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BOARD MEETING MINUTES February 15-16, 2007

Mission Inn Hotel
3649 Mission Inn Avenue
Riverside, CA 92501

Thursday, February 15

MEMBERS PRESENT

Victor Law, Chair, Public Member
Gordonna DiGiorgio, Public Member
Judy Johnson, LEP Member
Renee Lonner, LCSW Member
Victor Perez, Public Member
Karen Roye, Public Member
Dr. Ian Russ, MFT Member
Howard Stein, Public Member
Joan Walmsley, LCSW Member

MEMBERS ABSENT

D'Karla Leach, Public Member

STAFF PRESENT

Paul Riches, Executive Officer
Mona Maggio, Assistant Executive Officer
Steve Sodergren, Program Manager
George Ritter, Legal Counsel
Christy Berger, Legislation Analyst
Justin Sotelo, Regulatory Analyst
Christina Kitamura, Administrative Assistant

GUEST LIST

On File

FULL BOARD OPEN SESSION

Victor Law, Board Chair, called the meeting to order at 9:05 a.m. Christina Kitamura called roll and a quorum was established.

I. Chairperson's Report

Mr. Law made a change to the agenda. Since Judy Johnson, Consumer Protection Committee Chair, would be arriving late, agenda item V on the report of the Consumer Protection Committee was switched with agenda item VIII.



State of California
State and Consumer
Services Agency
Arnold Schwarzenegger
Governor

Mr. Law introduced a newly appointed Board member, Renee Lonner, LCSW member. Ms. Lonner introduced herself and gave a brief background. Ms. Lonner provides management consultation for Robert T. Dorris & Associates. She also owns a small private practice. Ms. Lonner served as past-president of the California Society for Clinical Social Work and also served on the American Board of Examiners in Clinical Social Work.

Board members, staff and legal counsel introduced themselves.

II. Executive Officer's Report

A. Personnel Update

Paul Riches reported on the new hires that took place since the last Board meeting. Michelle Eernisse joined the BBS in December filling the vacant MFT evaluator position. Karmynne Williams joined the BBS in December filling the vacant Cashier position. Cynthia Finn joined the BBS in January filling the vacant Office Assistant position in the Administration Unit. There is one remaining vacant position that is under recruitment, which should be filled within the next 30-45 days.

B. Examination Update

Mr. Riches announced that the Department of Consumer Affairs (department) unsealed the bids and issued an intent to award the testing contract for the entire department to Psychological Services Inc. (PSI). PSI is a mid-sized examination firm in Southern California. The contract award has been subject to a protest and that protest process is under way at this time. The department is under strict timelines, and their intent is to have a new vendor in place by June 1, 2007.

C. Miscellaneous Matters

Mr. Riches reported that the Director of the Department of Consumer Affairs (DCA) has resigned and has been appointed to the San Diego Regional Airport Authority. Mr. Scott Reid began his first day this week as Chief Deputy Director for DCA. This position had been vacant since last summer. Mr. Reid is a former Deputy Cabinet Secretary for Fred Aguiar, the Schwarzenegger Administration, and he was also the Undersecretary for the State Consumer Services Agency when Fred Aguiar was the Secretary for the State Consumer Services Agency.

III. Approval of November 16-17, 2006 Board Meeting Minutes

Correction on page 17, item XVII, second paragraph, first sentence: change *Joan* to *Ms. Walmsley*.

Correction on page 17, item XVII, fourth paragraph, third sentence: change *Paul* to *Mr. Riches*.

GORDONNA DIGIORGIO MOVED, HOWARD STEIN SECONDED, AND ALL CONCURRED TO APPROVE THE NOVEMBER 16-17, 2006 BOARD MEETING MINUTES AS AMENDED.

IV. Report of the Communications Committee

A. Review and Possible Adoption of Board Logo

Joan Walmsley reported on the Communications Committee. The Committee met on January 10, 2007. The Committee recommended that the Board review and select a Board logo from the designs provided by BP Cubed.

After a brief discussion, the Board was asked to adopt a Board logo.

DR. IAN RUSS MOVED, VICTOR PEREZ SECONDED, ALL CONCURRED ON ADOPTING THE BOARD LOGO EUREKA PMS 295 & 1245.

Ms. Walmsley reported on the following items discussed at the Communications Committee meeting:

- The committee conducted a review of progress on achieving the strategic objectives under Goal 1.
- Lindle Hatton of Hatton Management Consultants provided a presentation on the Board's Strategic Planning Process.
- The Committee reviewed the first drafts of the Marriage and Family Therapist and Licensed Clinical Social Worker Student Handbooks. Some minor changes were made, and it was adopted.
- The Committee reviewed the results of the Customer Satisfaction Survey. Overall satisfaction has increasingly improved.

Ms. Walmsley commended Sean O'Connor, Outreach Coordinator, and his effectiveness in the outreach program.

Mr. Riches added the outreach program is overbooked. The requests are exceeding the capacity to address them. The goal is to spread the Board's presence out to as many schools as possible, as well as leaving time in the remainder of Mr. O'Connor's schedule to perform other duties. Mr. Riches encouraged Board members to attend any of the outreach presentations.

B. Strategic Plan Update

Ms. Walmsley reported on the Customer Service Satisfaction Survey, stating that overall satisfaction is improving.

Ms. Walmsley reported on Student Outreach Coordinator and commended Sean O'Connor and his outreach efforts.

Mr. Law reported on an outreach event he attended with Mr. O'Connor. He suggested that each Board member attend an outreach event and meet the people who are attending these events.

Mr. Law moved agenda item VIII in place of agenda item V. Agenda item V was moved to proceed agenda item VII.

VIII. Report of the Marriage and Family Therapist Education Committee

Dr. Ian Russ, Committee Chair, reported on the status of the Committee, explaining that the Committee is holding meetings throughout the state to explore the rewriting and the reorganization of the curriculum for marriage and family therapist (MFT) licensure. The MFT curriculum, among the three licenses that the Board regulates, is the only one with specific content requirements mandated by law. The other curricula have other sources, so the Committee is looking at it in the context of the MHSA, the wishes of Department of Mental Health (DMH) and the changing demographics of the state of California. All of these meetings involve vigorous discussions with stakeholders.

