



BOARD OF BEHAVIORAL SCIENCES
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(Accepted 11/17/2005)

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

May 19, 2005

**DEPARTMENT OF CONSUMER AFFAIRS
400 R STREET, 1ST FLOOR, HEARING ROOM
SACRAMENTO, CA**

MEMBERS PRESENT

Catherine Kay, Public Member, Board Chair
Robert Gerst, Public Member
Victor Law, Public Member
Peter Manoleas, LCSW Member
Glynis Morrow, Public Member
Karen Pines, MFT Member
Howard Stein, Public Member
Susan Ulevitch, LCSW Member

MEMBERS ABSENT

STAFF PRESENT

Paul Riches, Executive Officer
Denise Johnson, Assistant Executive Officer
Kristy Schieldge, Legal Counsel
Elina Taylor, Administrative Analyst

GUEST LIST ON FILE

The meeting was called to order at approximately 8:30 a.m.

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Ms. Kay called the role and a quorum was established.

2. STRATEGIC PLAN

Dr. Lindle Hatton explained to the Board that the strategic plan process has been externally driven as well as staff driven. Surveys were developed and mailed to 60 stakeholders, 13 surveys were returned to Dr. Hatton. He presented a draft strategic plan to the Board members, which was a result of staff working with the survey data. Dr. Hatton worked with the Board members to revise the draft strategic plan and was grateful for the feedback and amount of participation from the Board members. Dr. Hatton will return at the August Board meeting with a final strategic plan to present to the Board.

The Board recessed at approximately 1:00 p.m.

The board reconvened at approximately 2:05 p.m.

3. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Ms. Kay called the role and a quorum was established.

4. APPROVAL OF FEBRUARY 17-18, 2005 BOARD MEETING MINUTES

SUSAN ULEVITCH MOVED, VICTOR LAW SECONDED, AND THE BOARD CONCURRED TO APPROVE THE FEBRUARY 17, 2005 MINUTES. KAREN PINES AND PETER MANOLEAS ABSTAINED.

HOWARD STEIN MOVED, VICTOR LAW SECONDED, AND THE BOARD CONCURRED TO APPROVE THE FEBRUARY 18, 2005 MINUTES. PETER MANOLEAS ABSTAINED.

5. APPROVAL OF APRIL 26, 2005 BOARD MEETING MINUTES

KAREN PINES MOVED, VICTOR LAW SECONDED, AND THE BOARD CONCURRED TO APPROVE THE APRIL 26, 2005 MINUTES.

6. CHAIRPERSON'S REPORT

Ms. Kay announced the upcoming expiration of terms for Board Members. The law states that once a term expires, there are 60 days thereafter to continue to serve. As of June 1st, three of the Board members will have terms that expire. Those members include Catherine Kay, Glynis Morrow and Susan Ulevitch. Ms. Ulevitch decided not to apply for reappointment.

Mr. Riches discussed the issues that will arise from the expiration of terms. Assuming the members are not reappointed, the Board will have five members, which does not establish a quorum. The pattern in the past has been that once the Governor appoints members to the Board; appointments will be made across the Board. Mr. Manoleas will be the Chair at the August Board meeting if Ms. Kay is not reappointed. At this time, the current meeting dates don't work for Mr. Manoleas so we will need to reschedule the August Board meeting.

Ms. Kay requested comment from Board members that may not be returning to the Board. Ms. Morrow explained her enjoyment of being a part of the Board, she believes strongly in what the Board does, and as a non-professional the experience has been interesting. Ms. Ulevitch added to Ms. Morrow's comment discussing the educational experience involved in serving the Board. Ms. Kay agreed with Ms. Morrow and Ms. Ulevitch. Ms. Kay expressed the pleasure she had in working with staff and getting to know the professionals that regularly attend Board meetings.

7. REVIEW AND DISCUSSION OF PROPOSED CHANGES TO THE LICENSED EDUCATIONAL PSYCHOLOGIST STATUTES

The Board members reviewed the draft proposal and suggested revisions to the proposed language. Ms. Kay announced that this is a first review; the intentions are not to finalize the language. Ms. Kay explained the intentions are to have this start at the Board level so that Board members have an opportunity to discuss issues and/or questions they might have.

Mr. Riches explained that the LEP statutes have not been revised since their enactment in the early 1970's. Part of this review and discussion is to make the statutes modern. He further discussed the basic structural changes that will be made to the statutes.

