



BOARD OF BEHAVIORAL SCIENCES
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Website Address: <http://www.bbs.ca.gov>



**BOARD OF BEHAVIORAL SCIENCES
FULL BOARD**

MEETING MINUTES

NOVEMBER 17, 2005

**HANDLERY UNION SQUARE HOTEL
UNION SQUARE ROOM
351 GEARY STREET
SAN FRANCISCO, CA 94102**

MEMBERS PRESENT

Gordonna DiGiorgio, Public Member
Robert Gerst, Vice Chair, Public Member
Judy Johnson, LEP Member
Peter Manoleas, Chair, LCSW Member
Karen Pines, MFT Member
Dr. Ian Russ, MFT Member
Howard Stein, Public Member

MEMBERS ABSENT

Victor Law, Public Member

STAFF PRESENT

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

GUEST LIST ON FILE

The meeting was called to order at approximately 9:10 a.m.

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

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

2. CHAIRPERSON'S REPORT

A. Introduction of New Board Members

Mr. Manoleas introduced new appointments; Gordonna DiGiorgio, Dr. Ian Russ and Judy Johnson to the Board. He also introduced Joan Walmsley, who was not present but will be in attendance on Friday, November 18th.

B. New Committee Structure

Mr. Manoleas explained that a new committee structure has been created in alignment with the Board's strategic plan. This new structure will allow issues to be fully developed prior to coming to the full Board. Currently the Board's committees include Consumer Services/Consumer Protection, Education, Examination and Licensing. Committees have always met at the same time as the Board meetings. The committee meetings will now occur prior to the scheduled Board meetings at a different date and location.

Mr. Manoleas outlined the new four-committee structure. The first committee is Consumer Protection, focusing on licensing and enforcement; the second is Communications, concentrating on enhancing communication between the Board and the community; the third is Budget and Efficiency, focusing on a deeper understanding of the budget, and efficiency issues related to board operations; the fourth is Policy and Advocacy concentrating on policy development and advocacy including reviewing pending legislation and draft regulations.

All meetings will be noticed to the public and will be held in locations accessible to the public. Mr. Riches or Mona Maggio, the Board's new Assistant Executive Officer, will be present at all committee meetings. Mr. Riches added that the Board has adequate funds to budget the committee meetings.

C. Report on Southern California Master of Social Work Programs Meeting

Mr. Manoleas and Mr. Riches attended meetings this year at UC Berkeley and at USC. A number of important issues were discussed. One was diversity. Another was the types of activities performed by social workers that are more broad than clinical licensure. There are many non-clinical activities that social workers do that require competency and can do harm. Another large issue was streamlining licensure for those licensed in other states coming to California.

D. Discussion on Marriage and Family Therapy School Meetings in 2006

Meetings with the schools that offer degrees that qualify for Marriage and Family Therapy licensure are planned in 2006.

3. ELECTION OF VICE CHAIR

Mr. Manoleas requested nominations from Board members for a vice chair. Ms. Pines nominated Mr. Gerst.

KAREN PINES MOVED, IAN RUSS SECONDED, AND THE BOARD CONCURRED TO NOMINATE ROBERT GERST AS THE BOARD'S VICE CHAIR.

Ms. Pines gave a brief introduction of Mr. Gerst's background and what she believes qualifies him for the vice chair position.

4. EXECUTIVE OFFICER'S REPORT

A. Sunset Review

Mr. Riches informed the Board that the sunset review legislation was signed by the Governor on October 7, 2005. This bill extends the Board's sunset date to July 1, 2008. Mr. Riches stated that there were no issues with the sunset report and that there was not much to report. He then informed the Board that there is a short date for another sunset review, so the Board will be required to prepare another sunset report for submission to the Legislature in September 2006.

Mr. Gerst recommended that the current sunset report be distributed to the new Board members. He explained that the report outlines the great job Mr. Riches and the staff have done.

B. Licensing Statistics

Mr. Riches reminded members that were present at the August meeting that licensing statistics were distributed along with a brief summary of what was included for the members that were not present in August. These reports will be handed out at all future Board meetings. The reports show volumes and average processing times of applications for each licensing/registration program. Mr. Riches explained that the increase in processing times is related to the increase in volume of applications during summer months as well as a vacancy in the MFT program. Another issue that impacts processing time is that applicants have one year in which to resolve deficiencies. Mr. Riches stated that personnel and process changes have been made internally that will enable the Board to improve performance.

