

BOARD MEETING MINUTES

November 8, 2007

CSU Fresno
Alice Peters Auditorium
5245 N. Backer Ave.
Fresno, CA 93740

November 9, 2007

Kingsview Behavioral Health
201 North K Street
Tulare, CA 93274

Thursday, November 8

Members Present

Ian Russ, Chair, MFT Member
Elise Froistad, MFT Member
Judy Johnson, LEP Member
D'Karla Leach, Public Member
Renee Lonner, LCSW Member
Victor Perez, Public Member

Staff Present

Paul Riches, Executive Officer
Christy Berger, Legislation Analyst
Kristy Schieldge, Legal Counsel
Sean O'Connor, Outreach Coordinator
Christina Kitamura, Administrative Assistant

Members Absent

Joan Walmsley, Vice Chair, LCSW Member
Gordonna DiGiorgio, Public Member
Victor Law, Public Member
Karen Roye, Public Member

Guest List

On file

FULL BOARD OPEN SESSION

I. Introductions

Ian Russ called the meeting to order at 9:25 a.m. Christina Kitamura called roll, and a quorum was established.

II. Approval of August 30-31, 2007 Meeting Minutes

Judy Johnson moved to approve the August 30-31, 2007 Board meeting minutes. Victor Perez seconded. The Board voted unanimously (6-0) to pass the motion.

III. Chairperson's Report

A. New Board Member

Paul Riches reported on the new Board member, Rita Cameron Wedding. She was appointed on September 4th. She is a faculty member at California State University,

Sacramento in the Women's Studies Department, and has served on the State's Commission on the Status of Women.

B. Discussion and Possible Action to Comment on American Psychological Association Model Law Changes Regarding Educational Psychology

Dr. Russ reported on a letter he drafted to the American Psychological Association (APA) regarding pending action that they want to do in terms of eliminating an exception for masters level educational psychologists.

Ms. Johnson explained that for the past thirty years, the APA has what they call "the model licensure act," and for the past thirty years there has been an exemption, which has allowed school psychologists to be able to perform their duties as specialized psychologists in educational settings without having to have a doctoral degree which is separate from a clinical psychologist or any other type of psychologist. Credentialing is required for school psychologists through the Department of Education. There is a completely different set of educational and professional expectations. School psychologists become licensed educational psychologists (LEP). The reason that the Board addresses this is in terms of the license they hold to be private practitioners as LEPs after they have met specific requirements. It's a completely separate profession in that regard. The APA is now saying that they want to remove that exemption, and they want to make it necessary for school psychologists to have to have a doctoral degree in order to use the term "psychologist." There are a lot of reasons why this should not happen. Ms. Johnson wrote a letter as a response as an LEP and as a Board member to APA. Mr. Riches has also drafted a letter from the Board. There are shortages of school psychologists nationally. Generally the issue is more in regards to clinical psychologists and their push as not being able to economically make ends meet as much as they were previously with insurance. A clinical psychologist in private practice can do quite well. But insurance has made it difficult to make that kind of living that they are accustomed to. LEPs feel that they are encroaching on their territory so that they can "have that good paycheck" and continue to have their private practice on top of that. There is a need for good school psychologists, and clinical psychologists can do that, but they still need to go through the education and state credentialing as well as the requirements to become a school psychologist.

Dr. Russ stated that while there is a need for more school psychologists, to have clinical psychologists come in and do this type of work without having school experience, they might be more limited in what they can offer. It would not be good for the students to eliminate the people who know the system best.

Ms. Johnson agreed. A school psychologist has a masters degree and credentials in school psychology in their area of expertise, they've had years in a classroom, they've worked with parents, they have training and expertise in assessment for learning disabilities, for educational strategies, interventions and prevention. School psychologists do more cognitive behavioral therapy and educational strategies. The problem is that some school districts are adopting this. Ms. Johnson received feedback from concerned LEPs in school districts regarding this growing issue.

Dr. Russ stated that he and Mr. Riches drafted a letter and is asking for support from the Board. The letter states that this has worked well for the last thirty years, school psychologists offer critical services. To remove this category would not be in the best interest of the students and the schools. California has laws in place for LEPs, and the BBS is going to follow the state law - not what APA is requesting.

Ms. Lonner asked if schools require LEPs? Ms. Johnson responded no. The Board is only a jurisdiction over LEPs. The schools require a credential in school psychology. If APA wants to adopt this, it legally does not change the fact that the state boards are going to have certification over the school psychology credential, and they can still call it school psychologist. But without the endorsement of the APA, the credibility piece is not going to be there.

