Bain was sworn in. Ms. Bain presented her request for early termination of probation and information to support the request. She answered questions posed by Ms. Denvir and Board Members.

Judge Woodard closed the record at 1:43 p.m.

V. Petition for Early Termination of Probation for James William Gilber, AMFT 92260

Administrative Law Judge Marilyn Woodard opened the hearing at 1:44 p.m. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. James Gilber represented himself.

Ms. Denvir presented the background of Mr. Gilber's probation. Mr. Gilber was sworn in. Mr. Gilber presented his request for early termination of probation and information to support the request. He answered questions posed by Ms. Denvir and Board Members.

Judge Woodard closed the record at 2:21 p.m.

VI. Petition for Early Termination of Probation for Jake David Myers, LMFT 88845

Administrative Law Judge Marilyn Woodard opened the hearing at 2:30 p.m. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. Jake Myers represented himself.

Ms. Denvir presented the background of Mr. Myers' probation. Mr. Myers was sworn in. Mr. Myers presented his request for early termination of probation and information to support the request. He answered questions posed by Ms. Denvir and Board Members.

Judge Woodard closed the record at 2:56 p.m.

CLOSED SESSION

VII. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions

The Board met in closed session.

RECOVENE IN OPEN SESSION

VIII. Recess until 9:00 a.m. on Thursday, September 13, 2018

The Board recessed at 4:42 p.m.

Thursday, September 13, 2018

Members Present

Betty Connolly, Vice Chair, LEP Member
Massimiliano "Max" Disposti, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Alexander Kim, Public Member
Gabriel Lam, LCSW Member
Vicka Stout, LMFT Member
Dr. Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Members Absent

Deborah Brown, Chair, Public Member
Jonathan Maddox, LMFT Member

Staff Present

Kim Madsen, Executive Officer (*open session only*)
Steve Sodergren, Assistant Executive Officer (*open session only*)
Jonathan Burke, Enforcement Manager (*open session only*)
Pearl Yu, Enforcement Manager (*open session only*)
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel

IX. Call to Order and Establishment of Quorum

Betty Connolly, Board Chair, called the meeting to order at 9:00 a.m. Ms. Kitamura called roll and established a quorum.

X. Public Comment for Items Not on the Agenda

No comments were presented.

XI. Suggestions for Future Agenda Items

No suggestions were presented.

XII. Petition for Modification of Probation for Chevelle Marie Bourdon, ASW 76998

Administrative Law Judge Heather Rowan opened the hearing at 9:03 a.m. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. Chevelle Bourdan represented herself.

Ms. Denvir presented the background of Ms. Bourdon's probation. Ms. Bourdan was sworn in. Ms. Bourdan presented her request for modification of probation and information to support the request. She answered questions posed by Ms. Denvir and Board Members.

Judge Rowan closed the record at 9:23 a.m.

XIII. Petition for Early Termination of Probation for Stella Monday, LMFT 22363

Administrative Law Judge Heather Rowan opened the hearing at 9:25 a.m. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. Stella Monday represented herself.

Ms. Denvir presented the background of Ms. Monday's probation. Ms. Monday was sworn in. Ms. Monday presented her request for early termination of probation and information to support the request. She answered questions posed by Ms. Denvir and Board Members.

Judge Rowan closed the record at 9:52 a.m.

XIV. Petition for Early Termination of Probation for Srbui Ovsepyan, LMFT 77648

Administrative Law Judge Heather Rowan opened the hearing at 9:57 a.m. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. Srbui Ovsepyan represented herself.

Ms. Denvir presented the background of Ms. Ovespyan's probation. Ms. Ovsepyan was sworn in. Ms. Ovsepyan presented her request for early termination of probation and information to support the request. She answered questions posed by Ms. Denvir and Board Members.

Judge Rowan closed the record at 10:26 a.m.

XV. Petition for Modification of Probation for James Edgar Thompson, AMFT 99505

Administrative Law Judge Heather Rowan opened the hearing at 10:32 a.m. Deputy Attorney General Karen Denvir presented the facts of the case on behalf of the People of California. James Thompson represented himself.

Ms. Denvir presented the background of Mr. Thompson's probation. Mr. Thompson was sworn in. Mr. Thompson presented her request for modification of probation and information to support the request. He answered questions posed by Ms. Denvir and Board Members.

Judge Rowan kept the record opened until close of business tomorrow (September 14) to wait for additional documentation.

The Board entered closed session at 11:25 a.m.

CLOSED SESSION

XVI. Pursuant to Section 11126(c)(3) of the Government Code, the Board Will Meet in Closed Session for Discussion and to Take Action on Disciplinary Matters, Including the Above Petitions

The Board met in closed session.

RECOVENE IN OPEN SESSION

XVII. Recess Until 9:00 a.m., Friday, September 14, 2018

The Board recessed at 12:40 p.m.

Friday, September 14, 2018

Members Present

Betty Connolly, Vice Chair, LEP Member
Massimiliano "Max" Disposti, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Alexander Kim, Public Member
Gabriel Lam, LCSW Member
Vicka Stout, LMFT Member
Dr. Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Members Absent

Deborah Brown, Chair, Public Member
Jonathan Maddox, LMFT Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Assistant Executive Officer
Rosanne Helms, Legislative Analyst
Christy Berger, Regulatory Analyst
Christina Kitamura, Administrative Analyst
Sabina Knight, Legal Counsel

XVIII. Call to Order and Establishment of Quorum

Betty Connolly, Board Chair, called the meeting to order at 9:03 a.m. Ms. Kitamura called roll and established a quorum.

Ms. Connolly introduced three new Board Members: Vicka Stout, Alexander Kim, and Gabriel Lam. Board Members, Board staff and audience introduced themselves.

Jonathan Burke was introduced. Mr. Burke is the Board's new Discipline and Probation Unit Manager.

XIX. Consent Calendar

The February 2018 and April 2018 Board minutes were previously approved at the May 2018 Board meeting. No further action is necessary.

XX. Board Chair Report

a. Board Member Activities

No activities were reported.

b. Welcome New Board Members

New members were welcomed in agenda item XVIII.

c. Recognition of Board Staff

Board staff were acknowledged for their years of service at the BBS:

Darlene York
Cynthi Burnett
Laurie Williams
Gena Kereazis
Ann Glassmoyer
Raquel Pena
Kim Madsen

XXI. Department of Consumer Affairs Update

a. Discussion of Timeframes for Regulation Packages Once Submitted to the Department

Ryan Marcroft, Department of Consumer Affairs (DCA) Legal Affairs Division, was introduced. He reviewed the current regulation approval process, outlining the steps of the procedure:

1. The regulation proposal begins with the Board and staff, in conjunction with Legal Affairs.
2. Once language is decided upon, staff creates the rulemaking file.
3. The rulemaking file is submitted to DCA for review and analysis:
 - a. Legal Affairs Division
 - b. Budget Office
4. After DCA's review, it moves forward to the Business, Consumer Service and Housing Agency (Agency) for legal analysis review and fiscal analysis review.
5. After Agency review, it moves forward to the Department of Finance (DOF) for review.
6. After DOF decides that the regulation should be approved, it moves forward to Office of Administrative Law (OAL) for review.
7. After OAL review, it is noticed to the public for opportunity to comment. Changes may happen at this level, which would require the regulation to run through the entire review process again.