C. Enforcement Statistics

Mr. Riches reported that no significant changes have occurred within enforcement. The number of citations have increased due to the Board beginning to conduct random continuing education audits. These citations are typically issued because required course content was not taken as opposed to a shortage of overall hours.

Mr. Gerst asked about the number of complaints received last year compared to the number of convictions received because the statistics are not comparable to past years. Mr. Riches explained that the number of disciplinary actions do not correlate directly to the number of complaints received in the same year. Mr. Gerst asked if the Board was limited in resources for investigations, and whether our staff could investigate cases. Mr. Riches explained that staff investigates issues up to a certain point, but we have to rely on investigators from the Department's Division of Investigations.

Mr. Gerst recommended that new members be informed about the Board's enforcement process. Mr. Riches explained that he discusses the enforcement process with new members once they are appointed and added that the Board member procedure manual includes some of this information as well.

D. Budget Update

Mr. Riches announced that Ms. Paula Gershon would be at the meeting later in the afternoon to discuss the budget in detail.

E. Examination Update

The Department secured a one-year extension on the current examination administration contract with Thompson Prometric. The contract extension should provide sufficient time to complete the process for a new contract and the Department expects no interruption in service.

Mr. Riches discussed the clinical vignette examinations and how the Board has been engaged with the Office of Examination Resources (OER) in an ongoing review. The examinations will soon benefit from an increased number of items and from adding pre-test items. The OER has indicated that the examination will be increased from 30 to 36

items, and eventually to 50 items. 40 items will be scored and 10 will be pre-test items. There will be modifications to the length of time for the examination due to the increase.

Mr. Gerst said he was surprised to see that some decisions had been made about a recent group of examination candidates, and asked whether the Board should have been involved these decisions. He asked Mr. Riches to explain what had happened. Mr. Riches stated that Board members are not involved directly in this part of the process. What happened is that there were some questions that OER couldn't answer about the Spring 2005 LCSW clinical vignette examination. As a cautionary measure, affected candidates were granted a re-examination at no charge without the normal wait. There were also concerns about the Spring 2005 MFT clinical vignette examination. Two items were identified as not performing well. The exams of affected candidates were re-scored taking into account these items, resulting in 40 additional people passing. New examinations were implemented for both programs and are performing as expected.

Mr. Riches explained that there are two new versions of each examination implemented each year. The OER performs an ongoing analysis using a series of statistical measures to evaluate each item. Dr. Russ asked whether the prior problems were due to validity issues. Mr. Riches explained that we can be certain our examinations have validity because they are based on a current occupational analysis, and involve licensees in developing the examinations. The concerns were related to reliability.

Dr. Russ asked how licensees become involved in the occupational analysis. Mr. Riches stated that they apply to the Board. Dr. Russ asked whether the Board has evidence that people from different backgrounds participate. Mr. Riches explained that we gather information on their application and select people from diverse backgrounds. Mr. Manoleas asked whether the subject matter experts who develop the examination reflect the shift in the cultural diversity of the Board's licensees. Mr. Riches responded that we do not have that information. Mr. Riches offered to have the OER present at the February Board meeting to talk about the problems and what happened. This would partially be in closed session.

Mr. Manoleas asked whether this could be a permanent agenda item for the Consumer Protection committee.

Mary Riemersma with the California Association of Marriage and Family Therapists commented on her concerns with the clinical vignette exam. She has heard that when the exam is developed, resource materials are not used. She believes this could account for some of the problems, if true. She encouraged the Board to pay close attention to the outcomes of the exam and whether the exam is measuring what it should be measuring. She stated that MFTs are more and more working in agency settings. She stated her support of the occupational analysis, and the use of a state-developed exam.

Mr. Gerst asked Ms. Riemersma whether her concern was that the right people get in or that the wrong people don't get in. Ms. Riemersma stated that either could be happening. Based on anecdotal information from supervisors and letters received, it seems that some of the right people may not be getting in.

Geri Esposito with the Society for Clinical Social Work commented that she strongly advocates for the use of the occupational analysis. She stated that social workers have always gotten their experience in the public and non-profit sector. The oversight and diversity of experience they receive in these settings prepares them for licensure. She believes that Proposition 63 is going to produce a sea change in practice in California. Over a three-year period we will see changes in mental health practice that will be reflected in the public sector and in future occupational analyses.