The last meeting of the Committee was held in conjunction with the Southern California Consortium. Many programs in Los Angeles County, including colleges and institutions, met together and had an open debate regarding the curriculum. At the top of the debate were the following questions:

- What role the “recovery model” plays in delivering services in community mental health centers?
- Is it really just a rewrite of old models or is it something unique?

The DMH and the MHSA have made it very clear that those who work in the mental health departments need to know and understand that model.

Mr. Riches and Dr. Russ have collected articles and studies regarding the recovery model, and there is a lot of reading about it as cohesive model. The next part of the debate is how much is a process issue and how much is a content issue; and how much should be taught in people’s placements, versus in the classroom, and the role it will have within the curriculum.

The overall issue is that students need to be prepared to go into go into community mental health agencies as well as into private practice. In all of the discussions so far, everyone is in agreement that there needs to be an increase in cultural competency. Some concerns have been raised such as: 1) there is not enough emphasis on the culture and demographics in California, and 2) there is not enough emphasis on non-traditional methods of treatment that might be culturally specific and incorporating that into the program.

There is a need to include consumers of mental health in the decision-making. Dr. Russ stated that he is in the process of setting up a meeting with consumers of mental health in March at Pepperdine University.

Dr. Russ also spoke with Ellen Sachs, a law professor at USC who is noted in the United States and around the world in her writings in mental health law. She has had schizophrenia since she was 16 years old, and she is willing to consult with the Committee regarding her experiences, and the needs and the understanding from the consumer to the practitioner.

The next meeting of the Committee is with the Northern California Consortium in March.

Part of the meeting is for the group to look at where the proposal is at, critiquing, structuring, and balancing out the issues. It’s a complicated issue because we also have to deal with structuring. For example, are we going to require a certain number of units in a specific area and control institutions? Or are we going to determine the overall requirements and allow curricula to be based on the school’s philosophy and culture and make sure that content is incorporated appropriately? Schools are already doing that. Schools have content that must

be covered, and then they show what classes cover that content. There are areas such as cultural competency that would be covered across more than one course. The question is then, should the course requirements be specified or should that be left up to the institution? The Committee is trying to figure out how to balance out those issues.

Mr. Riches informed the Board members and public that the next meeting will be held at Golden Gate University in San Francisco on Friday, March 9th and will begin at 10:00 a.m. Immediately following the Committee meeting will be a meeting of the Northern California Consortium of MFT programs.

VI. Presentation by Donna DeAngelis, Executive Director of the Association of Social Work Boards regarding licensure examinations.

Donna DeAngelis could not attend to make the presentation. Roger Kryzanek, President, Board of Directors of Association of Social Work Boards (ASWB), gave an introduction and presentation to the Board regarding the social work licensure examination including development of the examination, review and approval of the exam.

Mr. Kryzanek expressed ASWB's desire for California to become a member. ASWB is composed of 59 members: 49 states, the District of Columbia, the Virgin Islands, and eight Canadian provinces. ASWB's by-laws state that its members must use the ASWB's examination. The exam program is currently utilized by 49 states which makes it much easier for a person to get licensed in one state and move to another state without taking another exam. California left ASWB and began administering its own exam. Mr. Kryzanek explained that it affected those who became licensed in California, moved to other states and applied for licensure in those states.

The reason why ASWB exists is for public protection, to make sure they have qualified professionals and gives consumers a place to go when they have a complaint.

ASWB administers 25,000-27,000 exams annually. The exam is a computer-based program. They contract with the American College Testing, Inc. (ACT). ACT has nine test sites in California.

ASWB has conducted four practice analyses since it started using the exam program. The most recent analysis was completed in 2003. ASWB has five different levels of the exam. The Clinical examination would be the appropriate exam for California. The exam is multiple choice, consists of 170 items on the exam, 20 of which are pretest items.

- *Associate* – Appropriate for paraprofessional social workers. This level uses the Bachelor's examination with a lower pass point.
- *Bachelors* – Appropriate for those who hold a Bachelor's degree in Social Work.
- *Masters* – Appropriate for those who hold a Master's degree in Social Work (MSW).
- *Advanced Generalist* – Appropriate for those who hold a MSW with a minimum of two years of post-degree experience in non-clinical practice.
- *Clinical* – Appropriate for those who hold an MSW with a minimum of two years of post-degree experience in clinical practice. This would be the examination evaluated for possible use in California for LCSWs.

ASWB is concerned about legal defensibility of the exam, validity and reliability. Defensibility relies on reliability and validity. The practice analysis ensures validity. Reliability is achieved

through item writing and maintenance. ASWB interviews and hires item writers. Item writers submit their items, and consultants review and edit the items. If the items are approved, they are sent to the exam committee. The committee reviews the items and content, completes final edits and language clean up. The committee also approves versions of the exam before it goes online. At any given time, there are three versions of the exam online. Each version stays online for four months and then rotated. After a version has been used for 4-5 years, it is taken offline completely and those items are retired.

VII. Discussion and Possible Action to Review the National Examination for Licensure as a Clinical Social Worker

Dr. Russ asked what the BBS would gain by joining ASWB. Mr. Kryzanek replied that BBS would be part of the entire system, sharing information on best practices, and participating in the developing the various services of products that ASWB provides.

Dr. Russ asked what social workers in California would use, other than portability, if BBS did not join ASWB. Mr. Kryzanek responded that portability would be the biggest downside.

Dr. Russ asked how BBS participation can count for the particular cultural issues; how does California compare to other states in the cultural issues; does ASWB collect information on those cultural differences; and how does ASWB measure whether or not those difference are significant.

Mr. Kryzanek responded that other states also believe that they have unique cultural characteristics. New Mexico has legislation that requires in addition to the national exam, one has to pass an exam testing knowledge on diversity. Canada has some of the same concerns as California.