Mr. Mark Burdick, a licensed educational psychologist and former Board member, addressed the Board and explained that school psychology has grown in the last forty years. LEP's are typically used for psycho-educational assessments, psychological counseling in the schools, and learning disabilities. Board members then discussed scope of practice and the differences between what should require a license and what does not. Ms. Kay would like to make clear in the statutes the terminology of an educational psychologist versus educational therapist.

Ms. Kay would like to bring this back to the Licensing Committee at the August meeting.

8. DISCUSSION OF USA PATRIOT ACT

Ms. Kay announced that this is an issue that has been at previous Board meetings but has been a discomfort for a number of licensees. She suggested that the Board include in its newsletter an article about the USA Patriot Act. Mr. Riches explained the ongoing concern and stress in the past year or more regarding various provisions to the USA Patriot Act.

The meeting adjourned at approximately 2:45 p.m.



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

May 20, 2005

**DEPARTMENT OF CONSUMER AFFAIRS
400 R STREET, 1ST FLOOR, HEARING ROOM
SACRAMENTO, CA**

MEMBERS PRESENT

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

MEMBERS ABSENT

Karen Pines, MFT Member

STAFF PRESENT

Paul Riches, Executive Officer
Denise Johnson, Assistant Executive Officer
Kristy Schieldge, Legal Counsel
Melissa Meade, Administrative Technician

GUEST LIST ON FILE

The meeting was called to order at approximately 8:35 a.m.

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

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

2. ORAL ARGUMENT ON PENALTY FOR DECISION AFTER REMAND FROM SUPERIOR COURT

A. ANDREA RECHTIN - MFC 23140 (ANDREA RECHTIN VS. BOARD OF BEHAVIORAL SCIENCES)

Attorney John Fleeer appeared on behalf of Ms. Rechtin. Attorney General Hannah Hirsch Rose appeared on behalf of the State. Both parties presented oral argument before the Board on the following issues on penalty:

(1) protection of the public, (2) the circumstances surrounding the misconduct, (3) the likelihood of the misconduct recurring, and (4) any mitigating factors that the Board should consider, including factors that may be considered as extenuating or reducing the degree of moral culpability.

There was a court reporter present for the oral arguments.

3. CLOSED SESSION TO DELIBERATE ON DISCIPLINARY DECISIONS PER GOVERNMENT CODE SECTION 11126(C)(3)

The closed session began at 9:30 a.m. and ended at 11:15 a.m.

4. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

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

5. REVIEW OF AND POSSIBLE ACTION ON POSITIONS FOR PENDING LEGISLATION

Mr. Riches explained that Senate Bill 229 is the legislation resulting from the Board of Behavioral Sciences' sunset review. The bill also applies to a number of other Boards.

ROBERT GERST MOVED, VICTOR LAW SECONDED, AND THE BOARD CONCURRED TO SUPPORT SENATE BILL 229.

Mr. Riches explained that Assembly Bill 446 is a reintroduction of a bill that was vetoed last year. The bill prohibits a licensee or an entity acting on behalf of a licensee, from including any of the gag clauses in a civil settlement between a licensee and a patient.

ROBERT GERST MOVED, VICTOR LAW SECONDED, AND THE BOARD CONCURRED TO SUPPORT ASSEMBLY BILL 446.

Mr. Riches explained that Assembly Bill 733 requires a psychotherapist to warn a potential victim and police when a patient, himself or herself, communicates to the psychotherapist a serious threat of physical violence against a reasonably identifiable victim(s).

Mr. Gerst expressed his concern with taking a position on Assembly Bill 733 because the Board does not have enough of the language, the existing law and a copy of the Goldstein case. Ms. Kay recommended the Board watch Assembly Bill 733 for now.

Mr. Riches explained Assembly Bill 776 is a bill that requires any agency that is required to accept reports of child abuse to accept such reports by telephone, fax or electronic transmission.

Ms. Reimersma from the California Association of Marriage and Family Therapists, stated that this is a simple bill that deals with a situation where a mandated reporter sometimes calls up child welfare attempting to make a report and they are told it is not a recordable situation when the practitioner knows it is a recordable situation and the agency refuses to take a report.

Ms. Kay stated that the Board will watch Assembly Bill 776.