Dr. Russ asked whether anybody knows what these changes will be. Ms. Esposito said it is very difficult to project as the counties are in the beginning stages of the implementation process. It is a three-year minimum before we will know for sure.

Heather Halperin, from the USC School of Social Work, wondered whether an effort was made to collect data from people of different cultures in the occupational analysis.

Janlee Wong with the California Chapter of the National Association of Social Workers commented that he had a discussion with a member prior to this meeting about the examination. He asked, when occupational analyses are conducted, is there any thought to whether the survey items represent evidence-based practice, or are we simply measuring everything in the field? Another issue that came up was the years of experience of subject matter experts. Does the amount of experience in practice of the exam developers (three years vs. 15 years) influence or bias the examination? Finally, if we have roughly the same people from the same pool constructing the exam and if they aren't as diverse as they should be, will that bias the exam? How do we ensure that people who meet minimum competence standards are competent to practice with diverse populations?

Ms. Pines addressed diversity within the exam developers. She stated that these professionals are often working with diverse populations, so they would bring that experience to the table.

Dr. Russ added that he realizes we can't make participation mandatory, but there should be a way that we create a more representative community to develop our examinations.

Mr. Gerst asked Mr. Riches if he thought the OER would have a response to this. Mr. Riches said yes, and that the OER would be able to assist us with this. We do have information regarding diversity of practice, so we use that. Where diversity is knowable, we make use of it. We do not know about some of the other dimensions of diversity.

Ms. Johnson responded from her experience with developing the LEP examination. She knows that group of exam developers have been very diverse. She assumes the same is true for MFT and LCSW. She has been very impressed especially over the last two years at the push to incorporate diversity.

Jerry Grossman from Jerry Grossman Seminars commented regarding the standard written exam. There was a 36% drop in the pass rate from July to December 2003. He believes the reason is not because of the candidate pool. He asks that there be a word count between the July and December exams. He believes the questions are longer and that could be a factor. Regarding the written clinical vignette examination, the vagueness of the language taps into the diversity discussion we are having. It creates an obstacle to the test-taker. It would be important to look closely at the language of the items and the appropriate use of jargon.

Mr. Gerst asked whether the Board had a document that showed current exam pass rates. Mr. Riches explained that pass rate data is released after each examination version/cycle has been completed. Results of past cycles will be included in future board packages.

F. Office Move

Mr. Riches explained that staff is as prepared as they can be for the Department's move to the Natomas area in December. There is going to be one day of functional down time

due to computers being down and the office essentially being in a box. Mr. Riches further explained that the office contact information would be mailed to all licensees and registrants and those on the public mailing list by way of post cards and the newsletter. We will also have a new telephone system. Mr. Gerst asked whether the move has created any problems with staff. Mr. Riches responded that the increased commute time has been part of the reason for some staff leaving.

G. Personnel Update

Mr. Riches stated that Denise Johnson, Assistant Executive Officer, had left for a promotion with the Board of Barbering and Cosmetology. Denise was replaced by Mona Maggio, who was not in attendance due to a previously planned vacation. Kim Madsen was hired as an additional manager to work with day-to-day operations and staff supervision. Sean O'Connor has been promoted and will be the Board's outreach coordinator. Sean will attend meetings with students and faculty so they are able to ask questions about licensing, registration and the examination process. Over time his work will improve the application process. He will be helping with the outreach part of the strategic plan, including the newsletter and website. The Department has reassigned the Board's Legal Counsel, Kristy Schieldge, and our new legal counsel will be George Ritter a very experienced attorney. Melissa Meade, the Board's Administrative Technician has accepted a promotion and will be leaving.

H. Miscellaneous Matters

The Board's new strategic plan will be published shortly. One of the objectives in the strategic plan will help the Board address diversity issues. Mr. Manoleas and Mr. Riches have been discussing putting together a Board meeting/conference regarding diversity and how it crosses paths with the Board's role.

Earlier this year, the Board issued a survey for applicants regarding their supervision experience. Approximately five hundred responses have been received. Staff has been compiling data and will have initial numbers in January. Mr. Riches concluded that the response rates are exceptional.

The Board recessed at approximately 11:00 a.m.