In September 2016, significant changes took place that affected the review process and the timelines for regulations. Previously, the file was not reviewed by Agency before the public comment period. This process was changed to allow review by Agency before and after the public comment period. DCA increased the scrutiny of its review because of this change.

Reasons for the change:

1. DCA had a high percentage of disapproved regulations at the OAL level.
2. DCA was not following the procedure outlined in the State Administrative Manual that required Agency approval of the fiscal forms before noticing the to the public.

Mr. Marcroft stated that has been improvement in the disapproval rate, from 22% to 21.8% in the first half of 2017. It decreased to 7.6% from July 2017 to February 2018. There have been no disapproved regulations in 2018.

There is an increase in workload for Legal Affairs due to process changes. DCA is addressing the efficiency of the process in the following manner:

- Implementing training
- Internal restructuring within the department
- Conducting an “efficiency study”
- Procuring a third-party contractor to serve as an expert consultant to DCA
- Working with OAL to discuss best practices
- Developing a department-wide computerized tracking system for regulations.

Agency has hired an attorney who will dedicate his time reviewing regulations to cut down on the time it takes Agency to review regulations.

Ms. Madsen provided the questions to Mr. Marcroft prior to his appearance in front of the Board. Mr. Marcroft presented the following responses.

Questions: What was the number of regulations previously rejected and approved? Please advise if any BBS regulation packages were among the rejected packages. If a BBS package was rejected, what was the reason and who rejected it? DCA agency or OAL?

Response: A total of 55 rulemaking files were submitted by DCA and considered by OAL. Nine (16%) of those were not approved. These rulemaking files did not include section 100 regulations or re-adoptions of emergency regulations; the files included only regular regulations and emergency rulemaking and certificates of compliance.

Response: In 2018, OAL rendered one decision on a BBS package. In 2017, OAL disapproved one package and then approved that package later in 2017. In 2016, OAL rendered one decisions on a BBS package, approving it. In 2015, OAL rendered four decisions on BBS packages; one package was disapproved and approved in the same year.

Response: In 2017, OAL disapproved a package that addressed conditions for granting time to complete examinations to persons whom English is a second language. The grounds for disapproval were lack of clarity and lack of necessity. OAL commented that the regulation was not clear and vague, and that the regulation failed to justify why applicants needed to certify under penalty of perjury that English is their second language.

Response: In 2015, OAL disapproved the regulation amending the examination process. The grounds for disapproval were for clarity. The regulation was unclear for several reasons related to national examinations. There were procedural defects that OAL identified. One defect was the text that was submitted to OAL was not the text that was approved by the board. The minutes of the public hearing were not complete.

Question: What was the number of regulations submitted by all boards and bureaus in the last fiscal year?

Response: DCA looked at the number of OAL decisions in that period of time, rather than the number that DCA submitted in the period of time, which was a total of 34 regulations.

Question: What was the number of regulations approved last fiscal year?

Response: 32 were approved; two were disapproved (5.8%).

Question: What is the status of the Board's three regulation packages?

Response: Examination rescoring, application abandonment, APCC subsequent registration fee regulation – DCA review is complete, and it has been submitted to Agency earlier this week.

Contact information, application requirements, incapacitated supervisors – DCA Legal provided some revisions, and Board staff may be waiting on possible changes from the Board's committee before moving that package forward.

Enforcement process – DCA review is complete, and it has been submitted to Agency earlier this week.

Question: What are the details regarding any revisions to the current pre-review process to improve the process, and when DCA anticipates implementing the revisions?

Response: This was answered in the early portion of the presentation.

Question: Considering the length of time that the pre-review process is currently taking, what are the DCA's plans to ensure that the Board can fully implement three bills (AB 93, AB 456 and AB 2138) by the statutory effective date if they are signed by the Governor?

Response: AB 2138 has not yet been approved by the Governor. If it were approved, the effective date is July 1, 2020.

AB 456 was approved by the Governor on August 20th, 2018. January 1, 2019 is the effective date.

AB 93 has not yet been approved by the Governor. If it were approved, the effective date is January 1, 2019.

Board Members and Ms. Madsen posed additional questions to Mr. Marcroft.

Dr. Brew: What is the time period that the rulemaking files are in your department? What is your goal?

Mr. Marcroft: That is difficult to answer because it depends a little bit on complexity of the rulemaking file.

Dr. Brew: Provide a range for a small/easy rulemaking file and a complicated file.

Mr. Marcroft: We don't have firm ranges for each of the different components in the process. We have in-house goals that we are trying to measure by. I don't have an average for you. Part of the objective of the computer tracking system is to be able to come up with good averages that we can have an understanding of what it takes in Legal, what it takes in Budgets, what it takes at Agency, on an average. We don't have perfect data presently. We have benchmark mile-marker data.

Dr. Brew: What are those?

Mr. Marcroft: Mile-marker data, when Board staff submits a regulation to the department and it moves from that level, then it goes to Budgets, then to Legal. And then it moves through review layers there. Then it's married back up and it moves to – we have dates, basically, when they hit those things. But what we don't have is the back and forth that – we don't have – comprehensively, we're improving. But is back and forth between each of those steps. So, when I say it moves from Board staff into Legal, what's happening there sometimes -- it's a really perfect document. It's just a review. It's just a traditional review. You read it from top to bottom, it looks good. Legally sufficient. You sign off, and it moves on.

Dr. Brew: So, are you talking days? Weeks? Months? For something clean.

Mr. Marcroft: We have three levels. Your Board council, a supervisor and myself. The board councils are looking at about a week turnaround. The supervisor level, we're shooting for a 30-day turnaround. And then myself, also shooting for a 30-day turnaround.

Dr. Brew: So, the goal is less than 2 1/2 months for something quick and easy and clean?

Mr. Marcroft: For something quick and easy and clean, I think that would be right. I don't experience that very often with regulations. Usually, there's back and forth between me and the Board staff. Between my supervisors and either the counsel or the Board staff. So, it's a rare case that it's quick, easy and clean once through.

Dr. Brew: It's more like a year?

Mr. Marcroft: Not in the Legal Division. Maybe overall. Overall, because there are several divisions that look at regulations in the department. But it's typically not a quick, easy, clean rulemaking file.

Dr. Brew: No, but just understanding that quick and easy is still 2 ½ months long for something that's small, quick, done well. That's a long time for something that is clean and small.

