

(Approved November 19, 2004)

**BOARD OF BEHAVIORAL SCIENCES
FULL BOARD
MEETING MINUTES**

August 19, 2004

**EMBASSY SUITES
1440 IMPERIAL AVENUE
EL SEGUNDO, CA**

MEMBERS PRESENT

Catherine Kay, Public Member, Acting Chair
Robert Gerst, Public Member
Victor Law, Public Member
Peter Manoleas, LCSW Member
Glynis Morrow, Public Member
Howard Stein, Public Member
Susan Ulevitch, LCSW Member

MEMBERS ABSENT

Jane Nathanson, MFT Member
Karen Pines, MFT Member

STAFF PRESENT

Denise Johnson, Interim Executive Officer
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. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Ms. McAuliffe called the roll and a quorum was established.

2. EXECUTIVE OFFICER RECRUITMENT AND SELECTION PROCESS

Ms. Kay mentioned that Dr. Burdick had not received his re-appointment to the Board as of this meeting and as vice chair she would be serving as acting chair. Ms. Kay then stated with the loss of Ms. Mehl, the selection of an executive officer would be one of most important things the Board would accomplish.

a. Presentation from the Department of Consumer Affairs Personnel Office Regarding the Selection Process of an Executive Officer

Jeff Sears, Human Resources Manager of Personnel Services for the Department of Consumer Affairs, provided the Board with an overview of the selection process, and an overview of the timeline of necessary functions to be performed within the process. Dr. Stein questioned the compilation of the selection committee as he had been involved in these processes in the past and things were done differently. Ms. Schieldge explained that having only two members on the Selection Committee permits the Board to conduct the initial screening of candidates without the need for a public meeting.

The Board then reviewed the current duty statement and made changes as needed. Ms. McAuliffe suggested that the duty statement be amended to take out the reference to the Legislative Committee since this committee no longer existed within the Board. Ms. Kay suggested that the Legislative Committee be replaced with "the Board and its Committees".

ROBERT GERST MOVED, GLYNIS MORROW SECONDED, AND THE BOARD CONCURRED TO ADOPT THE EXECUTIVE OFFICER DUTY STATEMENT AS AMENDED.

b. Closed Session

Pursuant to Government Code Section 11126(a), the Board convened in closed session at approximately 11:05 a.m. to discuss the selection process of an executive officer and possible appointment of an executive officer.

The Board reconvened to open session at approximately 12:05 p.m.

The Board recessed at approximately 12:10 pm. and reconvened at approximately 1:00 p.m.

Ms. McAuliffe called the roll and a quorum was established.

Ms. Kay announced that the Board had decided not to appoint an Executive Officer at this time, but rather to proceed with an open recruitment and selection process. Ms. Kay then announced that the Board had decided to create a Selection Committee with Ms. Morrow and Ms. Pines as Committee members and directed staff and the Department of Consumer Affairs Personnel Services to continue to accept applications for the position through September 8, 2004 and to post the availability of this position on the BBS website with a link to the State Personnel Board, which provides detailed information on the position.

3. APPROVAL OF MAY 20, 2004 AD HOC DISCIPLINARY GUIDELINES COMMITTEE MINUTES

PETER MANOLEAS MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MAY 20, 2004 MINUTES.

4. APPROVAL OF MAY 20, 2004 MINUTES

GLYNIS MORROW MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MAY 20, 2004 MINUTES.

5. APPROVAL OF MAY 20, 2004 REGULATION HEARING MINUTES

ROBERT GERST MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MAY 20, 2004 REGULATION HEARING MINUTES.

6. APPROVAL OF MAY 21, 2004 MINUTES

ROBERT GERST MOVED, GLYNIS MORROW SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MAY 21, 2004 MINUTES.

Mr. Gerst questioned the motion regarding the Public Disclosure Policy. Ms. Kay clarified that citations and fines are now posted on the website.

7. APPROVAL OF JUNE 21, 2004 MINUTES

ROBERT GERST MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO APPROVE THE JUNE 21, 2004 MINUTES.

8. REVIEW AND APPROVAL OF SUNSET REVIEW REPORT

Ms. Kay stated that the draft report was included in the meeting materials. She indicated that if the Board members had any typographical errors to please submit those to Ms. Johnson. She then mentioned substantive amendments to the report and asked that they be changed. These changes included:

Page 3 – take out “began” and replace with “completed”.