The Board reconvened at approximately 11:15 a.m.

5. **REVIEW AND POSSIBLE ACTION ON THE BOARD'S PROPOSED STRATEGIC PLAN**

A draft of the Board's strategic plan was presented to Board members at the August Board meeting. Mr. Riches wanted to adopt the plan at this meeting because there was not a quorum present in August to adopt the plan. Mr. Riches believes it is a very strong document that will help the board track priority and policy issues, and will allow staff to report back to the Board on progress in meeting strategic objectives. It is a living document where revisions can be made.

Dr. Russ explained that the strategic plan was essential for him as a new member looking to learn more about the Board. Ms. Pines asked if a final copy could be distributed because there had been some minor modifications to the document since they had last received it. Ms. Johnson commended the staff for doing a great job on the strategic plan. Mr. Manoleas commented that the plan was particularly important for continuity and stability when there are so many changes in Board members.

ROBERT GERST MOVED, KAREN PINES SECONDED, AND THE BOARD CONCURRED TO ADOPT THE STRATEGIC PLAN.

6. ACCEPTANCE OF PRIOR BOARD MEETING MINUTES

A. May 19-20, 2005 Board Meeting Minutes

HOWARD STEIN MOVED, ROBERT GERST SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE MEETING MINUTES OF MAY 19-20, 2005.

B. July 28, 2005 Board Meeting Minutes

KAREN PINES MOVED, ROBERT GERST SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE MEETING MINUTES OF JULY 28, 2005.

C. August 11, 2005 Board Meeting Minutes

ROBERT GERST MOVED, JUDY JOHNSON SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE MEETING MINUTES OF AUGUST 11, 2005.

7. BOARD COMMITTEE MEETINGS

A. Education Committee

1. May 19, 2005 Education Committee Minutes

KAREN PINES MOVED, IAN RUSS SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE EDUCATION COMMITTEE MINUTES OF MAY 19, 2005.

2. August 11, 2005 Education Committee Minutes

IAN RUSS MOVED, GORDONNA DIGIORGIO SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE EDUCATION COMMITTEE MINUTES OF AUGUST 11, 2005.

B. Examination Committee

1. Acceptance of August 11, 2005 Examination Committee Minutes

ROBERT GERST MOVED, HOWRD STEIN SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE EXAMINATION COMMITTEE MINUTES OF AUGUST 11, 2005.

C. Consumer Services / Consumer Protection Committee

1. Acceptance of August 11, 2005 Consumer Services/Consumer Protection Committee Minutes

JUDY JOHNSON MOVED, GORDONNA DIGIORGIO SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE CONSUMER SERVICES / CONSUMER PROTECTION MINUTES OF AUGUST 11, 2005.

D. Licensing Committee

1. May 20, 2005 Licensing Committee Minutes

GORDONNA DIGIORGIO MOVED, ROBERT GERST SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE LICENCING COMMITTEE MINUTES OF MAY 20, 2005.

2. August 11, 2005 Licensing Committee Minutes

KAREN PINES MOVED, IAN RUSS SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE LICENSING COMMITTEE MINUTES OF AUGUST 11, 2005.

8. UPDATE ON 2005 LEGISLATIVE SESSION

Mr. Riches introduced Christy Berger, Legislation Analyst, who provided an update on the 2005 legislative session.

SB 229 was signed by the Governor on October 7, 2005. This bill extends the Board of Behavioral Sciences as a Board though July 1, 2008. It caps MFT pre-degree hours at 1,300. MFT experience provisions are reorganized and consolidated for clarity. It reinforces the Legislature's intent that revocation be required after finding of fact that a licensee or registrant had sexual contact with a patient, and prohibits the Board from staying the revocation. Finally, this bill defines "discovers" as the date the Board receives a complaint or the date the Board receives a release of patient information from the complainant, whichever is received later.

AB 446 passed the Senate on September 6, 2005, and passed the Assembly on September 7, 2005. It was vetoed by the Governor on September 29, 2005. The Board had supported this bill, which would have prohibited licensees from including any term in a civil settlement that prohibits the other party from filing a complaint with or otherwise cooperating with the Board.

AB1188 was signed by the Governor on September 2, 2005. The Board supported this bill, which creates consistency in the penalty structure for failing to make or for impeding a mandated report of child, elder or dependant adult abuse or neglect.