Dr. Russ asked if there is a supervising group who is trained in test development, developing the exam, supervising the process, performing the measurements, and if so, what is their training.

Mr. Kryzanek responded that ASWB contracts with ACT for psychometrics. ASWB has all the resources of ACT available to them. ACT is available in assisting and ensuring that the process is sound and has all the necessary components. Ultimately, the board of directors and Mr. Kryzanek are responsible for ensuring that consultants, item writers, and individuals on the exam committee represent all the experience and knowledge that ASWB wants to have in place.

Ms. Roye asked how ASWB ensures that ethics and integrity are being observed.

Mr. Kryzanek responded that ASWB has a judiciary responsibility to its members and the consumers, the practitioners taking the exam, and the regulatory bodies that this process is working. An independent expert in the field of testing was hired to review the entire exam program. This review will be conducted on a regular basis.

Ms. Roye asked how ASWB protects the integrity of those exam questions when exam questions are developed outside and filtered back in.

Mr. Kryzanek responded that the item writer will develop exam questions at their home or office, and submits them to a consultant. The consultant will send it back for edits if necessary.

After the necessary edits, the consultant will forward to the exam committee. These items are sent through secured mail. Once ACT receives the exam items, only a few people handle them.

Dr. Russ inquired on the costs for the Board to evaluate this.

Mr. Riches replied that there would be the costs with assembling subject matter experts and one Board member on that committee and retaining the services of a psychometrician. OER does not have the capacity to take on this additional work. It may be approximately \$10,000 - \$20,000 to begin the contract, and pay the costs of travel. This would involve the experts traveling to ASWB and addressing security concerns on transferring exam data and exam items. BBS has the resources in the upcoming fiscal year.

Ms. Roye asked how ASWB encourages diversity and cultural sensitivity?

Ms. Kryzanek responded that ASWB represents diversity through the diverse selection of members of its board. The exam is based on information they receive from practitioners.

Janlee Wong, Executive Director of the National Association of Social Workers (NASW), stated that California is excluded from the national loan repayment program for Social workers, because one of the criteria for that program is the national exam. On the cultural diversity issue, the statistics that the current Board aggregated is comparable to those of ASWB. Mr. Wong addressed the need of qualified social workers in California. He encouraged the Board to investigate the information to make an informed decision.

DR. IAN RUSS MOVED TO PURSUE AN INVESTIGATION ON THE ASWB EXAM, AND ALSO RECOMMENDED JOAN WALMSLEY TO BE ON THE INVESTIGATORY COMMITTEE. VICTOR PEREZ SECONDED, AND THE BOARD CONCURRED TO PURSUE AN INVESTIGATION ON THE ASWB EXAM.

V. Report of the Consumer Protection Committee

A. Recommendation #1 – Amend Business and Professions Code Sections 4980.01 and 4996.14 Regarding Exempt Practice Settings

Mona Maggio presented the Committee's recommendation to the Board, and provided background, history, and the Committee's discussion.

The Committee recommended that the Board sponsor legislation to amend Business and Professions Code Sections 4980.01 and 4996.14 to standardize exempt settings between the Licensed Clinical Social Worker (LCSW) and Marriage and Family Therapist (MFT) statutes.

The LCSW and MFT statutes specify certain types of organizations, referred to as "exempt settings," whose employees are not required to have a license or a registration in order to perform clinical social work or marriage and family therapy within the scope of their employment. These exempt settings have been listed in statute from the time the Board began licensing clinical social workers in 1968. This statute has remained the same throughout the years. Two types of exempt settings were listed in the MFT statute when the Board began licensing MFTs, also in the late 1960's. These were institutions

both nonprofit and charitable, and accredited educational institutions. Governmental agencies were later added to the list of exempt settings in the MFT statute.

The MFT statute is somewhat narrower and better defined, and has been used as the basis for the proposed language. The proposed changes would remove the following as exempt settings in the LCSW practice act:

- Family or children services agencies
- Private psychiatric clinics
- Nonprofit organizations engaged in research and education

There are several reasons to standardize exempt settings. The scopes of practice for MFTs and LCSWs are very comparable. For purposes of administrative simplicity, standardization and better-defined exemptions would be very helpful. Additionally, most exempt settings require licensure anyway for reimbursement reasons. This proposal would also enhance consumer protection by requiring licensure for persons in additional settings.

Mr. Wong stated that he was curious as to why a survey was not conducted, polling those who will be removed from the exempt settings.

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists (CAMFT) supported the proposed change.

DR. RUSS MOVED, KAREN ROYE SECONDED AND THE BOARD CONCURRED TO AMEND BUSINESS AND PROFESSIONS CODE SECTIONS 4980.01 AND 4996.14 REGARDING EXEMPT PRACTICE SETTINGS.

B. Recommendation #2 – Amend California Code of Regulations Section 1887.2 Regarding Exceptions to Continuing Education Requirements

Ms. Maggio presented the recommendation and provided background, history, and the Committee's discussion.

Section 1887.2 of Title 16, Division 18 of the California Code of Regulations sets forth continuing education (CE) exception criteria for Marriage and Family Therapist and Licensed Clinical Social Worker license renewals.

Subdivision (a) of the regulation sets forth the 18 hours of CE requirement for initial licensees, while subdivision (b) sets forth the CE exemption for those whose licenses are in inactive status.

However, in reviewing the language under subdivision (c), staff has recommended changes in order to clarify and/or better facilitate the request for exception from the CE requirement process.

- Adding language requiring that a written request for exception be submitted to the board a minimum of 60 days prior to the expiration date of the license
- Adding language stating that, if approved by the board, a request for exception shall be valid for only one renewal period

- Similar to subdivisions (c)(1) and (c)(2), adding language under subdivision (c)(3) requiring that a licensee or immediate family member had a disability for at least one year in order to be granted an exception
- After the “disability” definition under subdivision (c)(3), adding additional language that defines “major life activities” and “substantially limiting impairment”
- Adding language requiring that an explanation of how the disability substantially limits one or more major life activities be provided
- Adding additional clarifying language

Staff has also drafted a request for continuing education exception form in order to better facilitate the request process.