Page 10 – replace “impacted” with “affected”, replace “very well” with “reliability”, and take the word “immediately”.

Page 23 – include information on the advantage of receiving examination results immediately.

Page 31- include “every renewal cycle” to the first sentence and include six hour of training regarding the law and ethics requirement.

Page 56 – Ms. Kay questioned whether information on examination statistics should be included or reference to the statistics should be added. Ms. Johnson stated that additional information will be added regarding the written clinical vignette examination before the report is submitted to the Legislature.

Page 33 - Mr. Gerst asked if further clarification was needed regarding the difficulties staff and the Board have had regarding investigations of disciplinary actions. Ms. Johnson indicated that the problems with the Division of Investigation and the Attorney General are provided in another section of the report. Ms. Kay asked that information on page 33 reference the area of problems and the concern the Board has regarding these issues.

Mr. Gerst then commented on the amounts reflected in the statistics regarding cost recovery. Ms. Johnson explained that although the Board disciplines for unlicensed practice the decision includes language that if the respondent were to re-apply they would be responsible for the cost recovery, therefore although the amounts are reflected in the statistics, the monies are not recovered.

HOWARD STEIN MOVED, SUSAN ULEVITCH SECONDED, AND THE BOARD CONCURRED TO APPROVE THE SUNSET REVIEW REPORT WITH THE SUGGESTED CHANGES.

Ms. Johnson asked that Board members provide any other changes to her by August 24, 2004.

9. REVIEW AND APPROVAL OF 2005 BOARD MEETING CALENDAR

The Board reviewed the draft meeting calendar. After discussion, the Board agreed to meeting on the following dates at the following locations:

February 17-18, 2005	San Diego
May 19-20, 2005	Sacramento
August 18-19, 2005	Burbank Area
November 17-18, 2005	Bay Area

Mr. Manoleas asked about the November 2004 meeting location being in San Jose instead of Emeryville. Ms. McAuliffe indicated that the meeting planner had difficulty in securing meeting space and received instruction from Ms. Mehl to inquire in San Jose. Ms. McAuliffe stated she would check with the meeting planner and notify the Board of her findings.

VICTOR LAW MOVED, PETER MANOLEAS SECONDED, AND THE BOARD CONCURRED TO ADOPT THE 2005 MEETING CALENDAR.

10. CHAIRPERSON'S REPORT

Ms. Kay stated that the Board is not sure of Dr. Burdick's status regarding reappointment and then indicated that the Board is interviewing for a new Executive Officer.

11. INTERIM EXECUTIVE OFFICER'S REPORT

a. Budget Update

The current budget materials were included in the meeting materials. The Board has been notified that they need to keep costs down in this fiscal year. Ms. Johnson indicated that personnel services is a line that is being closely monitored since benefit amounts for employees have risen and the line item has not been increased to reflect this rise.

Mr. Manoleas questioned the reflection of probation monitoring costs and cost recovery revenue. Ms. Johnson explained that these fees are included in the enforcement budget and a breakdown

of these revenues can be reflected in a separate chart. This chart will be provided to the Board at the November meeting. Mr. Manoleas had asked that the Board also be provided with a chart reflecting the fees that have been collected from licensees for the Mental Health Services Provider Loan Repayment Program (MHSPLRP).

Ms. Johnson informed the Board that she, Ms. McAuliffe, and Thomas O'Connor, Executive Officer of the Board of Psychology, met with Diane Tomoda, representative of the MHSPLRP, to assist in the preparation of draft regulations to implement the loan repayment program.

Ms. Johnson then mentioned the California Performance Review and indicated that all departments have been asked to respond to certain areas of the review. The Department of Consumer Affairs has responded to this request. Ms. Kay stated that although the Board is identified in the review as being one that would be moved to a different agency, the Board would still remain intact.

- b. Miscellaneous Matters
- 1. Website Statistics

The website continues to be a great tool. Staff has implemented a service in which documents are available on disc and a person can call or e-mail and request this free service.

12. LEGAL COUNSEL'S REPORT REGARDING CITATION AND FINE HISTORY USED WITHIN SUBSEQUENT DISCIPLINARY ACTION

At the May Board meeting Mr. Gerst had asked that Ms. Schieldge research whether there was a formal attorney general opinion on the use of citation and fine history in a subsequent disciplinary action. Ms. Schieldge reported that her research revealed no formal opinions regarding this issue.