AB 1625 passed the Senate on August 29, 2005, and passed the Assembly on August 31, 2005. It was vetoed by the Governor on October 7, 2005. The Board previously took an oppose unless amended position, and removed its opposition when the author amended the bill. This bill would have required any report to a legislative or executive entity to be signed by the executive officer declaring accuracy subject to a misdemeanor penalty.

The regulation update included disciplinary guidelines that were adopted and became effective on August 21, 2005. Ms. Berger added that citations and fines are proposed regulations that would provide the Board with the authority to issue a fine between \$2,501 and \$5,000 for specified violations.

The Board recessed at approximately 11:45 a.m.

The Board reconvened at approximately 1:08 p.m.

9. CALL TO ORDER AND ESTABLISHMENT OF A QUORUM

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

10. **REGULATION HEARING ON PROPOSED CHANGES TO TITLE 16, CALIFORNIA CODE OF REGULATIONS SECTION 1886.40 REGARDING CITATION AND FINE**

The hearing began at 1:09 p.m.

The chairperson established that a quorum of the Board was present, described the proposed regulations, and asked whether any person in the audience wished to testify. No witnesses came forward.

The hearing closed at 1:11 p.m.

11. **POSSIBLE ACTION TO ADOPT, MODIFY AND ADOPT, OR WITHDRAW PROPOSED CHANGES TO TITLE 16, CALIFORNIA CODE OF REGULATIONS SECTION 1886.40 REGARDING CITATION AND FINE**

Ms. Schiedge asked Board members to look at proposed language. Mr. Riches stated that minor revisions have been proposed by staff in response to written comments from CAMFT, and that a 15-day notice will be published.

ROBERT GERST MOVED, IAN RUSS SECONDED AND THE BOARD CONCURRED TO DIRECT STAFF TO TAKE ALL STEPS NECESSARY TO COMPLETE THE RULEMAKING PROCESS INCLUDING MODIFYING THE TEXT FOR AN ADDITIONAL 15-DAY COMMENT PERIOD. IF AFTER THE 15-DAY PUBLIC COMMENT PERIOD NO ADVERSE COMMENTS ARE RECEIVED, THE EXECUTIVE OFFICER IS AUTHORIZED TO MAKE THE NONSUBSTANTIVE CHANGES BEFORE COMPLETING THE RULEMAKING PROCESS AND ADOPTING THE RECOMMENDATIONS AS AMENDED.

12. **REVIEW AND POSSIBLE ACTION TO SPONSOR A REORGANIZATION OF THE STATUTES GOVERNING THE BOARD, MARRIAGE AND FAMILY THERAPISTS, AND LICENSED CLINICAL SOCIAL WORKERS**

Mr. Riches addressed the Board about the proposal to reorganize the Board's statutes for clarification and readability. The Board's statutes govern multiple professions. The current structure has been challenging for staff and for anyone else to use. This issue was brought up repeatedly by staff through the strategic planning process. Another problem is that the statutes that house the Board's administration are housed in the LCSW statutes and the LEP is housed within MFT. All changes are nonsubstantive except for LEP.

Staff created a draft and sent it to stakeholders for comment. The Board received comment from CAMFT who had concerns about the speed with which this was happening and that the changes may have unforeseen consequences. To address those concerns, Mr. Riches suggested pursuing legislation for the Board's administrative and LEP statutes at this time, and to continue to work on MFT over the next year to give the community more time to process the changes.

Mr. Gerst stated that he felt it was best to go forward with the full package including MFT to help ensure organization and consistency, while working with those who have concerns. Mr. Riches explained that in his experience it is helpful to first have agreement about going forward. This establishes a positive dialogue, but it is a matter of style. Mr. Gerst reiterated his recommendation that we go forward with the proposal in its entirety since the changes to MFT are not substantive.

Ms. Riemersma questioned a statement in the memo from Board staff regarding CAMFT's comments which indicated that the Board does not accept hours of experience gained out of the country. Ms. Riemersma asked under what authority the Board would deny such hours. Mr. Riches responded that we would look into this.

ROBERT GERST MOVED, JUDY JOHNSON SECONDED AND THE BOARD CONCURRED TO PROPOSE THAT THE LEGISLATION BE INTRODUCED AND INCORPORATE THE PROVISIONS CONTAINED IN THE MATERIALS THEY HAVE BEEN GIVEN.