Mr. Marcroft: And I think to that point, that is one of the criteria we're looking at building into our computerized system is a designation along those lines. Maybe not quick and easy, but the idea being the same. That having it designated as not complex, medium complex, and very complex; like disciplinary guidelines and uniform standards are very complex. Just the integration of them all. And building timeframes based on the complexity.

Ms. Wong: In regard to the two packages that is at DCA, I am interested in knowing – because one of them has already been up there for about over a year. When do you anticipate that it's able to move along, given all the complexity and the hard work you do? And to make sure that it's close to be approved.

Mr. Marcroft: I would say two things about that. In looking through the Board's meeting materials, there is a chart of timelines. And it has, what I mentioned earlier, as major mile markers. But one of the things that is not clear from that is there is interaction that happens between those major mile markers. Interaction from attorneys to other attorneys. Interaction between Budgets and attorneys. Interaction between attorneys and Board staff. It's not reflected in some of these major mile markers. But to answer your question directly, it has moved on -- I believe -- which one did you ask about specifically? All -- well, all three of them.

Two of them have moved to the Agency. And agency usually takes about a 30-day review period. And at that time, it's the trigger moment to be noticed to the public for comment period. Then the other one I think is on hold, awaiting possible comments or revisions from the License Portability Committee. I believe that's where the other one is.

Ms. Berger: That's the regulation package that has to do with application requirements. What comes out of the License Portability Committee will affect application requirements for out-of-state applicants. So, we are holding onto that until we see what comes out of the committee.

Ms. Madsen: Right. We assumed that that would've been part of the regulations by now. But because of the delay, we're having to hold it.

Thank you for coming. I really appreciate it. I'm not the only EO frustrated by the process. So, one of the questions I had asked was the number of regulations that were rejected, and you gave the 22%. And that's the number that I continue to hear. So, what does that 22% equal? Because you had to have a number to get that. It was cited as the reason that we had to go to the new pre-review process. That there was a high number of DCA regulation packages that were rejected. So, what number lines up with 22%? 10? 12?

Mr. Marcroft: I don't know exactly off the top of my head.

Ms. Madsen: I believe at one meeting, we were told six packages were rejected.

Mr. Marcroft: No, I'm fairly confident it's more than six. I don't know off the top of my head, but I'd be happy to e-mail you that figure.

Ms. Madsen: That'd be great, and then I can share it with my members.

I know statutorily, OAL and DOF and Agency, if I'm not mistaken, they all have about 30 days to review. DOF and OAL can review concurrently if we're bunching up against that line. In prior DCA EO (Executive Officer) meetings, we've asked for timelines. I know that you're working on it. I participated in a survey the other day about timelines. Our enforcement regulation disciplinary guidelines had been with DCA. How many times had you asked where they were, Rosanne? Do you want to give a timeline of that?

Ms. Helms: I followed-up with DCA monthly since September 2017 through January 2018.

Ms. Madsen: And subsequent calls to our attorney counsel, stating "it's off of my desk, but it's somewhere." And maybe coincidence or not, but the day that I sent the e-mail with the questions, a few hours later, that package came back to our office. And Rosanne returned it promptly on the 6th. And then today, we heard that it's at Agency. But Rosanne had not been notified that it had gone over to Agency.

So, from my perspective, we're held to a standard. Performance measures. I have to report our stats. I have to look for efficiencies, process improvements, continuous -- to try to respond to our stakeholder needs. I also have to go before the legislature every four years, if I'm lucky, and say here's what we're doing. Here's how we're doing it. I'm held to standards, and yet, we still don't have a reasonable expectation of the timeline to allow DCA Legal to complete its review so that I can build in a plan accounting for the 45-day comment period, the 30-day review, so that I can meet the statutory deadlines. My biggest concern with our enforcement package is that we submitted that based on our prior experience. The regulatory process typically is taking a year from the time you publicly notice it until completion. And right now, we've been in well over a year. I have not publicly noticed this package, nor have I publicly noticed any of those packages. And under the current review process, it's really adding time rather than helping us. And, so, it's starting to become a barrier.

You talked about resources. You've talked about a contract for a subject matter expert. I haven't heard - and Dr. Brew had asked - about timelines. I haven't heard any specific hardcore deadlines. Or reasonable expectations in terms of once it gets to Legal, what can I expect given that it needs to go through three attorneys?

Mr. Marcroft: Presently what we're looking for is a week turnaround for the board counsel. We're looking at a 30-day turnaround for our assistants. And then, I'm also shooting for a 30-day turnaround, as well.

With 40 programs and with the level of scrutiny and rigor that we're giving our files now, that is an aggressive timeline as things stand. But we are working to meet those. We've set those as goals. I think it will be telling as we are able to implement our computer tracking system, what the real timelines are. Again, I would say that there is back and forth that happens that's not always reflected in some of the paperwork that I see.

I will acknowledge that part of the change -- it was a seat change, I think, that happened in September of 2016 in the way this department did its process. It wasn't entirely known at that point-in-time some of the implications, workload-wise. We're looking at that too.

Ms. Madsen: I appreciate that because these are the first packages that have been submitted under the new process. My biggest concern is AB2138.

You talked about a 30-day review with you. A 30-day review with assistant counsel. Maybe a week, we can say two weeks for counsel. So, if we do 90 days in Legal and then I add in the 60 days for OAL and DOF, and then the 45-day comment period, that's 150 days. I'm at about six months. If those timelines are adhered to, then we should reasonably expect it to take a year, as it did previously, correct? To get a regulation package all the way through?

Mr. Marcroft: Part of the reason that we made the process changes was due to the disapprovals; we have frontloaded a lot of the work that was happening at the tail-end of the process. What used to happen was a lot of the review that is now happening at the first set of time periods wouldn't happen until after the notice of comment period. And sometimes, we would get final packages ready for submission to OAL a day or two before the one-year deadline expired.

And what that caused, then if that was not a good package, the only option was a disapproval. And that increased. So, part of the goal of the changes was to add more scrutiny and review to the front end so that when you get to the back end, you have plenty of changes need to be made. Usually, if changes don't need to be made, that back-end review is a faster timeframe, because it doesn't require the heavy writing into the development of the initial documents that was required on the front-end. As you know, you can't change those front-end documents once they're noticed to the public. There is more time now on the front-end because the rigor of the review is on the frontend; also rigorous on the tail-end. I don't want to suggest that, but because it's a simpler process on the tail-end, it

takes less time. I'm not sure that that's a hard and fast answer. But that is sort of the consequence of the change that happened.

Ms. Madsen: With respect to the two packages that we had disapproved, one was informally, the exam, I believe. It was primarily the language. And staff met with OAL to get the language. The same was true for the ESL. It was language. It wasn't the eyesore or the 399 (financial documents) or any of the other technical stuff. Our experience has been that - that's been beneficial to speak with OAL, because at the end of the day, that's the attorney that says yes or no. I'm wondering if there has been any consideration or discussion to include OAL in the pre-review process. Not for an approval, but just to look at the language, because I think the regulation training that is provided, probably sufficiently addresses what an eyesore needs to have, whether that language is going to address some basic concerns.