Mr. Riches explained Senate Bill 1031 requires divorcing parties with children under the age of 18 or where the wife is pregnant, to participate in educational classes of their choice, focusing substantially on the potential impact of separation or divorce on children.

Ms. Kay recommend that the Board take the position to oppose because it doesn't support the Board's statutes and should those amendments get corrected, staffs recommendation is to take no position one way or another.

PETER MANOLEAS MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO OPPOSE UNLESS AMENDED AND THEN GO TO THE POSITION OF NO ACTION IF THE TECHNICAL CORRECTIONS ARE MADE.

Mr. Riches explained Assembly Bill 1188 establishing penalties for failure to make a mandated report, or inhibiting or impeding such a report results in death or great bodily injury. The bill would also establish penalties for impeding or inhibiting the filing of a mandated report.

ROBERT GERST MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO SUPPORT ASSEMBLY BILL 1188.

Mr. Riches explained Assembly Bill 1625 requires an agency head or board chair appointed by the Governor and confirmed by the Senate to sign, under penalty of perjury that documents submitted to the legislature, the Governor, or any state legislative or executive body are true.

CATHERINE KAY MOVED, PETER MANOLEAS SECONDED, AND THE BOARD CONCURRED TO OPPOSE UNLESS AMENDED.

Mr. Riches explained Assembly Bill 1672 requires health care information to be recorded in an electronic record-keeping system.

The Board members decided to continue watching Assembly Bill 1672.

Mr. Riches explained Assembly Bill 894 required no action at this time. Assembly Bill 894 will be brought back to the Board at the August or November meeting.

6. ACTION ON COMMITTEE RECOMMENDATIONS

A. EDUCATION COMMITTEE

Mr. Manoleas discussed the plans for having statewide meetings with educational institutions. The first meeting will be on May 25th hosted by UC Berkeley. The second meeting will be held sometime in October hosted by USC.

The second item discussed was the proposal to award continuing education credits for attendance at Board meetings. The thought is to award 6 units for attending a full day Board meeting. Ms. Kay requested a discussion about this before a motion was made. After discussion, there was no motion to adopt the committee's recommendation.

Ms. Kay asked the associations to encourage their members to attend the Board meetings.

B. EXAMINATION COMMITTEE

There were no recommendations.

C. CONSUMER SERVICES / CONSUMER PROTECTION COMMITTEE

Mr. Gerst presented the committee's recommendation that the Board direct staff to move forward with rulemaking, change the citation and fine regulation consistent with the material that was intended by staff with four changes.

ROBERT GERST MOVED, HOWARD STEIN SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE PROPOSED LANGUAGE WITH SUGGESTED CHANGES, AND DIRECT STAFF TO TAKE ALL STEPS NECESSARY TO INITIATE THE RULEMAKING PROCESS, INCLUDING SETTING THE RULEMAKING HEARING.

D. LICENSING COMMITTEE

Ms. Kay announced the changes to the statutes and regulations to clarify the number of hours of experience required and cleaning up the language to make it internally consistent. The committee recommendation was to direct staff to go ahead and prepare the language with the suggested changes by the committee.

HOWARD STEIN MOVED, CATHERINE KAY SECONDED, AND THE BOARD CONCURRED TO DIRECT STAFF TO GO AHEAD AND PREPARE THE LANGUAGE WITH THE SUGGESTED CHANGES BY THE COMMITTEE.

7. EXECUTIVE OFFICER'S REPORT

A. DCA AUDIT RESULTS

The sunset review audit was conducted by the Department of Consumer Affairs's audit office. There were two principle findings: the strategic plan was not currently in compliance with the state guidelines and the second principle finding was the criminal background check, fingerprint process was not current. This has been corrected.

B. BUDGET UPDATE

Mr. Riches stated the Board's budget is in good condition.

C. ENFORCEMENT STATISTICS

Enforcement statistics are provided in every Board package as well as the Web site.

D. WEBSITE STATISTICS

Materials were provided; there was no discussion on this item.

E. SUNSET REVIEW PROCESS

Materials were provided; there was no discussion on this item.

F. MISCELLANEOUS MATTERS

Mr. Riches announced the office move is set for some time in December or January. The move is scheduled to take place over a weekend, so the office will most likely be closed on a Friday and will reopen on a Monday.

8. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

The meeting adjourned at approximately 1:40 p.m.