**(Approved August 21, 2003)**

# BOARD OF BEHAVIORAL SCIENCES
# AD HOC DISCIPLINARY GUIDELINES COMMITTEE

## APRIL 24, 2003

## CROWNE PLAZA
## 282 ALMADEN BLVD
## SAN JOSE, CA

**MEMBERS PRESENT**
Catherine Kay, Public Member
Peter Manoleas, LCSW Member
Roberto Quiroz, Public Member

**MEMBERS ABSENT**

**STAFF PRESENT**
Sherry Mehl, Executive Officer
Anita Scuri, Legal Counsel
Kristy Schieldge, Legal Counsel
Julie McAuliffe, Administrative Analyst

**GUEST LIST ON FILE**

The meeting was called to order at approximately 10:40 a.m.

### 1. APPROVAL OF MINUTES

ROBERTO QUIROZ MOVED, PETER MANOLEAS SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE FEBRUARY 20, 2003 MINUTES.

### 2. REVIEW AND DISCUSSION ON THE CURRENT DISCIPLINARY GUIDELINES

Ms. Kay provided the Committee and public with an overview of the February meeting. Board members had provided suggested changes and these suggestions were included in the meeting materials.

The Committee discussed formatting issues and Ms. Kay suggested that a longer introductory section or a preamble be added to explain the purpose of the document and an overall statement on whether minimum or maximum terms are imposed. Mr. Quiroz suggested that the overall goal be included and Mr. Manoleas suggested that the preamble include the basis for probation and its purpose. The contents of the expanded introductory section were discussed at length.

Ms. Mehl explained that the Disciplinary Guidelines are used by the Board and Administrative Law Judge in determining appropriate penalties for violations by licensees. There also is a disciplinary action of Citation and Fine for less egregious violations.

The Committee briefly discussed tolling language and Ms. Mehl suggested that the Board implement language similar to the Medical Board's language in the guidelines document.

The Committee discussed several issues regarding clarity and consistency of language throughout the document, including having the optional conditions come before the standard conditions, and including references to the probationary terms and conditions under the violations categories.

Mr. Quiroz asked that clarification as to the flexibility of the penalties be included. The Committee concurred with a suggestion submitted by a Board Member that the Guidelines clearly state that penalties should be imposed commensurate with standards relating to the severity of the violation.

The Committee also discussed various substantive issues concerning minimum and maximum penalties and terms of probation, including penalties for failure to provide the sexual behavior brochure and failure to provide fee information in advance.

The Committee discussed the issue of violations that involve substance abuse at length. Ms. Mehl indicated that a substance issue generally is discovered within a psychological evaluation and language could be added that if within the evaluation substance abuse is discovered, a licensee who is familiar with these issues must perform the supervision of the probationer. Mr. Manoleas requested that an optional condition should be added to require that if a probationer has a substance abuse issue, a licensee who specializes in this area should complete the supervision and the psychotherapy where stipulated. The Committee concurred that this should be referenced where appropriate throughout the Guidelines.

Mr. Quiroz stated that supervision should be focused on the issue that brought about the violation and the probation.

Ms. Kay commented on the minimum conditions of violations and stated that she has noticed that all of the conditions are generally not included in a decision. Ms. Mehl explained that the document is used as guidelines, and within the negotiations process some of the conditions may be negotiated out of the penalty. Ms. Kay stated that not imposing at least the minimum penalty is misinforming the consumer and asked that staff review all minimum penalties and present recommendations to the Committee at the next meeting.

Ms. Kay then mentioned that notes should be inserted after the probationary conditions to provide further guidance regarding the Board's intent.

Mr. Manoleas has asked that the cost recovery be further broken down. Ms. Scuri explained that the costs are delineated and a bill is included in the documents but these documents are not included in the materials that the Board reviews for decision.

Ms. Kay briefly discussed the Notification to Clients standard condition and suggested that more explanation of how this is to be executed was needed.

At the conclusion of the meeting the Committee directed staff to work with legal counsel to revise the document based on the comments received, determine what conditions could be moved to optional conditions, and provide a draft at the next meeting.

The meeting adjourned at approximately 11:21 a.m.