Mr. Marcroft: The OAL disapprovals were formal decisions of disapproval. They tackled both the text and necessity issues, in at least one of them. As for collaborating with OAL, we do that particularly where we have a question.

Ms. Madsen: So, it's more on an as-needed basis, not up front in the whole process?

Mr. Marcroft: That might be something that comes out of our efficiency study as a suggestion, to do that on a regular basis. I suspect that might have - impacts on OAL.

Dr. Chiu: The description of the process is clear. Do you have a flowchart for transparency purposes to describe exactly what you're saying so everyone can see it? And also, in your efficiency study, I assume you will identify the bottleneck or have a critical path analysis if you have such a flowchart?

Mr. Marcroft: I have a flowchart that I'm happy to supply to Ms. Madsen.

Board Members thanked Mr. Marcroft for appearing and answering questions.

b. Discussion on Distributed Cost Allocations and DCA's 2018 Report to the Legislature

Taylor Schick, DCA Fiscal Officer presented information to the Board regarding pro rata and how the entire cost of the department across all boards and bureaus are distributed.

The units with clear workload metrics are DOI, Office of Information Services and the call center. A workload-based analysis is performed of the prior year workload, and those ratios are used to develop costs into the next year.

Programs that do not have a direct workload "widget" are the Office of Human Resources, Executive Office, Equal Employment, Budgets, Accounting. These costs are distributed based on authorized position ratio for the department.

BBS spends roughly 26% of its budget to support the department. The average across the department is roughly 22%. The value fluctuates significantly based on the program and what services they receive from DCA.

Programs, such as BBS, on the BreEZe system are paying a higher percentage of pro rata cost. BBS also utilizes DOI, which is a factor that would cause the Board to pay a higher percentage.

Mr. Schick offered to provide information that shows how much of the Board's budget is directed to specific units, and information to compare the Board to other programs. The Board expressed interest in receiving that information.

c. Status of Executive Officer Salary Study

Karen Nelson, Assistant Deputy Director with Board and Bureau Services, presented information regarding the services provided by Board and Bureau Services and provided an update on the Executive Officer's salary study.

DCA has awarded the contract and have met with the consultants this week. Ms. Nelson expects the project to take approximately six months, with an estimated completion date of March 2019. The contractors will provide a comprehensive independent review and assessment for Executive Officer (EO) salary levels and evaluate changes that have occurred after the previous salary study that was conducted in 2011. This new study will assess the programmatic changes that have occurred over the years, and how these changes have increased the operational complexity of the boards and the department. This study will help to determine the degree to which these changes will support compensation augmentation.

The goals that the department would like to focus on through the study are:

1. Synthesize the data and collect information to evaluate the salary bands of DCA programs and make determinations on how the data may or may not suggest an augmentation of the program's level;
2. Determine what critical factors are used to support compensation increases in exempt position review process;
3. Evaluate the gender parity for EO salaries across DCA programs;
4. Benchmark comparable positions to other EO's in other states.

Dr. Brew asked if the department is evaluating the gender of the person in the position, or the gender of how the field is dominated. Ms. Nelson responded that she would look at how that is written in the scope of the project. Dr. Brew requested that the department look at both.

Dr. Wietlisbach asked if the department is looking at comparable states; not states with lower costs of living. Ms. Nelson responded that she would look at the scope of the project and which states would be compared to the study as it relates to California.

Dr. Chiu asked about the level of detail that the consultant will look at. Are they looking at all of the EOs as an aggregate, or are they breaking down each board to

commissions, the size of the board in terms of compensation comparing to similar boards in other states?

Ms. Nelson responded that the department will look at the totality with other states (the EO's, size and complexity of the board, and the makeup of the board). However, without the scope or workplan, she was not able to provide a detailed answer.

Dr. Chiu asked if the department was going to look at the average of all the boards or each board individually based on the size, number of licensees.

Ms. Nelson responded that the department would be looking at all of our boards and EO's individually, and the different programs, sizes and the complexities of each of those boards.

Ms. Nelson expressed that she will provide updates to the Board after completion of the project in early 2019.

Dr. Chiu suggested that the department also research the private industry as well; there should be competitive compensation for state service versus the private industry. Ms. Nelson responded that the department is only looking at state agencies.

XXII. Executive Officer's Report

a. Budget Report

2017/2018 Budget

The budget for Fiscal Year (FY) 2017/2018 was \$12,097,000.

In July 2017, the DCA transitioned to FI\$Cal, which is a new system for budgets, account, and procurements. The transition has and continues to be challenging. The system is working and capturing all expenditure and revenue transactions. However, some technical issues remain that affect the Budget Office's ability to conduct timely month end closing and produce reconciled monthly expenditure and revenue reports. Consequently, a full fiscal year end report is not currently available.

Based on the information currently available, the Board spent 98% of its budget and projects a reversion just over \$200,000.

2018/2019 Budget

The budget for FY 2018/2019 is \$11,550,000.

General Fund Loans

The Fund Condition reflects a \$3.3 million loan repayment in FY 2018/2019. This is the final payment of the \$12.3 million dollars previously loaned to the General Fund.

Board Fund Condition

The Fund Condition for FY 2018/2019 reflects a 4.6-month reserve.

b. Operations Report

Licensing Program: 4th Quarter FY 2017/2018

- Application volumes increased 43%
- Processing times decreased
- 1,642 initial licenses were issued

As of September 3, 2018, the Board has 114,369 licensees and registrants.

Examination Program: 4th Quarter FY 2017/2018

- 8,153 examinations were administered
- Examination statistics by school were provided
- 7 examination development workshops were conducted

Administration Program: 4th Quarter FY 2017/2018

The Board received 9,507 applications, an 11% increase from last quarter.

Enforcement Program: 4th Quarter FY 2017/2018

- 433 consumer complaints, 309 criminal convictions were received
- 30 cases were closed, and 44 cases were referred to the Attorney General's (AG) office for formal discipline
- 47 Accusations and 19 Statement of Issues were filed
- 107 final citations were issued
- 562 average number of days to complete Formal Discipline; year-to-date average is 704 days
- 348 average number of days the case is with the AG's Office; year-to-date average is 460 days
- 75 average number of days to complete all Board investigations; year-to-date average is 118 days

Continuing Education Audits: 4th Quarter FY 2017/2018

- 394 licensees were audited from January through August 20, 2018
- 29% of licensees failed their audits

Top reasons a licensee failed the Continuing Education (CE) Audit during this period:

- Failure to complete the required 6-hour Law and Ethics coursework within the renewal period
- First time renewals did not complete the HIV/AIDS course
- Completing CE courses from unapproved providers

In an effort to improve compliance, the Board will increase outreach efforts by sending a licensing analyst and a CE analyst to the association conferences.