13. **REVIEW OF AND POSSIBLE ACTION TO SPONSOR REVISIONS AND REORGANIZATION OF THE STATUTES GOVERNING LICENSED EDUCATIONAL PSYCHOLOGISTS**

Mr. Riches explained that the Board has been working on this proposal for the past year with assistance from Mark Burdick and Judy Johnson. The draft has been circulated to stakeholders and received no opposition.

ROBERT GERST MOVED, KAREN PINES SECONDED AND THE BOARD CONCURRED TO DIRECT STAFF TO PURSUE LEGISLATION AND SEEK AN AUTHOR.

Ms. Pines thanked Mr. Riches, Mr. Burdick and Ms. Johnson for working on the proposed revisions to these statutes.

The Board recessed at approximately 1:50 p.m.

The Board reconvened at approximately 1:58 p.m.

14. **PRESENTATION ON BOARD BUDGET ISSUES BY PAULA GERSHON, BBS BUDGET ANALYST**

Ms. Gershon provided a detailed, informative presentation to the Board about how the budget works. Her presentation helped to provide an understanding of the budget to reduce the amount of questions and concerns that members may have had.

The meeting adjourned at approximately 2:30 p.m.



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MEETING MINUTES

NOVEMBER 18, 2005

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 UNION SQUARE ROOM
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MEMBERS PRESENT

Gordonna DiGiorgio, Public Member
 Robert Gerst, Vice Chair, Public Member
 Judy Johnson, LEP Member
 Peter Manoleas, Chair, LCSW Member
 Karen Pines, MFT Member
 Dr. Ian Russ, MFT Member
 Howard Stein, Public Member
 Joan Walmsley, LCSW Member

MEMBERS ABSENT

Victor Law, Public Member

STAFF PRESENT

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

GUEST LIST ON FILE

The meeting was called to order at approximately 9:07 a.m.

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

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

2. REVIEW OF AND POSSIBLE ACTION TO TAKE A POSITION ON ASSEMBLY BILL 894 (LA SUER) REGARDING THE LICENSURE OF PROFESSIONAL COUNSELORS

Mr. Riches explained that the purpose of this bill is generally to create a new master's level psychotherapy license in California. It is now in the Sunrise process in the legislature. Staff has been working with the sponsor of the bill to eliminate lower level policy issues so that larger issues can be addressed. Those larger issues are:

1. Grandparenting: Because California already licenses master's level psychotherapists, the standards for licensure via grandparenting must be substantially the same as current licensure requirements in order to protect consumers. The bill does not meet those standards.
2. Examination: This appears to be a broad proposal that brings in a lot of professions. Staff feels strongly that whatever the professions, they all need to meet the same standard of competence, and take the same examination. The national exam would need to be audited to determine whether it meets California's strict standards. If it does not, we would develop a supplemental examination.
3. Administrative: There is a question about time frames for startup and how to fund startup of the program. There are several methods by which this could be done. A general fund loan was the historic method, though no longer viable given the condition of the state's general fund. Another method is essentially borrowing against the future, where applicants file an application and fee, and when enough resources are established, the program is then initiated. The final method would be borrowing from the Board's special fund reserve. A question is whether that is an appropriate use of those funds since those funds have been paid by licensees.
4. Scope of Practice: Our approach has been that this proposal is for a license to provide psychotherapy. Upon reading the Sunrise report, it has become less clear, as it appears to include career counseling, school counseling, and rehabilitation counseling. The Board has no experience regulating those types of services. Sweeping those services into the Board's jurisdiction would require a substantial expansion of our skills. It also raises the question of exclusions. Would persons be required to obtain a license in order to perform those services?
5. Need for the License: The Board's mandate is to protect the consumer. It is not clear that this licensing proposal would increase consumer protection related to the provision of psychotherapy.

Mr. Riches explained to the Board that we need to provide lower level policy guidance to the legislature today at a minimum. Staff recommends opposing the bill due to the significant issues involved.

Mr. Gerst would like to have the committee work with staff prior to the next meeting to discuss these issues. Mr. Riches explained the condensed legislative time frames that would make this difficult.

Mr. Gerst questioned the need for a new category of licensure given the lack of evidence that it would help to protect the public.