The Committee recommended that the Board review the proposed regulatory language and request for exception form and provide preliminary approval so that staff may pursue the regulatory change process.

Benjamin Cauldwell, American Association for Marriage and Family Therapy (AAMFT), asked how often do requests for exception to the CE requirement come to the Board. Ms. Maggio replied that staff receives many requests for an exception to CE requirements. Many of those requests are from individuals who are disabled or are a caregiver of a disabled family member.

Ms Riemersma supported the recommendation and added that many therapists are reluctant to put their licenses on inactive status, even if they are not able to practice.

Mr. Perez expressed his concern regarding the language “at least one year,” stating that it was inflexible and excessive. Mr. Perez suggested a shorter period of time, such as six months.

Dr. Russ agreed with Mr. Perez.

After some discussion, Christy Berger suggested that if the idea was to shorten the period to six months, then that period must take place within the second year of the renewal period instead of the first year of the renewal period.

Ms. DiGiorgio motioned to accept Ms. Berger’s recommendation, and Mr. Stein seconded. Mr. Perez and Dr. Russ opposed the motion.

Further discussion and clarification took place.

VICTOR PEREZ MOVED TO ACCEPT THE PROPOSED LANGUAGE WITH AN AMENDMENT TO SECTION 1887.2(C)(3) FROM ONE YEAR TO NINE MONTHS. JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE PROPOSED LANGUAGE AS AMENDED.

C. Strategic Plan Update

Ms. Maggio reported that the enforcement unit held its first training in January for Subject Matter Experts (SME). Forty-one licensees from all thereof the professions were invited and 35 of those individuals attended. A representative from Division of Investigation (DOI) and from the Attorney Generals Office attended. Both gave an overview of the SME’s responsibilities to the Board and the administrative hearing process. Staff gave an

overview of the complaint process. Two of four enforcement analysts completed the National Certified Investigator Training (NCIT) through the Counsel on Licensure, Enforcement, and Regulation (CLEAR). Enforcement staff is stepping up to work the in-house investigation since DOI is unable to work the cases in a timely manner. The goal is to hold the training program for the SMEs on an annual basis.

D. Enforcement Statistics

Mr. Riches gave a brief overview of the enforcement statistics.

E. Examination Statistics

Mr. Riches gave a brief overview of the examination statistics.

The Board adjourned for lunch at 12:05 p.m.

The Board reconvened at 1:02 p.m.

FULL BOARD OPEN SESSION -- PUBLIC HEARING ON PROPOSED AMENDMENTS TO REGULATIONS

IX. Regulations subject to proposed amendment:

Amend Section 1887.2 – Exceptions From Continuing Education Requirements

Amend Section 1887.3 – Continuing Education Course Requirements

Victor Law, Board Chair, went on the record for the Regulatory Hearing at 1:02 p.m. A quorum of the Board was present. Mr. Law explained that the purpose of the public hearing was to gather oral or written statements and arguments relevant to the regulatory actions proposed by the Board. The regulatory proposals were filed with the Office of Administrative Law and were noticed. Copies of the proposed regulations were sent to interested parties.

Mr. Law stated that the purpose of this proposal was to reduce limitations with respect to the maximum amount of continuing education (CE) hours that a licensee can earn throughout self-study courses during his/her initial license period and all subsequent license renewal periods.

Mr. Law stated that the Board currently allows a licensee to earn up to six hours of CE through self-study courses during the initial license period and up to 12 hours of CE through self-study courses during all subsequent license renewal periods. This proposal would change those maximum hour limitations to 9 and 18 hours.

Mr. Law asked if anyone in the audience wished to testify. Nobody testified.

The hearing was closed at 1:05 p.m.

Mr. Law moved agenda item XII to precede agenda item X.

XII. Review and Possible Action on Proposed Amendments to Sections 1805, 1806, 1833.3, 1816, 1816.1, 1816.2, 1816.4, 1816.6, 1854, 1855, 1856, 1857 & 1858 Regarding Application Files, Fees, and Licensed Educational Psychologists (LEP)

Dr. Sean Surfás, California Association of School Psychologists (CASP), commented that CASP strongly supports continuing professional development. However, CASP is concerned that 60 hours every 24 months is excessive. MFTs and LCSWs are required to complete 32 hours every two years. CASP suggests that continuing education requirements for LEPs are the same as MFTs and LCSWs.

Dr. Surfás stated that CASP is also concerned with Section 4989.205 due to the six-year of statute of limitations placed on experience required to apply for the license. This excludes experienced psychologists who apply because their supervised internship occurred more than six years ago. CASP would like to see language changed so that supervised internships could be more than six years. CASP does support the three-year experience requirement.

One of the items in SB 1475 is the actual degree name. Many members have master level degrees named in counseling without guidance. There is a masters degree in counseling and guidance. Many members have a masters degree in counseling alone. The degree title was in effect for more than 25 years in the California State University system; school psychology programs should be recognized.

Another concern is that Sections 4989.34(b) exempts school psychologists credentialed after July 1, 1994 from the 60-hour requirement. However, in the same legislative session, the Legislature eliminated the requirement for continuing professional development for all credentialed school employees. LEPs who completed their internships less than 6 years ago, would not have to ever meet the continuing education (CE) requirements according to SB 1475.

Mr. Riches started that most of the issues that Dr. Surfás addressed are implicated by the Board's statutory rewrite for educational psychology last year. Those issues will be on the Consumer Protection Committee agenda in April for consideration. Those issues are not included here because this is largely clean up to some expired regulatory language. Recent actions by the Commission on Teacher Credentialing and Dr. Surfás' presentation indicate that the Board needs to revisit the CE requirements that were put in that statute. The CE requirement will not become effective until the Board goes through the rulemaking process.

Dr. Surfás added that the supervision requirements also require supervision to be provided only by an LEP. However, 95% of those sitting for licensure have been supervised by credentialed school psychologists.