13. 2004 LEGISLATION OF INTEREST TO THE BOARD

The meeting materials included charts on the status of legislation that may impact the Board. Ms. Johnson clarified that Senate Bill 136 was placed on the inactive file to address an issue questioned by a Legislative Committee member and once the issue is resolved, the bill will continue in the process. Ms. McAuliffe expressed Ms. Esposito's gratitude to the Board regarding their support of Senate Bill 1853.

Mr. Gerst thanked Ms. McAuliffe for the detailed chart.

Mr. Manoleas asked Ms. Riemersma for further information on Assembly bill 2552. Ms. Riemersma stated that this legislation has been signed by the Governor and will become effective January 1, 2005. This legislation adds specific training and coursework required within a marriage and family therapist degree program to the scope of practice, addresses alternate supervision for interns when their supervisor is ill or on vacation, and removes a licensed physician and surgeon who has completed a residency in psychiatry for the listing of acceptable supervisors.

14. APPROVE / NOT APPROVE COMMITTEE RECOMMENDATIONS

a. Licensing Committee

Ms. Kay informed the Board that the Committee approved their minutes, determined not to make amendments to the continuing education requirements, and directed staff to incorporate the comments made at the meeting into the survey of applicants for licensure. Ms. Kay also asked that Board members submit their suggestions to Ms. Johnson.

Mr. Manoleas asked if the Board should include questions on an applicant's satisfaction with the application process including verification of hours, and applicant's satisfaction with service and response from BBS staff.

Mr. Manoleas then asked that the Committee look at the issue of sufficient course content within the continuing education requirements. He suggested that the Board utilize subject matter experts to review courses offered by continuing education providers that have been determined to be acceptable courses. Ms. McAuliffe referenced the section of regulation that applies to course content and the requirement that the course content be relevant to the practice of marriage and family therapy and licensed clinical social work. Ms. Kay asked that the Board evaluate their authority to review course content in the future.

b. Education Committee

Ms. Morrow stated that the Committee approved their minutes and reviewed and discussed the creation of a survey regarding single integrated degrees. After discussion the Committee decided not to survey schools. The Committee then reviewed the forms used to verify practicum experience and received information on the mechanisms used within schools to monitor practicum. After discussion, the Committee asked that Business and Professions Code Section 4980.40(a) be highlighted on the forms provided to schools and applicants.

c. Examination Committee

Mr. Manoleas stated that the Committee approved their minutes and reviewed the examination statistics. The Board will receive a presentation on the performance of the written clinical vignette examination at the November meeting.

d. Consumer Services / Consumer Protection Committee

Mr. Gerst informed the Board that the Committee approved their minutes, reviewed the enforcement statistics, requested further information on the criteria for closure of a complaint, and further information on the actual dollar amounts collected for cost recovery and citation and fine to be provided to the Committee at the November meeting. The Committee then received information on the aging of a complaint and the research results regarding probation monitoring costs.

Mr. Manoleas asked that the enforcement data be analyzed further in the future to determine if some of the numbers are of significant concern.

15. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists, stated that she had several comments regarding the examinations but would hold those comments until the November meeting during the presentation from the Office of Examination Resources.

She then indicated that she had mentioned the issue of training agencies and settings that are charging fees for the benefit of being a volunteer and gaining the required experience for licensure to Ms. Mehl in the past. The Board of Psychology has a prohibition against this in their law and she asked the Board to work with the Association to pursue legislation to prohibit this type of exploitation.

Ms. Riemersma then commented on the disclosure of citation and fines. She indicated that she did not think that the Public Disclosure Policy clearly indicates that citations and fines are disclosed on the Board's website. She thought that no wrongdoing should be abundantly clear. She asked that this issue be further discussed at a meeting in the future.

The Board adjourned at approximately 2:00 p.m.

16. CLOSED SESSION

The Board did not meet in closed session.

17. PETITION FOR EARLY TERMINATION OF PROBATION

The petition hearing began at approximately 2:30 p.m.

Pursuant to Government Code Section 11126(c)(3), the Board met in closed session to deliberate its decision on this matter.

The meeting adjourned at approximately 3:30 p.m.