Ms. Johnson sees a disconnect between the proposed scope of practice, which seems similar to a pupil personnel services credential, and the population to be served as described in the Sunrise report.

Ms. Pines agreed there is a question about the need for an additional license. On the flip side, would others be kept from performing their work? Need to look at barriers from a consumer point of view.

Lorie Brant, a LPC from Texas and professor of counselor education of California State University Sacramento (CSUS), informed the board why she could not get licensed to perform psychotherapy in California but could in 47 other states. She got both her master's and Ph.D. in counseling. Neither of these degrees qualify for licensure in California. She teaches MFT students at CSUS.

Mr. Riches asked for clarification of what the purpose of the LPC license was and the scope of practice. Ms. Brant responded that the purpose was to perform psychotherapy.

Ms. Johnson asked Ms. Brant what she would have to do to get a license as an MFT. Ms. Brant stated that she was told by the Board that she would have to go back to school and obtain a new master's degree. Mr. Riches explained that this is the case because a single integrated degree is required in order to obtain a MFT license.

Dr. Russ asked whether Ms. Brant's objections were related more to the academic requirements for MFT licensure. She confirmed this was true. Dr. Russ asked whether there wasn't a lot easier way to fix that problem rather than create a new license type.

Bob Chope, Ph.D., MFT, spoke about his knowledge of the history of MFT and psychology licensure in California, and the requirement for specialization. He expressed his concerns about the lack of counselor licensure in California, and that certain types of counselors could practice without a license, such as hospice workers and school counselors. Mr. Riches responded that this is a central question, whether this bill is an intent to regulate currently unregulated activity, or is it an attempt to create another type of license to practice psychotherapy.

Ms. Walmsley stated that she has supervised those with out of state education who are trying to become licensed in California and they do not always have all of the training necessary to do psychotherapy.

Mr. Gerst asked whether there would be a way to start out fresh by integrating LPC licensure with MFT licensure in order to allow those from out of state who don't meet MFT requirements to qualify without creating an additional license type.

Mary Riemersma of the California Association of Marriage and Family Therapists (CAMFT) stated that CAMFT has not taken a position on this bill. She shared concerns about the proposed breadth of the LPC profession.

Geri Esposito of the Society for Clinical Social Work, commented that she felt the proposed educational and experience requirements are not comparable to clinical social work licensure. She also shared concerns about the proposed breadth of the LPC profession.

Mr. Manoleas presented possible motions that the board could take. Either support, oppose or no position. Ms. Pines would like to oppose the bill. She does not feel there is a need for another license, however, she would like to continue the discussion. Ms. Johnson believes that because of the complexity, the Board of Psychology should be involved in future discussion as well as the Commission on Teacher Credentialing. She believes this board is not in a position to make this decision alone. Mr. Gerst stated that this issue is complicated and the demonstration of need has not yet been made. Dr. Russ said there has not been enough justification of need, this would possibly regulate areas that have not yet been regulated, and would change educational standards for the purpose of psychotherapy. Ms. Walmsley was concerned that persons coming in from out of state that would qualify for licensure under this bill may not be qualified to practice psychotherapy due to the differences in requirements in other states.

IAN RUSS MOVED, ROBERT GERST SECONDED AND THE BOARD CONCURRED TO OPPOSE ASSEMBLY BILL 894.

The Board recessed at approximately 11:00 a.m.

The Board reconvened at approximately 11:15 a.m.

3. **DISCUSSION REGARDING THE COLLECTION OF RACE AND ETHNICITY DATA BY THE BOARD**

Mr. Manoleas informed the Board that we do not currently collect data based on race, ethnicity, or linguistic diversity. Mr. Manoleas asked whether we should we collect, how we would collect this data and when it would be appropriate. California is more diverse than ever and we need to understand the Board's role relating to workforce issues and mental health disparities. A number of boards are collecting diversity data. A letter from the Department of Mental Health was provided to members and the public encouraging the Board to do so as well. Mr. Manoleas proposed that we collect this information on a volunteer basis. Ms. Schieldge asked Mr. Manoleas to confirm specifically what he wants to do with the information. Mr. Manoleas responded that the main reason for collecting this information is to be able to understand our licensee workforce. Mr. Riches responded that it is difficult to know what specifically to do with the information until it is collected.