Outreach Activity

Board staff either physically attended the following events or participated via phone conference:

- June 8, 2018: Greater Los Angeles Area MFT Consortium
- June 11, 2018: Central Coast MFT Consortium
- August 16, 2018: Inland Empire MFT Consortium

Ms. Madsen will attend the National Association of School Psychologist conference in November. She will also attend the National Board of Certified Counselor annual conference in September, and the Association of Marriage and Family Regulatory Boards conference. Ms. Madsen will promote the Board's licensed portability framework at both conferences.

Board Move Update

About \$400,000 have been set aside for the move. To date, the approval of the suite plans is pending. The delay is likely due to the recent fires in California.

Fee Audit

Cooperative Personnel Services HR Consulting (CPS HR) will conduct the Board's fee audit. The cost for the audit will not exceed \$43,400. The purpose of the audit is to determine if the current fees are sufficient to support current and future Board operations.

CPS HR and Board management met in August to discuss the project and identify documentation and data necessary to conduct the audit. CPS HR estimates that a final report will be completed in February 2019.

c. Personnel Report

New Employees

John Hicks accepted a position as an Office Technician in the Licensing Unit. He will be responsible for file maintenance. Prior to his appointment, Mr. Hicks was Seasonal Clerk with the Board.

Jonathan Burke accepted a position as Staff Services Manager I in the Discipline & Probation Unit. Prior to his appointment, Mr. Burke served as DCA's Board and Bureau Services Manager.

Departures

Kimberly Brady was promoted with the Department of Public Health in August 2018.

Angel Quintero will transfer to the Board of Registered Nursing effective September 18, 2018.

Retirements

Sandra Wright will retire from state service effective October 1, 2018. Ms. Wright is a Discipline Analyst in the Discipline & Probation Unit. Ms. Wright worked at the Board for 19 years.

Deborah Flewellyn will retire from state service effective November 1, 2018. Ms. Flewellyn is a Marriage and Family Therapist Evaluator. Ms. Flewellyn worked at the Board for 21 years.

Gina Bayless will retire from state service effective December 1, 2018. Ms. Bayless is the Examination & Cashiering Manager. Ms. Bayless worked at the Board for 3 years.

d. Strategic Plan Update

A copy of the Strategic Plan was provided. Dr. Leah Brew requested an additional column added to the plan, indicating a due date for each objective. Ms. Madsen responded that the due dates have not been established yet, but she will aim to provide that by February.

XXIII. Presentation, Discussion, and Possible Action Regarding an Alternative Option to License Surrender in Disciplinary Cases Involving Neuro-Cognitive Degenerative Disorders – Dr. Steven Frankel

Dr. Steven Frankel is an MFT, a psychologist and an attorney. He presented information to the Board regarding specific cases regarding professional mental health providers with dementia, which resulted in disciplinary actions by licensing boards.

Dr. Frankel requests that the Board, upon investigation of a complaint and determination that a licensee has dementia, allow the licensee to retire their license. He also requests that when it is determined that the licensee has dementia, that the accusation is not made public.

Ms. Madsen reached out to the Board of Pharmacy, the Medical Board, and the Board of Psychology. These boards do not offer these options to licensees affected by dementia. Two of these boards do not have a retired license status. They all agreed that once an accusation is filed, it stays. If the Board initiates Dr. Frankel's requests, it will be perceived as avoiding discipline or "in lieu of discipline." Historically, when boards have done this, it led to severe consequences. There is some history involving this that ultimately resulted in uniform standards.

Ms. Madsen added when investigating an accusation, staff does not have the expertise to determine that the licensee may have dementia.

Ms. Madsen explained that when a complaint is received, the Board must either investigate or determine that it is not within the Board's jurisdiction and close it. If the

investigation reveals a violation of law, the Board is obligated to act on it. During an investigative process, a retired status cannot be offered because the law prevents it. Dr. Brew asked if there is a way to change the law to allow the licensee to voluntarily surrender their license and craft the language so that the licensee can leave with dignity. Ms. Knight responded that this would be beyond BBS because all boards are subject to the same type of enforcement and minimum standards. The Board is subject to the Business and Professions Codes.

Dr. Brew addressed Dr. Frankel and informed him that he would need find an assembly member or senator to author a bill.

Mr. Lam suggested that the Board consider a CE requirement in gerontology and aging instead of pursuing legislation and changing laws.

Dr. Chiu agreed with Mr. Lam, and stated that the problem is not to protect one's colleague and preserve their reputation and legacy. The problem is that licensees practice when they should not, and that is what needs to be addressed; not how to not disclose what they had done.

Dr. Wietlisbach agreed with Dr. Chiu but was not sure that additional CE requirements would be helpful.

Discussion continued, and suggestions were made regarding involving stakeholders and professional associations, creating a task force. Dr. Frankel stated that his intent was to raise the issue and make recommendations. He is willing to commit his time to discuss these matters with other boards and the professional associations.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT), stated that CAMFT is available for future conversations.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA), agrees with the approach for public and professional education. One idea would be, on a voluntary basis, to recommend to the CE providers to add or modify the content in some of the required courses to cover the idea of impaired colleagues and competency issues.

No action was taken.

XXIV. Discussion and Possible Action Regarding Associates Paying for Supervision

The topic of an associate paying for supervision is one that the Board has discussed on several occasions. One Board Member requested the Board to reconsider this topic.

Historically, it has been common practice within the mental health profession for associates to pay for supervision. In the past several years, the Board has discussed this topic at the October 2015 Supervision Committee meeting and subsequent committee meetings.

Research was conducted during the Supervision Committee. The data suggested that most associates do not pay for supervision and that most supervisors do not charge

for supervision. Based on this information and subsequent discussions, the committee members and stakeholders expressed a preference for this practice to remain intact. During the May 2016 Board Meeting, Dr. Benjamin Caldwell gave a presentation that suggested that trainees were paying for supervision during their practicum. Dr. Caldwell indicated that this practice appeared to be limited to the Los Angeles area.

Board staff interviewed a group of agencies in southern California. Those agencies indicated that the fee paid to the agencies is to support some of the additional enriched programs and training that trainees would not ordinarily receive. The agencies indicated that everyone is informed of the cost ahead of time and ways to reduce the cost.

The Board referred Dr. Caldwell's concerns and the information staff gathered to the Exempt Setting Committee. The committee and stakeholders determined that the fees charged by these agencies are validated.

Dr. Caldwell made the following points:

- This is not common in the rest of California or the country; this seems to be common in southern California.
- If this is left without oversight, it will potentially grow. For example, an agency in southern California is currently charging trainees and associates to interview for potential placement.
- Fee reductions and fee waivers do not appear to be disclosed to potential trainees and associates.
- Agencies adapt and find ways to serve their mission.

Robert Mendelson, Southern California Counseling Center, commented that his agency charges a program fee, not a supervision fee. The clinical supervisors are volunteers. The money pays for training classes.

The Board rests on this issue. No action was taken.

