

(approved January 11, 2001)

**BOARD OF BEHAVIORAL SCIENCES
CONSUMER SERVICES/CONSUMER PROTECTION COMMITTEE
MEETING MINUTES**

NOVEMBER 9, 2000

**AIRTEL PLAZA AND CONFERENCE CENTER
7277 VALJEAN AVENUE
VAN NUYS, CA**

MEMBERS PRESENT

Selma Fields, MFT Member, Committee Chair
Christina Chen, Public Member
Virginia Laurence, LCSW Member
Howard Stein, Public Member

MEMBERS ABSENT

Karen Pines, MFT Member

STAFF PRESENT

Sherry Mehl, Executive Officer
LaVonne Powell, Legal Counsel
Julie McAuliffe, Administrative Analyst

GUEST LIST ON FILE

The meeting was called to order at 10:07 a.m.

1. APPROVAL OF MINUTES

VIRGINIA LAURENCE MOVED, HOWARD STEIN SECONDED, AND THE COMMITTEE CONCURRED TO RECOMMEND APPROVAL OF THE AUGUST 24, 2000 MINUTES.

2. DISCUSSION AND POSSIBLE ACTION REGARDING MANDATING CONTINUING EDUCATION IN LAW AND ETHICS

Ms. Fields stated that no action could be taken by the Board on this issue due to lack of a quorum. LaVonne Powell, Legal Counsel for the Board, explained that the Committee could make a recommendation and that recommendation would be brought back to the full Board at the January meeting.

Ms. Mehl stated that this issue was discussed at the August meeting and the Committee had requested that staff provide different options regarding mandating continuing education in law and ethics. The options were to

1)leave the law and regulation as is; 2)mandate a course every renewal cycle; or 3) mandate a course every six years. If the Committee chose option 2 or 3, the number of hours and the course content may need to be determined. Ms. Mehl then stated that if the Committee decided to mandate law and ethics, this mandate would be added by regulation.

Ms. Fields stated that the issue of law and ethics continues to come up within disciplinary cases and this seems to be a flaw within the professions. This seems to be an area that was not covered in some licensee's education and/or supervision and there is a need to ensure that all licensees have this type of education. Also, the laws and regulations are constantly changing and it is necessary to make sure all licensees are familiar with the most current updates.

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists (CAMFT), stated that the association's position has always been that they are opposed to any specific mandates. If there is a mandate, she suggested that it be a six-hour course every renewal cycle in order to equate the mandate easily into the current 36 hours of continuing education requirement every renewal cycle and the content area should be left open for the providers to delineate content of the course.

Diane Simon, LCSW and a professor at Loma Linda University, indicated that she is a very strong advocate for mandated continuing education in law and ethics. She took personal experience and created numerous courses in the area of malpractice and law and ethics. She has found that, although students in the masters of social work program view the prospect of malpractice liability as being quite alien, the reality is that clinicians are eager for this type of knowledge and she has received a strong response to their workshops. This, to her, has indicated that clinicians are aware that there is an aggressive rate of malpractice lawsuits against licensees and they do not have practical knowledge regarding subpoenas and the court process.

Ms. Powell stated that any mandate of law and ethics should be consumer oriented and not be geared to enhance a licensee's knowledge of how to defend against a malpractice lawsuit.

Myrna Spektor, LCSW, stated that she attended some marvelous law and ethics workshops that have been well attended and believes that the malpractice aspect is extremely related to law and ethics.

Ms. Fields stated to Ms. Powell that the coursework should include the workings of the profession. Ms. Powell agreed but indicated that the coursework should not be inclusive on how to defend oneself in a malpractice suit. Regulations are written from the aspect of consumer protection.

Ms. Spektor stated that the learning of law and ethics should be at the beginning of the educational process and not at the end. Ms. Mehl stated that the law currently requires coursework in law and ethics for marriage and family therapists as part of the educational requirements for licensure.

Jan Lee Wong, Executive Director of the National Association of Social Workers, California Chapter, agreed with Ms. Powell that the Board should look carefully at their role of mandating continuing education. This is an important role that he thinks the Board should take. He indicated that some of the association members are unhappy with being told what they need to take but that should not deter the Board from determining their role in this situation. Consumer protection should be the Boards' number one role. He offered some areas of content. These included law and regulation changes, reporting requirements, confidentiality, subpoenas, sexual

misconduct, and dual relationships. Also, he suggested that the content of this mandate focus on areas that are subject to change and need reemphasis.

Diana Hanson from Metropolitan State Hospital stated that she encourages law and ethics as a mandated course that should be repeated. She agreed that it is critical that the course be consumer based. She offers a patient rights workshop every year and it is beneficial to be updated on the most current law changes on a yearly basis and to refresh her employees on patient's rights. She suggested that the mandate be every renewal cycle and be six hours in length.