Dr. Russ stated that at the moment, BBS is still authorized by the Legislature to issue a license in educational psychology. He asked is required for licensure?

Ms. Johnson responded that it requires a masters degree and a school psychology credential. With this credential, the school psychologist is half way to a doctorate. Also required is three years of experience as a school psychologist in a school system. One of those years is supervision by an LEP, a clinical psychologist, a credentialed psychologist or an administrator who is a psychologist. The final requirement is passing the Board exam.

Mr. Riches stated there are currently about 2000 LEPs.

Ms. Johnson stated that the reason why there are so few LEPs is because it is a full time job, and most people enter this career later in life as they are going into retirement.

Ms. Froistad stated that doesn't understand why this is going to reduce the number of school psychologists. Ms. Johnson responded that they would call them something else, and that is a problem. Other states are making a distinction between psychologist and school psychologists, and calling them educational specialists. Educational specialists are traditionally people who only do academics, learning disabilities and teaching interventions – they have not done the psychology piece. The question is if this did pass, would it affect school psychologists in California. No, because there is still the state credentialing, and APA can't change that. But if they change this, they take away a lot of the credibility, and then they would require a doctorate for school psychologists. If this obstacle is created, it will reduce the numbers in the profession, and there is a shortage. On average, each school district employs about one school psychologist for every two schools.

Mr. Riches pointed out that the APA draft also requires that anyone using this title be brought under the jurisdiction to the Board of Psychology.

Ms. Johnson stated that moving LEPs and school psychologists under the jurisdiction of the Board of Psychology would remove the credential requirement. School psychologists need the credentialing because they work with teachers. A lot of school psychologists started on the school campus in educational functioning, and specialize in school campuses and educational functioning. Their reports are very different from clinical psychologist reports. The school psychologist and LEP reports talk about educational strategies for learning, brain functioning, learning disabilities, and specific strategies that a teacher can use. Therefore, it belongs under the credentialing board because it is educational– it does not belong under the Board of Psychology because IEP goals and objectives for anxiety reduction are not going to meet California state standards for “No Child Left Behind” on reading and math.

Dr. Russ indicated the reason why he is seeking the Board's response is because it is an attack on the Board's authority to license Educational Psychologists – the Board needs to respond to the APA to inform them of the Board's position.

Dr. Russ also stated that his response would illustrate the three paths to be a psychologist in California: 1) a licensed psychologist through the Board of Psychology, 2) a school psychologist, 3) a licensed educational psychologist. Furthermore, the laws, which define these terms, are already in place. LEPs are under the Board's jurisdiction, LEPs offer a good service, and the Board does not receive a lot of complaints in this profession; therefore, it works. There is no reason to change the definition.

Ms. Johnson agreed that the Board does not have a lot of disciplinary issues for LEPs because their credentials are under the jurisdiction of the Department of Education. LEPs are required to maintain their credentialing to have the license. The guidelines are very structured and rigid. Dr. Russ added that LEPs in private practice are under the Board's jurisdiction. Ms. Johnson explained that LEPs are still required to maintain their PPS credential, even if they are only working in private practice.

No public comments.

Renee Lonner moved to support Ian Russ' letter, and to indicate Board support in the letter. D'Karla Leach seconded. The Board voted unanimously (6-0) to pass the motion.

IV. Executive Officer's Report

A. Personnel Update

Mr. Riches reported. Marlon McManus joined the Board in September filing a new and vacant analyst position in the Board's enforcement unit. Cassandra Kearney moved from the administration unit to the enforcement unit to fill a vacant position.

Gordon Redoble, who served the Board as the lead over the cashiering unit, left in August 2007 after 16 years of service at the Board. Gordon accepted a position with the Dental Auxiliary Board.

Rosanna Webb, who is an analyst in the enforcement unit, will be leaving the Board on November 9, 2007. Rosanna has accepted a position in the enforcement unit at the Board of Barbering and Cosmetology.

Jason Reinhardt has given notice to leave the Board. He was promoted to Board of Vocational Nursing and Psychiatric Technician.

Kari O'Connor moved from enforcement unit to the cashiering unit to fill Gordon Redoble's position.

Staff is currently recruiting to fill the recent vacancies.

B. Examination Update

Mr. Riches reported. All issues that were presented at the last Board meeting have been resolved. Satisfaction data will be by PSI on an ongoing basis.