XXV. Update Regarding Reconvening the Substance Abuse Coordination Committee: Uniform Standard #4

The Substance Abuse Coordination Committee held its second meeting on June 27, 2018. The meeting included presentations regarding drug testing methodologies, an overview of the traditional probation process and contracted diversion programs. The committee also reviewed the key components of Uniform Standard #4 and discussed potential revisions.

The committee approved a revision to the language addressing vacations and absences. Incorporating these revisions will require the boards to initiate a rulemaking process.

The next meeting is scheduled on October 30th.

XXVI. Exempt Setting Committee Update

The Exempt Setting Committee (Committee) met on June 8, 2018 and on September 12, 2018. The following topics were discussed:

- Practice Setting Definitions

The Committee had previously directed staff to revise existing practice setting definitions, and to create new definitions to include settings not currently defined. Staff presented draft definitions for initial review and received feedback on September 12th. Staff will continue to work on these definitions. Staff will bring the draft language to the Policy and Advocacy Committee meeting in October.

- Registrant Employment by Temporary Staffing Agencies

The Committee had previously considered draft language that addresses registrants who are employed by a temporary staffing agency, which is often used by the Veteran's Administration (VA). Current law does not address a temporary agency as an employer. The Committee and staff continued to discuss that language on September 12th and received feedback. Staff will bring the draft language to the Policy and Advocacy Committee meeting in October.

- Consumer and Student Outreach Efforts

The Committee recommended efforts be made to better inform consumers who are seen in exempt settings by unlicensed therapists, and how to better protect these consumers. In addition, the Committee considered methods to help students be better informed about issues pertaining to practicum placement settings.

The Committee recommended that staff increase its outreach efforts to consumers and students.

XXVII. Presentation Regarding the Licensed Mental Health Services Provider Education Program – Office of Statewide Health Planning and Development

Norlyn Asprec, Executive Director, Health Professions Education Foundation provided an overview of the Licensed Mental Health Services Provider Education Program (LMH).

The purpose of the LMH is to increase the number of mental health professionals practicing in underserved areas. Board associates and licensees are eligible for LMH if they meet specified criteria.

Twenty dollars of every LMFT, LCSW, and LPCC license renewal fee is transferred to the Health Professions Education Foundation to fund the LMH. In 2017-2018, the Board allocated \$219,185 for LMH awards. Over 700 applications were received. A total of \$747,832 was awarded to 60 recipients. Of the 60 awards, 48 were awarded to BBS associates and licensees.

Awards can be received up to three times. Applications are accepted online. Information is available at www.healthprofessions.ca.gov.

XXVIII. Discussion and Possible Action Regarding the Policy and Advocacy Committee Recommendations

a. Recommendation #1 Regarding Proposed Revisions to Out-of-State Licensee Requirements for Licensed Professional Clinical Counselors

Under the proposal, the Board may issue an LPCC license to a person who holds a license in another jurisdiction of the U.S. as a professional clinical counselor at the highest level for independent clinical practice if following conditions are met:

- Holds a been current, active, and unrestricted for at least 2 years immediately prior to the date the application was received by the Board.
- Has a master's or doctoral degree that was obtained from an accredited or approved school.
- Submits fingerprints.
- Completes a 12-hour California law and ethics course.
- Completes 15 hours of coursework in California cultures.
- Completes a 7-hour child abuse assessment and reporting course, which must include coursework covering the Child Abuse and Neglect Reporting Act.
- On or after January 1, 2021, the applicant shows proof completing at least 6 hours of coursework or supervised experience in suicide risk assessment and intervention.
- Passes the Board's California law and ethics exam.

LPCCs who were licensed in another state that permits treatment of couples and families may continue to do so upon licensure in California, if they complete at least 6 hours of CE coursework specific to marriage and family therapy in each renewal cycle. If the other state of licensure does not permit treatment of couples and families, then the licensee must meet the full requirements for LPCCs to treat couples and families, as specified in Business and Professions Code (BPC) §4999.20.

Additional technical amendments are as follows:

- Reduce the coursework requirement for the California law and ethics from 18 hours to 12 hours, for applicants who do not qualify to apply as an out-of-state licensee.
- Additions to §4999.61: This section previously only applied to non-licensed individuals. It has been amended to also apply to those who hold a license, but have held it for less than two years, or to those who hold a license but do not qualify under the portability option for other reasons. Now that license holders are also included in this section, two provisions are added:
 - Allowing an out-of-state licensee to count time actively licensed in good standing toward the 3,000-hour requirement at a rate of 100 hours per month, up to 1,200 hours maximum; and
 - Allowing an active out-of-state licensee or registrant, in good standing, to use his or her qualifying clinical exam score to count for California's clinical exam requirement, if they have already passed the clinical exam that this Board accepts.

- Additions to §4999.62: This section previously applied only to non-licensed individuals. It has been amended to also apply to licensed individuals who were previously allowed to remediate the practicum requirement. The practicum requirement would be waived for out-of-state license holders in good standing.

The Board’s Policy and Advocacy Committee (Committee) reviewed the proposed language at its August 2018 meeting and requested the following changes:

- Remove 6-hour principles of mental health recovery-oriented care coursework requirement in first license renewal period

The Committee determined that licensed individuals applying under the portability option would likely have had exposure to this content.

- Add child abuse course content

BPC §28 requires BBS applicants to have knowledge of the Child Abuse and Neglect Reporting Act (CANRA), which is specific to California. The Committee requested that the 7-hour child abuse content be added as a requirement for the portability option.

- Acceptable licenses for LPCC portability

Previously, to be able to apply for a license under the portability option, the proposed language required licensure as a “professional clinical mental health counselor at the highest level for independent practice”. There was concern that the title needed to be tightened further. The Committee instead recommended required licensure as a “professional clinical counselor at the highest level for independent clinical practice.”

Dr. Leah Brew moved to direct staff to make any non-substantive changes and to pursue as a legislative proposal; and to direct staff to submit the proposed language to DCA Legal for final review, and if Legal recommends any substantive changes, bring back to the November Board Meeting. Christina Wong seconded. The Board voted to pass the motion.

Vote

- Vicka Stout – yes
- Christina Wong – yes
- Alexander Kim – yes
- Dr. Christine Wietlisbach – yes
- Betty Connolly – yes
- Max Disposti – yes
- Dr. Leah Brew – yes
- Dr. Peter Chiu – yes
- Gabriel Lam – yes

b. Recommendation #2 Regarding Proposed Revisions to Out-of-State Licensee Requirements for Licensed Marriage and Family Therapists

This proposal is very similar to the out-of-state licensee requirements for LPCCs. Ms. Helms presented the key differences for marriage and family therapists:

- Under the proposal, the Board may issue an LMFT license to a person who holds a license in another jurisdiction of the U.S. as a marriage and family therapist at the highest level for independent clinical practice if they meet specified criteria.
- Definitions of “accredited” and “approved” schools were added to the general definitions for the LMFT licensing law.
- 4980.81(a)(8)(F) *The application of legal and ethical standards for different types of work settings* should read *in different types of work settings*.