Mr. Riches stated that this discussion should be referred to the Consumer Protection Committee, chaired by Judy Johnson.

DR. IAN RUSS MOVED, JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO APPROVE THE ADOPTED LANGUAGE AS AMENDED.

X. Review and Possible Action on Proposed Amendments to Sections 1833.1 & 1870 Regarding Supervisor Qualifications

Justin Sotelo presented a brief background of the proposed amendments. This is a proposal that had been before the Policy and Advocacy Committee for preliminary approval. There was a public hearing at the November Board meeting. There were some minor modifications made to the language, which were incorporated into this proposal that was noticed for a 15-day period. No comments were received during that period. Staff is recommending adoption of this regulatory process. The Board is asked to provide final approval to this proposal so that staff may complete the regulatory change process.

There was no public comment.

DR. IAN RUSS MOVED, AND DONNA DIGIORGIO SECONDED, ONE MEMBER OPPOSED, AND THE REMAINING MEMBERS CONCURRED TO APPROVE THE ADOPTED LANGUAGE AS AMENDED. MOTION APPROVED BY VOTE OF 7-1.

XI. Review and Possible Action on Proposed Amendments to Sections 1816.7, 1887.7, 1887.75 & 1887.77 Regarding Continuing Education Providers

Mr. Sotelo presented a brief background of the proposed amendments. This proposal would modify the continuing education (CE) provider regulations. This is a proposal that had been before the Budget and Efficiency Committee for preliminary approval. There was a public hearing at the November Board meeting. There were some minor modifications made to the language, which were incorporated into this proposal that was noticed for a 15-day period. No comments were received during that period. Staff is recommending adoption of this regulatory process. The Board is asked to provide final approval to this proposal so that staff may complete the regulatory change process.

Mr. Cauldwell stated that there was a conflict in the language of Sections 1887.7(e) and 1887.75, claiming that these sections conflicted each other.

Ms. Riemersma stated that she did not see any conflict in language and interpreted the language in both sections.

DR. IAN RUSS MOVED, DONNA DIGIORGIO SECONDED, AND THE BOARD CONCURRED TO APPROVE THE ADOPTED LANGUAGE AS AMENDED.

XIII. Discussion and Possible Action to Sponsor Legislation to Accept Degrees Conferred by Bureau of Private Post-secondary and Vocational Education approved schools as Qualification for Licensure as a Marriage and Family Therapist

Mr. Riches gave a detailed background on this proposal. He explained that current law recognizes three separate entities for approving/accrediting marriage and family therapy degree programs including the Western Association of Schools and Colleges (WASC), Commission on Accreditation of Marriage and Family Therapy Education (COAMFTE), and the Bureau of Private Postsecondary and Vocational Education (BPPVE). In order to qualify for registration as a marriage and family therapist intern or a licensed marriage and family therapist, the candidate must have a qualifying degree from a program approved/accredited by one of three organizations.

On September 30, 2006 the Governor vetoed AB 2810. This bill, among other elements, extended the sunset date for the Bureau of Private Postsecondary and Vocational Education for one year to July 1, 2007. The veto of this legislation has the effect of repealing both the BPPVE and the underlying statutes that govern the approval of thousands of educational institutions including 21 programs offering degrees in marriage and family therapy.

Absent further legislative action, the Board will be unable to accept degrees conferred by these 21 programs on or after July 1, 2007. The administration and legislative leadership are working on reform proposals to establish a new law and administrative entity to succeed the BPPVE.

Mr. Riches explained the two things that this proposal will do: 1) It allows the Board to recognize degrees from BPPVE approved schools for a limited period of time. The BPPVE grants approvals/renewals for degree granting institutions that generally last from three to five years. The proposal would allow the Board to accept degrees granted within the time frame of the most recent approval/renewal granted to the degree program. 2) Allows the Board to recognize degrees granted by universities accredited by other regional accrediting bodies. Current law only allows the Board to accept degrees from programs accredited by WASC which accredits programs in California and other western states. Comparable accrediting bodies perform the same task in other regions of the country. Some programs in California are branches of universities that are accredited by one of these other accrediting bodies in another state. Current law requires that those programs be approved by the BPPVE. This proposal would eliminate that requirement.

The Department of Consumer Affairs is sponsoring a bill to contain similar fixes for other programs in the department. This will be included in that urgency measure. Urgency measures take effect once the Governor signs it. This could be in place by July 1st. However, any urgency measure requires a two-thirds majority vote.

Staff recommended that the Board sponsor emergency legislation outlined in this proposal.

George Ritter, Legal Counsel, added that if BPPVE sunsets in July, those schools can continue to operate, however, they will continue to operate in an unregulated and unapproved arena.

Ms. Riemersma commended staff on the quick response and trying to come to some resolution. She stated these were great proposals. Ms. Riemersma recommended striking "regional" from Section 4980.40(a). She explained that the U.S. Department of Education has other accrediting entities that are not necessarily regional accrediting bodies. For example, some faith-based schools cannot meet the requirements for some regional accrediting bodies; however, they can for a certain category that is recognized through the Council for Higher Education Accreditation (CHEA).

Mr. Riches stated that staff is open to hearing about the other accrediting bodies; however, staff and the Board have not looked at those accrediting standards. There will be an opportunity to have those accrediting agencies come and talk to the Board, discuss their accrediting standards, so that the Board can make an informed judgment.

In response to Ms. Riemersma's suggestion regarding the proposed language, Mr. Riches stated that the exclusion was intentional. The inclusion of regional accrediting bodies was intended to recognize the other regional accrediting entities, knowing that staff will need to look at the programmatic accreditation.

Mr. Cauldwell also thanked the Board for acting quickly on this. AAMFT is in support of the proposal in 4980.40(a). However, he recommended changes to the language. Mr. Cauldwell referred to Section 4980.40(a) stating that COAMFTE is redundant because one of the conditions for COAMFTE accreditation is regional accreditation. He stated that Section 4980.40(c) is harmful, and explained that what that has done traditionally was meant for applicants from other states. If they graduated from a COAMFTE accredited program, their degree is presumed to have met the content requirements that are outlined in Section 4980.40(a). He recommended leaving Section 4980.40(c) unchanged.