Dr. Russ stated that the ratings on each question that was rated "poor" appear to be very low numbers.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), asked how this compares to the prior vendor. Mr. Riches responded that the prior vendor did not provide customer service surveys, but it is probably more positive now.

C. Quarterly Licensing Statistics

Mr. Riches reported. There was a small improvement in numbers. Peak months are May through June/July for associate clinical social work applications, and June through August for MFT intern applications. The summer months usually present a severe strain on the cashiering unit and the licensing unit.

D. Future Meeting Dates

Mr. Riches presented meeting dates for 2008. He asked to move the Committee meetings from January 8, 2008 to January 11, 2008 to accommodate scheduling needs. The Board agreed to the change.

E. Miscellaneous Matters

There was nothing to report under miscellaneous matters.

V. Discussion and Possible Action Regarding Acceptance of Degrees Granted by Institutions Approved by the Bureau for Private Postsecondary and Vocational Education

Dr. Russ reported and gave a brief background concerning the elimination of the Bureau for Private Postsecondary and Vocational Education (BPPVE). At the May 2007 meeting, the Board approved proceeding with an emergency regulation to extend recognition to approved programs through June 30, 2008. Subsequent to that meeting, the Legislature passed two measures, which ultimately extended our ability to accept degrees from approved programs until January 1, 2009. This raised the issue of what the Board's responsibility is to the schools and students in trying to continue to recognize those programs.

Mr. Riches explained that there is little reason to assume that the parties will necessarily reach agreement on these issues during the 2008 legislative term. The Board will be in the same position next year that it's in this year. The uncertainty regarding the status of these programs continues to create anxiety among students selecting which program to enter. A one-year extension for candidates entering a program is not comforting.

Staff drafted two regulations. One would allow the Board to continue accepting degrees from approved programs for an additional four years. This approach would allow students to continue to make enrollment choices by providing certainty for a longer period of time. It is hoped that meaningful resolution on a successor to BPPVE would be reached in that period. The second option would provide for the same four-year extension in the first draft with additional language stating that there will be continued recognition for these programs that become candidates for an accreditation if resolution on a successor to BPPVE is not reached within that four-year period. If legislation is enacted in that period to resolve the issue, the Board would be free to withdraw the proposed regulation.

Mr. Riches expects that the Board will be in this place for a period of time. It is relatively unlikely that we will get through the 2008 legislative session if there is no resolution on the larger issue and not see another bill like this year to extend the recognition. That process will continue. The Western Association of Schools and Colleges (WASC) and the Commission on Accreditation for Marriage and Family Therapy Education (COMAFTE) are recognized by the Board. Year ago, the Board recognized the other regional accrediting bodies. The Board introduced legislation last year to recognize those regional accrediting bodies, which would solve this problem for those schools as it related to BBS. That was rejected because of the ongoing large-scale discussions. It is Mr. Riches intention to take

that Board position back and put it in legislation again next year. If it is successful, it will resolve the problem for about half of the schools in this situation.

Kristy Schieldge stated that the most legally defensible position is to pursue legislation. Whether the Board wants to do other things in order to make sure that the public understands its position is up to the Board. The most legally defensible option is to have Section 4980.40 amended so that this issue is resolved for the Board.

Mr. Riches explained that Ms. Schieldge is talking about a larger legislative resolution as it relates to this licensing program, for this Board, for all schools in the approved category. Mr. Riches referred to the other regional programs. Some of those programs are extensions of schools based in other regions that have their regional accreditation; some of them are California programs whose only authorization comes from the BPPVE.

Dr. Russ continued that the Board could have one of the two proposals or pursue legislation, or do both as long as one does not eliminate the other.

Ms. Schieldge explained that are certain things that the Office of Administrative Law (OAL) looks at. One thing you have to consider is what the Board is actually doing. One of the things the Board is doing is recognizing approvals that will not be in existence unless the Legislature acts after 2009. Whether you have the authority to recognize approvals after 2009 is a legal question that may be difficult to establish through the OAL. If they feel the Board's position is inconsistent with the law, they may not approve the regulations. That is the risk when pursuing these regulations. The legislative option is the most legally defensible option.

Dr. Russ asked if the Board is doing the public and the students good by prolonging it. The Board is here to protect public interests, which includes schools and students. Do we do them a disservice by removing the motivation from the schools to do what they need to do? If this legislation takes place, the MFT Education Committee has a lot going on that is going to effect schools.

Ms. Johnson would propose that the Board pursue legislation as well as the rulemaking. In their best interest, we are doing what we can. The schools also have to take the initiative by going to the Legislature.