Dr. Caldwell commented that AAMFT supports the language as drafted.

Dr. Peter Chiu moved to direct staff to make any non-substantive changes and to pursue as a legislative proposal; and to direct staff to submit the proposed language to DCA Legal for final review, and if Legal recommends any substantive changes, bring back to the November Board Meeting. Christina Wong seconded. The Board voted to pass the motion.

Vote

Vicka Stout – yes
Christina Wong – yes
Alexander Kim – yes
Dr. Christine Wietlisbach – yes
Betty Connolly – yes
Max Disposti – yes
Dr. Leah Brew – yes
Dr. Peter Chiu – yes
Gabriel Lam – yes

c. Recommendation #3 Regarding Proposed Revisions to Out-of-State Licensee Requirements for Licensed Clinical Social Workers

This proposal is very similar to the out-of-state licensee requirements for LPCCs and LMFTs. Ms. Helms presented the key differences for LCSWs:

- Under the proposal, the Board may issue an LCSW license to a person who holds a license in another jurisdiction of the U.S. as a clinical social worker at the highest level for independent practice if they meet specified criteria.
- Addition to §4996.17.2: A requirement that out-of-state applicants not qualifying under the portability option complete 10 contact hours of coursework in aging and long-term care, as specified in §4996.25
- The Committee requested to remove the proposed language requiring an out-of-state-applicant not qualifying under the portability option to complete 45 hours of coursework in the principles of mental health recovery-oriented care. Social workers are already trained in this model of practice.

- 4996.18(b)(3)(F) *The application of legal and ethical standards for different types of work settings* should read *in different types of work settings*.

Christina Wong moved to direct staff to make any non-substantive changes and to pursue as a legislative proposal; and to direct staff to submit the proposed language to DCA Legal for final review, and if Legal recommends any substantive changes, bring back to the November Board Meeting. Dr. Leah Brew seconded. The Board voted to pass the motion.

Vote

Vicka Stout – yes
 Christina Wong – yes
 Alexander Kim – yes
 Dr. Christine Wietlisbach – yes
 Betty Connolly – yes
 Max Disposti – yes
 Dr. Leah Brew – yes
 Dr. Peter Chiu – yes
 Gabriel Lam – yes

d. Recommendation #4 Regarding Adding a New Accepted Degree Title for Marriage and Family Therapist Licensure

The Board has been asked to consider adding a new degree title to those accepted for licensure as a marriage and family therapist. The goal of the new title, “Clinical Mental Health Counseling with a concentration in Marriage, Family, and Child Counseling,” would be to increase portability of licensure to other states.

Argosy University is requesting the additional title. Argosy University offers a “Counseling Psychology” degree program in California, which prepares its students for both LMFT and LPCC licensure in California. However, it is not accepted toward licensure in many other states. Argosy University notes that many states are requiring accreditation from the Council for Accreditation of Counseling & Related Educational Programs (CACREP). According to the CACREP standards, the degree areas must be certain specific titles. Argosy’s Counseling Psychology degree program is not included on CACREP’s list.

The Committee recommended that the Board consider adding the title “Clinical Mental Health Counseling with a concentration in Marriage, Family, and Child Counseling,” to the list of degree titles acceptable for LMFT licensure for in-state applicants.

Dr. Brew expressed support for the recommendation. She explained that at the national level, the American Counseling Association (ACA), the base degree is to become a mental health counselor and then to specialize in marriage and family therapy or school counseling, for example. This is the national landscape, and most states do this. California is different from the rest of the country. Schools will eventually need to change their degree titles so that students can be dually licensed.

Dr. Benjamin Caldwell, American Association for Marriage and Family Therapy (AAMFT), explained that there is a philosophical conflict between AAMFT and

ACA. AAMFT's perspective has been that the discipline of marriage and family therapy is distinct from the discipline of professional counseling. The perspective of the ACA and CACREP has been that marriage, family and child counseling is a subset of the larger profession of counseling. Having that discussion to define an MFT license degree based on its content rather than its title will make it more difficult for programs to offer dual track programs. In this case, the easiest solution is to add an acceptable degree title.

Ms. Atkins expressed that CAMFT supports the addition of the title.

Dr. Leah Brew moved to direct staff to pursue a legislative proposal to add the new title "Clinical Mental Health Counseling with a concentration in Marriage, Family, and Child Counseling" to the list of degree titles acceptable for LMFT licensure for in-state applicants and make any non-substantive changes. Dr. Christine Wietlisbach seconded. The Board voted to pass the motion.

Vote

Vicka Stout – yes
Christina Wong – yes
Alexander Kim – yes
Dr. Christine Wietlisbach – yes
Betty Connolly – yes
Max Disposti – yes
Dr. Leah Brew – yes
Dr. Peter Chiu – yes
Gabriel Lam – abstain

e. Recommendation #5 Regarding Licensed Professional Clinical Counselor Supervision Requirements: Title 16, California Code of Regulations: Amend Sections 1820, 1820.5 and 1821; Add Sections 1821.1, 1821.2 and 1821.3; Repeal Section 1822

The Supervision Committee focused on qualifications of supervisors, supervisor responsibilities, types of supervision provided, and employment of associates. Significant statutory and regulatory changes were proposed by the Supervision Committee.

The Supervision Committee's work resulted in AB 93 as well as proposed regulations. However, AB 93 has had some significant changes since the time the regulations were initially approved. The proposed regulations have been revised due to those changes, and also in consideration of recent feedback on other regulation proposals from the OAL and DCA.

AB 93 does the following:

- Allows a licensee to count time licensed in another state toward the following requirements to become a supervisor:
 - Held a license for at least 2 years
 - Held an active license for 2 of the past 5 years
 - Actively practiced or supervised for at least 2 of the past 5 years

- Allows supervision of students (social work interns or professional clinical counselor trainees) to count toward actively supervising for the 2 of the past 5 years.
- Modifies the definition of supervision and further outlines a supervisor's responsibilities, including addressing countertransference or other personal issues that may affect the supervisory or practitioner-patient relationship.
- Allows the Board to audit a supervisor's qualifications and requires a supervisor to keep records of his or her qualifications for 7 years from termination of the supervision.
- In a private practice which is not a professional corporation, requires an associate to be supervised by an employee who practices at the same site as the associate's employer, or by an owner of the private practice.
- Specifies that alternate supervision is allowed while the supervisor is on vacation or sick leave if the same requirements are met.

If AB 93 is signed, then staff can move forward with the proposed regulations. Ms. Berger briefly summarized the original proposed regulations approved by the Board in November 2016.