Dr. Paul Boatner, Academic Vice President of Southern California Seminary, presented the background on his institution and its accreditation. Southern California Seminary is an institution that has been approved through BPPVE. Under the U.S. Department of Education, CHEA grants authority to organizations, including regional organizations, to grant accreditation. There are other accrediting associations that are approved by CHEA, one of which is the organization that accredits the Southern California Seminary. That organization is the Transnational Association of Christian Colleges and Schools (TRACS). TRACS has 230 standards of accreditation. Dr. Boatner requested that there be recognition of other accrediting agencies approved by CHEA. Limiting the recognition of accrediting agencies to regional accreditations is an issue. Dr. Boatner suggested adding language to 4980.40(a) to state "...or other appropriate accrediting agencies approved by the Council for Higher Education Accreditation."

Dr. Russ asked if the Board staff can request from each of the accrediting agencies to submit their criteria and to demonstrate that the 42 WASC points are handled in these requirements?

Mr. Riches stated that programmatic accrediting entities are far more particular than the regional bodies. For the programmatic accrediting entities, it is a case-by-case analysis. It would be an opportunity for the accrediting body to petition to the Board to request that they are recognized. Regardless of what happens, it is either going to require a change in regulation or statute.

Dr. Russ asked if the Board can request the accrediting entities to submit this information before the next committee meeting in a particular format? Paul responded yes.

Mr. Ritter suggested that when the legislation is drafted, not to limit it to specifics. The language can state that the Board is authorized to include other approved accrediting agencies that it sees fit at its discretion.

Neil King, President of Antioch University of Los Angeles, briefly commented. His organization has been accredited by the North Central Association. Mr. King thanked the Board for acting quickly on this matter.

Jack Mayhall, Chairman of the MFT Department at the California Graduate Institute, briefly commented. His program has 225 students who will not meet the July deadline. Mr. Mayhall asked the Board to consider how it's going to contain these people while agencies obtain their accreditation with other accrediting bodies. He also stated that this is an opportunity to have uniformity with other states.

David Sitzer, Psychology Department Chair at Argosy University in Santa Monica, thanked the Board for moving quickly on this issue. Argosy University has 183 students affected by this change. Their regional accrediting body is the Higher Learning Commission (HLC).

Barry Lord, Program Director for Southern California Seminary, clarified that there are 10 nationals and six regionals throughout the United States. The schools can have franchise campuses where they can go to other regional areas and provide schooling. All of these are approved by the U.S. Department of Education, and under that is a branch known as CHEA. This issue will put schools out of business. Mr. Lord thanked the Board for their efforts.

Mr. Wong suggested that the schools that are not directly affected by this, to adopt the students who are in these schools and are affected by this so that they can complete their degrees. Mr. Wong also suggested that when the urgency is over, the thought should be given to the issue of generalist school accreditation versus program/specialist accreditation.

Daniel Litteral, General Counsel of University of Phoenix, expressed his appreciation to the Board and staff for the time taken on this issue. University of Phoenix is the largest private accredited university. University of Phoenix has approximately 800 students throughout the campuses in California. University of Phoenix is a regionally accredited institution through the Higher Learning Commission. There are campuses in other states, including Canada and Puerto Rico. He is supportive of the language drafted by staff.

Mr. Law suggested to the students who are affected by this to contact their local representatives.

Mr. Perez requested to hear from staff as to the suggested changes in the language.

Mr. Riches responded that he was comfortable with including the regional accreditation language and uncomfortable about passing on any programmatic accreditation until there is an opportunity to evaluate those more carefully. His suggestion was to not alter the provision. On comments from AAMFT, the changes on the COAMFTE strictly regarded as organizational. It doesn't affect how the regional bodies and approvals are handled. He stated it could be left as is for now. Mr. Riches recommended that the Board move forward in recognizing regional accreditation, continuing recognition of approvals proposed, and rescind the changes on COAMFTE if it's going to create discomfort with this proposal given the speed in which it is going to move.

Mr. Ritter added a procedural point. Because this is emergency legislation, if it goes forward, it's going to be subject to a lot of review. There may be suggestions for technical changes in the language. Therefore, he suggested to either delegate to Mr. Riches to make those changes, or if necessary, to hold a teleconference meeting.

VICTOR PEREZ MOVED, JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO SPONSOR LEGISLATION CONSISTENT WITH THE PROPOSED RECOMMENDATIONS.

Meeting adjourned for break at 2:25.

Meeting reconvened at 2:32 p.m.

XIV. Report of the Policy and Advocacy Committee

A. Recommendation #1 – Amend Sections 4980.80 and 4980.90 to increase portability of marriage and family therapist licenses

Donna DiGiorgio, Committee Chair, gave background regarding this proposal. This proposal would:

1. Modify the statutory requirement for a two-semester or three-quarter unit course in California law and ethics.
2. Clarify in statute that the Board will consider hours of supervised experience gained in the 6-year period prior to the issuance of the applicant's original MFT license from another state.
3. Current law allows out-of-state applicants to make up coursework or units in the MFT core curriculum as defined in Section 4980.40. The core MFT courses, including practicum units, should be required as part of any qualifying degree, but any other units should be permitted to be made up. A change that would permit that flexibility for out-of-state applicants is proposed for required units or coursework other than the core MFT curriculum.
4. Staff will work on a proposal for a method to consider documented practice experience while licensed in another state that will count in place of supervised experience requirements.

The Committee recommended that the Board sponsor legislation to increase portability of MFT licenses.

Ms. Riemersma stated that this would increase portability and urged the Board to continue to work on ways to increase portability. Eighteen hours in law and ethic is reasonable.

DR RUSS MOVED, DONNA SECONDED AND ALL CONCURRED TO APPROVE THE RECOMMENDATION.