Geraldine Esposito, Executive Director of the Clinical Society for Social Work, stated that historically the reason the professional associations have resisted mandatory continuing education is the same reason that they have pushed for the mandating of continuing education in general terms. The associations remain at a point where they still receive pressure from outside sources that want the licensees to take their preferable continuing education and what they think every social worker should know. For that reason, the associations have pushed for general mandates of continuing education without the licensees being specifically instructed what courses they must take. These general mandates allow a licensee to take continuing education that is specific to their work such as work with severely mentally ill patients, gerontology, or child abuse. The issue of ethics cross cuts every area that she can think of. She agreed with her colleagues in the determination that a continual update of laws and ethics is important. These areas change much more frequently than people realize. She asked the Board to consider, if the Board chose to mandate continuing education in law and ethics, that the mandate be less specific in relation to content areas that relate to contexts. There are contexts throughout that are more and less important. The mandate should include latitude to allow setting specific information. Insurance industries offer the only courses she has heard of that relate to protecting the therapist.

David Fox, Marriage and Family Therapist, stated that he is in favor of mandating continuing education for licensees in law and ethics. He supported the six-hour course every renewal cycle. He indicated that the reasons for his support of this mandate included the Board's goal of protecting the public from unprofessional conduct by licensees. He then referenced the enforcement statistics that reflect a majority of ethics related violations. Also, about 10,000 licensees do not belong to a professional association and therefore have not seen the code of ethics that are created by these associations. Lastly, other professions such as lawyers, psychologists, and real estate agents are required to have continuing education in law and ethics. The laws change constantly and there is a great need to ensure that all licensees have the most up to date information. He then stated that many of the licensees who do not want to take a law and ethics course are the ones who need it the most. Mr. Fox again reiterated that he supported the mandate of a six-hour continuing education course in law and ethics every renewal period.

Ms. Riemersma stated that every issue that would be covered in a law and ethics course would benefit both the licensee and the consumer. Ms. Fields stated that it is easier to identify the issues that do not fit better than those that do.

Marci Siegel, an LCSW representing San Diego State University Social Work Program, clarified that schools accredited by the Council on Social Work Education are required to include law and ethics in their degree program. She also teaches the Supervision Training class and stated that the part of the class that licensees struggle with the most is the law and ethics portion of the training. She stated that there is definitely a need for this mandate.

Carol Bender, an LCSW and attorney representing the University of Southern California School of Social Work Center of Child Welfare, stated that she does a lot of training for child welfare and there is a great interest in having a law and ethics course. Professionals have expressed a need for this course. She supported the proposal of a mandated six-hour continuing education course in law and ethics every two years and thought that flexibility as to the content of the course should be outlined in regulation. She is aware of a four hour law and ethics continuing education course that is offered and indicated that she did not think that this was a sufficient timeframe to adequately cover all of the necessary material.

Abby Franklin, representing the Society for Clinical Social Work, suggested that it may be beneficial to keep track of this mandate once it is in place to determine if there is a correlation between this mandate and a decrease in enforcement actions.

Linda Howard, representing Community Services Programs, stated that she personally believes in giving licensees a choice as to what continuing education courses they take and this leniency is one of the things she liked most when the continuing education mandate was implemented. She indicated that law and ethics should be woven in all continuing education. She thought that coursework should be delineated in the regulation because any provider could name their course law and ethics but the Board would not have the guarantee that the coursework that is imperative for this training be included in the course. She believes that licensees are anxious to take good law and ethics courses but once there is a mandate that they do so, it becomes very complicated. She did agree that if the Board were to mandate anything, it should be law and ethics.

Myrna Specktor stated that this is not for incidental learning. It is shameful the numbers of people who are disciplined by the Board. She thought that continuing education in law and ethics would lower the enforcement statistics. The message of law and ethics is crucial to the professions.

Dr. Stein shared his thoughts. He indicated that ethics do not change, the law does. He thought that the verification of the mandate should be included on the license renewal form. He indicated that volunteerism does not work in this society and there is a need for a mandate.

Ms. Chen stated that she preferred the option of mandating a six-hour continuing education course in law and ethics every renewal cycle.

Dr. Laurence stated that the Board sees a lot of unprofessional conduct cases and a mandate in law and ethics could help prevent some of this misconduct.

Ms. Fields stated that public comment has an enormous impact on how the Board implements regulations and she thanked the audience for their invaluable input on this issue.

Ms. Fields stated that she personally liked putting these issues in context so there is some flexibility. Within the professions, professionals move from job setting to job setting and usually experience variation in job positions. She stated that for this reason it is very important to keep a clinician on the Board.

SELMA FIELDS MOVED, CHRISTINA CHEN SECONDED, AND THE COMMITTEE CONCURRED TO RECOMMEND TO THE FULL BOARD A MANDATE OF A SIX-HOUR COURSE IN LAW AND ETHICS EVERY TWO YEARS. VIRGINIA LAURENCE ABSTAINED.

3. ENFORCEMENT STATISTICS

The most recent statistics were provided to the Committee. The statistics are calculated on a quarterly basis. Ms. Mehl stated that the statistics are similar to last year with the exception of cases open. The amount of cases open have reduced. Although there is not a reduction in the amount of case received, the statistics reflect that the seriousness of complaints may be declining.

Dr. Stein stated that his interpretation of the statistics indicate a serious drop. Ms. Powell explained that the Board had a tremendous backlog in 1995 and that backlog was cleaned up over a two years period.

CHRISTINA CHEN MOVED, HOWARD STEIN SECONDED, AND THE COMMITTEE CONCURRED TO ADJOURN THE MEETING.

The meeting adjourned at 10:55 a.m.