Ms. Berger then presented the new proposed changes to the original regulations:

1. Wording and numbering changes for consistency with AB 93.
2. All implementation dates moved forward one year because AB 93 became a two-year bill.
3. Minor technical, grammatical and clarifying changes.
4. Clarifies what is meant by "standards of practice of the profession" (legal requirements and ethics codes) in the written agreement between the employer and supervisor (California Code of Regulations (CCR) section 1820(a)).
5. Removes a reference to the 6-year limit on experience hours and makes it generic in the event the statute specifying this requirement were to change (CCR section 1820(c)(3)(E)(v)).
6. Requires the supervisor to provide associates with procedures regarding handling crises and emergencies, prior to the commencement of supervision (timing was previously unspecified) (CCR section 1821(a)(12)).
7. Requires additional information on the supervisor self-assessment report to help staff determine compliance with training requirements (CCR section 1821(d)(3)&(4)).
8. Clarifies what is meant by "current best practices and current standards" (legal requirements, ethics codes and research on supervision) as it pertains to supervision training content (CCR section 1821.3(a)(1)).
9. Clarifies that a 6-hour supervision training (refresher) course is required for a licensee who has previously served as a supervisor, but who has not supervised in the past 2 years (as opposed to "2 of the past 5 years") (CCR section 1821.3(b)).

10. Requires continuing professional development activities involving collaboration, mentoring, and peer discussion groups to take place with other licensees who are currently serving as a Board-qualified supervisor (CCR section 1821.3(c)).

Dr. Christine Wietlisbach moved to approve the proposed text for a 45-day public comment period, and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and delegate to the Executive Officer the authority to make any technical, non-substantive changes that may be required in completing the rule-making file. Dr. Leah Brew seconded. The Board voted to pass the motion.

Vote

Vicka Stout – yes
Christina Wong – yes
Alexander Kim – yes
Dr. Christine Wietlisbach – yes
Betty Connolly – yes
Max Disposti – yes
Dr. Leah Brew – yes
Dr. Peter Chiu – yes
Gabriel Lam – yes

f. Recommendation #6 Regarding Licensed Marriage and Family Therapist Supervision Requirements: Title 16, California Code of Regulations: Amend Sections 1833, 1833.1 and 1833.2; Add Sections 1833.1.5 and 1834

Ms. Berger explained that the LMFT supervision regulation proposal is the same as those outlined in the LPCC supervision regulation proposal except for a few unique items that are referring to the law as it is currently. Supervisor requirements will be consistent between the three professions.

Ms. Atkins and Dr. Caldwell thanked the Supervision Committee for its work on the proposed supervision requirements.

Christina Wong moved to approve the proposed text for a 45-day public comment period, and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and delegate to the Executive Officer the authority to make any technical, non-substantive changes that may be required in completing the rule-making file. Dr. Leah Brew seconded. The Board voted to pass the motion.

Vote

Vicka Stout – yes
Christina Wong – yes
Alexander Kim – yes
Dr. Christine Wietlisbach – yes
Betty Connolly – yes
Max Disposti – yes

Dr. Leah Brew – yes
Dr. Peter Chiu – yes
Gabriel Lam – yes

g. Recommendation #7 Regarding Licensed Clinical Social Worker Supervision Requirements: Title 16, California Code of Regulations: Amend Sections 1870 and 1870.1; Add Sections 1869, 1870.5 and 1871; Repeal Section 1874

Ms. Berger stated that the LCSW supervision regulation proposal is the same as those outlined in the LPCC and LMFT supervision regulation proposals. Supervisor requirements will be consistent between the three professions.

Mr. Wong, NASW-CA, thanked the Supervision Committee for its work on the proposed supervision requirements.

Christina Wong moved to approve the proposed text for a 45-day public comment period, and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and delegate to the Executive Officer the authority to make any technical, non-substantive changes that may be required in completing the rule-making file. Vicka Stout seconded. The Board voted to pass the motion.

Vote

Vicka Stout – yes
Christina Wong – yes
Alexander Kim – yes
Dr. Christine Wietlisbach – yes
Betty Connolly – yes
Max Disposti – yes
Dr. Leah Brew – yes
Dr. Peter Chiu – yes
Gabriel Lam – yes

XXIX. Status on Board-Sponsored Legislation and Other Legislation Affecting the Board

Board-sponsored legislation awaiting a decision by the Governor:

- AB 93: Healing Arts: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors: Required Experience and Supervision
- AB 2117: Marriage and Family Therapists: Clinical Social Workers: Professional Clinical Counselors
- SB 1491 (Senate Business, Professions, and Economic Development Committee): Omnibus Legislation

Board-supported legislation:

- AB 456: Healing Arts: Associate Clinical Social Workers – This bill was signed by the Governor.

- AB 2088: Patient Records: Addenda – This bill was signed by the Governor.
- AB 1436: Board of Behavioral Sciences: Licensees: Suicide Prevention Training – This bill is awaiting a decision by the Governor.
- AB 2943: Psychotherapist-Client Relationship: Victims of Sexual Behavior and Sexual Contact: Informational Brochure – This bill was withdrawn by the author.

Board-monitored legislation:

- AB 2138 (Chiu and Low) Licensing Boards: Denial of Application: Revocation or Suspension of Licensure: Criminal Conviction – This bill is awaiting a decision by the Governor.

XXX. Status of Board Rulemaking Proposals

Enforcement Process – This proposal was submitted to Agency within the past week.

Examination Rescoring – This proposal was submitted to Agency within the past week.

Contact Information; Application Requirements; Incapacitated Supervisors - Depending on the outcome of the License Portability Committee's recommendations, this proposal may need to be revised to align with the revised licensing requirements for out-of-state applicants and brought back before the Board before submission to OAL for publishing.

XXXI. Suggestions for Future Agenda Items

Dr. Brew suggested a discussion, whether it be internal or within the Strategic Plan, regarding the structure of future Board Meetings, specifically addressing the increase in the number of petition hearings and how that will affect the length of future Board Meetings.

Dr. Caldwell requested a discussion on clinical examination resources that are made available to examinees.

An attendee requested a discussion regarding Board staff development and culture, and how to interact with people.

XXXII. Public Comment for Items Not on the Agenda

Dean Porter, California Association for Licensed Clinical Counselors (CALPCC), announced that this would be her last Board meeting. She expressed her gratitude to Ms. Madsen, Mr. Sodergren, Ms. Helms, Ms. Berger, Dr. Brew and all Board Members.

An attendee expressed concerned with Department of Veteran Affairs (VA) and not knowing if VA social workers are licensed. He also commented on his request for documents from the Board, stating that his request has not been fulfilled.

G.V. Ayers, CALPCC, alerted the Board of an ongoing issue with the Department of Health Care Services (DHCS). CALPCC is sponsoring a bill that would add LPCCs and PCICs as qualified providers who can be reimbursed by Medi-Cal for services (at

Federally Qualified Health Centers and Rural Health Clinics). DHCS has opposed this bill. CALPCC is pursuing the matter with them.

XXXIII. Adjournment

The Board adjourned at 3:24 p.m.