Ms. Riemersma stated that the legislation should definitely be pursued, but perhaps in a different way. Her suggestion was to remove WASC from existing law and defer to regulation to define the accrediting bodies so that it is not drawing as much attention to accrediting bodies. Then pursue regulation and define all of the accepted accredited bodies in the regulation. This needs to be done in tandem. She is less concerned about the schools because they can protect their own interests, but there is a need to protect the students who are consumers. With regard to option 2, number 3 is actually subsumed in number 2 in that COAMFTE only accredits current accredited bodies, which seems redundant. Some schools have difficulty with accreditation for WASC because they are single-interest universities. Many universities do not have real estate; therefore, they do not have buildings and libraries. The people who have attended these schools do not have a more difficult time acquiring licensure than those who have attended accredited schools. From that standpoint, we have to be open to how we can assist.

Dr. Neil Cobrin, California Graduate Institute, spoke to schools that have gone under and the effect on their students. In response to Dr. Russ' question, yes, the Board is doing good by taking a position so that those who are currently enrolled and those coming into the

program will have an opportunity to complete the program. Dr. Cobrin expressed support and encouraged the Board to consider of the four-year extension. However, it is concerning that the rulemaking process could take up to a year. His school suffered a 30% decline in enrollment. If this waits another year, they will experience another drop in enrollment, and 70% of their students pursue marriage and family therapy. This is not about the schools; this is about the panic created in the student body. Dr. Cobrin appreciates that the Board wants to motivate the schools to take action. People are writing letters to the Legislature, and the schools are trying to take action.

Ben Caldwell, American Association of Marriage and Family Therapy (AAMFT) California Division, addressed option 2 of the proposed language. He stated that COAMFTE accredits programs in schools that are regionally accredited from any regional accrediting body, not necessarily WASC. Mr. Caldwell, personally speaking, is uneasy with the given options because a student can go through the entire degree program at a program that has no regulatory oversight.

Mr. Riches noted staff's considerations when selecting 4 as the number of years of extension. He is confident that the programs that offer classes that are the same quality classes and learning experiences they were providing before hand. Institutions do not change quickly. Over the near term, he is not concerned over a 3 or 4-year span that schools will fall off due to absence of oversight. However, organizations that do not have oversight over an extended period of time, do exhibit changes, and those changes take time to play out.

Dr. Cobrin stated that oversight is not the BPPVE. BBS is the oversight because of their standards and regulations in terms of these specific programs; therefore it is not true to say that there is no oversight.

Janlee Wong, National Association of Social Workers (NASW), expressed that it is not the job of the BBS to protect the economic interests of the schools; it is to protect consumers. If the Board takes any action, it should only be for those few classes of students who were enrolled before it became apparent that the BPPVE would sunset – not any future classes. If you go forward with these proposals, the effect is to sanction no accreditation schools or no approval of schools. Without a current bureau to approve schools there is no obligation to meet these requirements despite the fact that these schools have signed an affidavit. There is no language specifying that these schools have to meet any requirements. You cannot tell students that BBS has approved these schools when the BBS admits that it has no authority nor resources to do so. The safest solution is to not proceed by telling students that they will get something that is approved later down the road because that may bring a legal action against the Board. The only process is for schools to proceed with accreditation. Without complications, COAMFT accreditation would take a year.

Olivia Loewy, AAMFT, would hate to see good schools have to close. In hearing about the decrease in enrollment, she wondered if the status quo would stay the same over the next four years.

Mrs. Riemersma strongly encouraged the Board to pursue the acceptance of other accrediting bodies. If the Legislature and the Governor chose to do away with approved schools entirely, the Board could create the legal authority to approve the educational programs.

Dr. Cobrin stated that this is not about the economic well being of the schools. There are consumer considerations here. The Board does not make itself vulnerable by making this

extension. The Board will have greater vulnerability if it does nothing. These schools have been operating for decades. They have met all the regulations put forth by the BPPVE, and they continue to operate that way, and they continue to operate under the sanction of the regulations of the BBS. He expressed the need for calmer minds to prevail.

Dr. Russ responded that the Board did not do this. This is the fight between Legislature and the Governor's office. The Board offered some relief, and we were the first Board to notify people that this was going on.

Mr. Riches expressed that he does not have any good answers. The choices that are available are the best of poor to inadequate answers. We have voluntary agreements and temporary extensions, and that is going to be here for a while. In response to consumer protection, there are a multitude of consumer interests involved. There are candidates in those schools who need to become licensed, and there are people out who need their help. If the schools are not there, that will not happen. That is consumer protection interest. This is a systems issue. None of this is without risk, and none of it is easy. Mr. Riches expressed that he is comfortable accepting the risks in an effort to help the situation, than to not taking any action.