Mr. Riches explained that one way of protecting consumers is by being involved in issues of communication and outreach to the public. He stated that it is well established that access to culturally and linguistically appropriate services is a problem. From his perspective, the Board currently operates from a state of ignorance regarding diversity of its licensees. The Board will be better equipped to approach issues when we are more knowledgeable.

Ms. Schieldge informed the Board of what they needed to be aware of legally, and explained that the best way to handle this project is for the Board to obtain statutory authority to collect diversity information.

Rick Collins, Regency Coordinator for the National Association of Social Workers and the Vice President of the California Association of Black Social Workers, saluted the Board for being open to the idea of collecting information on a voluntary basis. He stated it would be helpful to know the breakdown of the ethnicities of the licensees, as well as who is getting through the supervision process, and who takes the exams.

Gene Chen, LCSW, works mostly with the Chinese population. He believes that his colleagues would not have any objection to the Board collecting diversity data. He discussed how there is often not enough diversity in clinicians to match the client need.

Olivia Loewy Executive Director of the American Association of Marriage and Family Therapists, California Chapter, stated that the Mental Health Services Act requires both culturally competent and linguistically appropriate services be provided. Eventually state level funding decisions will be made to promote a more diversified work force. It would be useful to have this data in order to be able to contribute to that process.

Selina Lau, a recent MSW graduate and ASW registrant, believes that the collection of such data is a good tool to help focus on consumer protection and is vital information about the diverse communities of California are being served with qualified and diverse clinicians of color. She explained that there are financial constraints that sometimes constrain people of color from practicing in their own communities.

Heather Halperin, USC School of Social Work, asked if the board's focus is on protecting the community from harm, when there is not enough people to service these communities, couldn't the board be looked on as doing harm?

The Board recessed at approximately 12:20 p.m.

The Board reconvened at approximately 1:07 p.m.

8. PETITION FOR MODIFICATION OF PENALTY

A. Marilyn Ruman LCS 3646

Administrative Law Judge, Ruth Astle, withdrew the petition, as Marilyn Ruman did not show for the petition for modification of penalty. Judge Astle recommended that the Board withdraw the petition and Ms. Ruman remain on probation for the term of her probation.

The petition was completed at 1:30 p.m.

Mr. Manoleas presented a resolution to Legal Counsel, Kristy Schieldge, for serving the Board since 2003.

4. DISCUSSION AND POSSIBLE ACTION ON A DRAFT PROPOSAL TO ADD CONTINUING EDUCATION PROVIDERS TO THE BOARD'S CITATION AND FINE AUTHORITY

Mr. Riches explained that the Board has had an ongoing discussion about complaints regarding providers of continuing education (CE), who are required to register with the Board. Staff has created a process to audit CE providers, and would like to have the authority to issue a citation. If staff were to find a CE provider out of compliance, our only current remedy is to revoke the registration, which is out of proportion to many of the violations. Mr. Gerst asked whether we have the authority to suspend a CE provider registration. Mr. Riches does not believe we have the authority to do so.

IAN RUSS MOVED HOWARD STEIN SECONDED AND THE BOARD CONCURRED TO PURSUE REGULATIONS TO ADD CONTINUING EDUCATION PROVIDERS TO THE BOARD'S CITATION AND FINE AUTHORITY. Ms. Pines abstained.

5. DISCUSSION AND POSSIBLE ACTION ON A DRAFT PROPOSAL TO AMEND TITLE 16, CALIFORNIA CODE OF REGULATIONS SECTION 1803 REGARDING THE DELEGATION OF FUNCTIONS TO THE EXECUTIVE OFFICER

Mr. Riches explained that there has been cause recently to look at the process by which an order to compel a psychiatric evaluation of a licensee or registrant is issued. It has been the Board's practice for the Board Chair to sign such orders. Counsel advised that it is not appropriate for a board member to sign such orders because it is more of an investigatory/prosecutory function. It would be more appropriate for the executive officer to sign such orders.

KAREN PINES MOVED, JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO PURSUE REGULATIONS TO DELEGATE AUTHORITY TO ISSUE ORDERS TO COMPEL PSYCHIATRIC EXAMINATION TO THE EXECUTIVE OFFICER.

6. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

There was no comment from the public.

9. FULL BOARD CLOSED SESSION

The closed session began at approximately 1:30 p.m. and concluded at approximately 1:45 p.m.

The meeting adjourned at approximately 1:46 p.m.