B. Recommendation #2 – Repeal Section 4980.40(i) relating to registration as a marriage and family therapist intern

Ms. DiGiorgio gave background to this proposal, explaining that this law, which provided an alternative qualifying method for registration as an MFT intern, was outdated. The Committee recommended to the Board to sponsor legislation to eliminate the alternative qualifying method for registration.

KAREN ROYE MOVED, VICTOR PEREZ SECONDED, AND THE BOARD CONCURRED TO APPROVE THE RECOMMENDATION.

C. Recommendation #3 – Sponsor Legislation to increase Health Professions Education Foundation surcharge and reduce license renewal fees

Ms. DiGiorgio gave a very brief background of this proposal. In order to address the increasing fund balance, the Committee considered reapportioning the revenue by reducing renewal fees and increasing the licensing renewal surcharge which will go to the loan repayment program. The Governor's budget released in January 2007 reflected an increase in the Board's expenditure authority. This increase was not anticipated by Board staff and reflects a mix of price increases from recent labor contracts and increases in costs from the Division of Investigation.

Mr. Riches explained that if the Board goes forward to preserve the \$40 reduction in fees proposed earlier. This option would trigger repayment of the General Fund Loan

beginning in the 2011-12 fiscal year. Staff has assumed repayment over a three-year period. Such action would, based on current assumptions, require action to raise fees beginning in the 2015-16 fiscal year to bring revenues into balance with expenditures.

Mr. Riches suggested that the Board wait until regulations has passed putting a program in place.

KAREN ROYE MOVED, DONNA DIGIORGIO SECONDED, AND THE BOARD CONCURRED TO APPROVE TO SPONSOR LEGISLATION, BEGIN THE REGULATION PROCESS, AND PROVIDE DIRECTION TO INITIATE ONCE OPERATING PROGRAM IS IN PLACE.

D. Recommendation #4 – Amend board policy on succession of officers

Ms. DiGiorgio gave background to this proposal. In February 2005, the Board adopted a policy which required the required the election of officers by March of each year. That provision was changed in Senate Bill 1475 to require election of officers before June 1st of each year.

The Committee recommended amending the policy to reflect the new date for electing officers.

JUDY JOHNSON MOVED, VICTOR PEREZ SECONDED, AND THE BOARD CONCURRED TO APPROVE THE RECOMMENDATION.

E. Recommendation #5 – Establish a board position on legislation to establish licensure for professional counselors

Mr. Riches gave background and discussion to this proposal. The Committee met and heard a presentation by the California Coalition for Counselor Licensure (CCCL) supporting legislation this year to establish licensing for professional counselors (LPC) in California. The Board heard their proposal in 2005. That proposal did not succeed in the Legislature and was opposed by the Board. The CCCL came back in the fall indicating that they were going to sponsor legislation this year. They brought their proposal before the Committee in January. The Committee expressed a conditional support for the proposal.

The proposal requires a masters degree, a minimum of 48 units, 3000 hours of supervised post graduate experience. It is modeled very closely on the requirements for marriage and family therapy. It requires passage of a professional licensing examination. It has a requirement that two members of the Board are professional counselors and 2 members of the Board are public members, which would result in a 15-member Board at BBS.

This proposal includes two different methods by which a person could be granted a license via grandparenting during the first year. One of the methods requires possession of a MFT license and a degree that meets LPC coursework requirements. The other method requires all of the following:

- A 48 unit qualifying degree that meets the same requirements as for regular LPC licensure, including a complete practicum.
- Two years of full time post-degree counseling experience that includes at least 1,000 hours of supervised direct client contact.

- Passage of two national examinations.

The following issues related to grandparenting are still outstanding:

- The Board will not have a chance to have a psychometrician evaluate examination(s) required for grandparenting prior to the grandparenting period. Staff believes that persons licensed through grandparenting should be recertified after a 6-year period by taking current licensing examinations.
- Determine whether the Board will accept the Certified Rehabilitation Counselors Examination (CRCE) along with the National Clinical Mental Health Counselor Examination (NCMHCE) for meeting grandparenting examination requirements.

Mr. Riches stated that although he is ambivalent in starting up a new licensing program, he is comfortable that the CCCL's proposing is meets the objectives of staff.

Ms. Riemersma stated that this is a profession with a very broad scope of practice. According to the document provided by CCCL, the profession appears to do exactly what psychology does. Ms. Riemersma asked if this is the appropriate Board to regulate this profession, or should it be the Board of Psychology? She suggested that the Board not take a position on this proposal remain neutral. This has not gone through the sunrise process. Ms. Riemersma disagreed with the claim of the shortage of mental health professionals. LPCs, like MFTs, will run into the difficulty of Medicare reimbursement. LPCs can already work in exempt work settings. This bill will allow the discipline to engage in private practice. Ms. Riemersma did not agree that grandparenting standards are sufficient. She expressed that the Board should not regulate an additional profession until an occupational analysis is performed.

Mr. Caldwell stated that he shares the same concerns regarding scope of practice. He encouraged the Board to wait for legislative sunrise process before taking any stand.

Dean Porter, President of CCCL, introduced Dr. Gregory Jackson, Dr. Leah Bru, and Jan Cummings. These individuals are CCCL board members.

Dr. Gregory Jackson gave his background. He stated that the LPC is recognized in 48 states where licensure exists and the numbers exceed 95,000 licensees. LPCs are master and doctoral level trained mental health providers; trained to treat mental, behavioral, or emotional problems and disorders; employed at community health centers, agencies, and organizations; and covered by managed care organizations and health plans. This is an established profession with its own ethics and standards of practice set forth by the American Counseling Association (ACA). Recently the ACA and the American Mental Health Counselors Association worked together on a bill that just passed both the U.S House of Representatives and the Senate, and signed by the President, that would include counselors as providers in the Department of Veteran Affairs. Currently the American Counseling Association is working on legislation that would add LPCs and MFTs to Medicare's lists of covered providers for mental health services.

Dr. Leah Bru, Professor at California State Fullerton, gave her background. LPCs are qualified through curriculum from Council for Accreditation of Counseling and Related Educational Programs (CACREP). Education and training are rigorous, and focuses on wellness and development as a foundation for treatment. The national standard for licensure requires CACREP core plus psychotherapy. Dr. Bru gave an overview of the requirements for licensure. Currently, there are 47 public and private universities in

California that offer masters degrees in counseling, but cannot get licensed when they graduate.

Jan Cummings gave her background. Ms. Cummings stated that there are three reasons why California needs LPCs: 1) to address shortages of mental health workers, 2) to broaden the accessibility of mental health services in order to meet an increasing need of the unserved and the underserved communities, and 3) for consumer protection. LPCs were involved in the Hurricane Katrina efforts. Over 20% of the folks who involved were from ACA. Over 50% of the student population is non-white. Of those, 27 percent are Latino, 13 percent are Asian, 8 percent are African-American, and 3 percent are Native American.

Ms. Roye asked why people from different cultures are choosing this practice.

Dr. Bru responded that many minorities do not look upon therapy as an acceptable profession because of the stigma relating to therapy within their cultures. Being involved in a counseling setting is less threatening; therefore, it attracts people of ethnicity.

Ms. Walmsley asked if the counselors are required to have a license to work in agencies. Ms. Cummings responded that there are some jobs that do not require the license, and there are other jobs that require clinical work and require licensure.

Ms. Walmsley asked if this license would permit the LPC to work as schools counselors. Dr. Jackson responded yes, provided that they completed 3000 post-masters supervised hours, met the requirements of their masters degree in their specialty area, and completed the 600 hours required by the BBS.

Ms. Walmsley remarked that this would give them a license to practice independently, because the school districts do not require a licensed school counselor. Ms. Porter agreed.

Ms. Porter closed and referred to highlights of their proposal, referring to handouts provided. She gave an overview of the reasons that California needs LPCs: 1) to protect consumers, 2) to address the mental health workforce shortages, 3) to provide more access to the underserved, 4) to enable California to participate in the federally funded programs, 5) to allow portability for counselors coming to California, and (6) to achieve parity and equity among California professionals who are educated and trained.

Ms. Riemersma referred to the language in Section 4989.14(a), stating that it was written to only allow counselors to engage in psychotherapy. She urged the Board to review this section because it is already in the psychology licensing law and gives exception to the other disciplines to practice psychotherapy, and that this conflicted with another section.

Mr. Riches responded that a similar conflict exists in the other practice acts, which begins by declaring an exclusive domain of activity and proceeds to outline exemptions. It is not to impair their ability to provide services under that license.

Mr. Wong stated that this is premature and needs more development before the Board approves this proposal. He clarified that this is not a bill; it is not an official version and does not have an author. This document can be modified or amended by anyone, and submitted as legislation.

Mr. Riches responded that any bill could be changed up until the Governor signs it. Staff makes sure to follow the legislation, and makes sure that if it does change, staff will communicate that with the Board. And it will be determined if support or opposition is still appropriate. In regards to the scope of practice, Mr. Riches recommended to the Board to look closely at statutes of the three scopes of practice.

Dr. Russ stated that if these counselors are qualified, they should not be denied. If the programs are gathering a greater diversity, it increases the chances of them going back to their communities.

Mr. Perez stated that there is downside to the grandfather clause, and there is a concern for consumer protection during the 6-year period prior to recertification. Mr. Perez indicated that he was not prepared to take a stand on this issue.

After further discussion, Mr. Law tabled this item until the next Board meeting.

F. Preliminary results from demographic survey of board registrants and licensees

Handouts containing this information were provided.

G. Regulation Update

Mr. Sotelo referred to the update in the meeting materials, which is an overview on the regulation proposals. Most of it was addressed in the agenda.

F. Legislation Update

Mr. Sotelo referred to the update in the meeting materials, which is an overview on the legislation proposals.

I. Strategic Plan Update

Mr. Sotelo referred to the update in the meeting materials, which is an overview on the Strategic Plan update.

J. Budget Update

Mr. Riches briefly presented from the projections outlined in the meeting materials. Current projections indicated a year-end balance of approximately \$84,000. He referred to the increase in the fiscal year 2007-2008 budget that was proposed. A large portion of that are the billings from DOI. There was nothing particular to report on the fund condition.

K. Quarterly Licensing Statistics

Mr. Riches briefly presented the licensing statistics and spoke on backlog and personnel effects on the statistics. Two of three full-time cashiers left at the same time, and two of five evaluators left at the same time, which resulted in a backlog.

XV. Public Comment for Items Not on the Agenda

No public comments.

Meeting was adjourned at 4:47 p.m.

Thursday, February 15

MEMBERS PRESENT

Victor Law, Chair, Public Member
Gordonna DiGiorgio, Public Member
Judy Johnson, LEP Member
Renee Lonner, LCSW Member
Victor Perez, Public Member
Karen Roye, Public Member
Dr. Ian Russ, MFT Member
Howard Stein, Public Member
Joan Walmsley, LCSW Member

MEMBERS ABSENT

D'Karla Leach, Public Member

STAFF PRESENT

Paul Riches, Executive Officer
Mona Maggio, Assistant Executive Officer
George Ritter, Legal Counsel
Christina Kitamura, Administrative Assistant

GUEST LIST

On File

FULL BOARD OPEN SESSION

Victor Law, Board Chair, called the meeting to order at 8:59 a.m. Christina Kitamura called roll and a quorum was established.

XVI. Petition for Reinstatement
A. Peggy Reid LCS 18337

The Board heard a petition for reinstatement, requested by Peggy Reid. The hearing was presided over by Administrative Law Judge Donald P. Cole. The hearing began at 9:00 a.m.

FULL BOARD CLOSED SESSION

XVII. Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Decisions

The Board met in closed session to deliberate its decision in this matter pursuant to Government Code Section 11126(c)(3).

Meeting was adjourned at 10:14 a.m.