Mr. Caldwell stated that AAMFT supports any Board action in recognizing the other accrediting bodies.

Dr. Russ asked the Board if it wants give direction to staff to begin preparing proposal 1 or 2, to pursue legislation, to pursue both legislation and rulemaking, or do nothing at all.

Ms. Johnson moved to pursue the legislation and then look at pursuing the regulatory measures. We are looking at two things right now, but do the legislation first.

Ms. Froistad agreed to pursue legislation and then pursue something responsible to the students.

Victor Perez stated that he is not too concerned about any liability on the Board's part. He agreed that the Board needs to take the legislative path, but wonders if there is something else that can be done as well.

Dr. Russ asked what is it the Board would like the legislature to do? Mr. Riches responded that the best route is to return to the Board the authority to decide what accrediting and approving entities it will accept, and be specific so that room is left to bring in schools previously approved and that gives us the maximum amount of flexibility. It is Mr. Riches' opinion that the option will be off the table in February 2008 when the Board meets again. Last year in February, the Board met to approve other accrediting bodies in a very simple proposal. It was rejected because it was not part of the bigger issue. There is nothing in the legislative political dynamic that has shifted. The basic position from the legislative advocates and legislative staff is that they want to maximize leverage by putting as many people at risk as they can, to get what they want out of the bill. But that is not a reason to not try to get this through. A legislative solution is preferred, but we need to be realistic.

Ms. Riemersma asked Mr. Riches what the reaction would be if you went in with legislation stating that the Board shall by regulation establish the accrediting bodies that will be acceptable to the Board for this degree. Or would this be a problem for the BBS to get this into a non-controversial measure; would it be better for CAMFT to propose legislation that has controversy and fight it in the Legislature?

Mr. Riches responded that he would not propose that as a committee provision. This would need to be an individually sponsored piece of legislation. This political process is being driven out of the legislative leadership, and his conversation with those people indicate that they are not interested in anything that is not a solution to the bigger issue.

Dr. Russ stated that the Board is in agreement to craft something in legislation. The board would then give direction to staff to draft legislation with wording and return to the Board to decide what accrediting agencies it is going to accept.

Judy Johnson moved to direct staff to draft language to return to the Board the authority to decide what accrediting and approving agencies it will accept, and bring it back to the Board for approval. Elise Froistad seconded. The Board voted unanimously (6-0) to pass the motion.

Dr. Russ asked the Board if it wants to pursue one of the proposals and direct staff to begin preparing the regulation.

Ms. Lonner asked what negative impact this may have? Dr. Russ responded that if OAL rejects this, it could produce more scrutiny upon the Board.

Ms. Schiedge stated that if it is later determined that this is not Board authority, that it may have an impact. The question is do you have the authority to extend the approvals of schools. If the answer is yes, there is no problem. If the answer is no, then there is an issue of those who relied on something that the Board did not have the authority to adopt. That is why legislation is the safest option. Mr. Riches is making the argument that the Board has final authority to determine what the degrees it can accept, and there is language in the current law to back that. There is a risk that it will not work.

Ms. Riemersma stated that the Board has not seen the legislation that staff is going to prepare. The Board needs to see what direction the Legislature is taking before crafting the regulation that is going to support the law.

Mr. Riches responded that it is actually not bad because there will need to be a rulemaking if we do succeed with the legislation. This is in case the Legislature does not proceed.

Dr. Russ expressed that the Board should take a stand, agreed that there is a small risk. He preferred the second option because of the COAMFTE opportunity.

Renee Lonner moved to direct staff to initiate the formal rulemaking process to adopt proposed regulations at 16CCR Section 1832.5 based upon option number 2, and authorize the executive officer to make any non-substantive changes to the rulemaking package and set the proposed regulations for a hearing. Judy Johnson seconded. The Board voted (4 yeas-0 neighs-2 abstentions).

The motion was passed.

VI. Presentation Regarding the Prevention and Early Intervention Component of the Mental Health Services Act by:

Ms. Lawson was not able to appear to make her presentation.

The Board adjourned at 11:30 a.m. for lunch and reconvened at 1:02 p.m.

VII. Discussion and Possible Action to Take a Position on Senate Bill 797 Regarding Changing the Statutes of Limitations for Cases Involving Sexual Contact with a Minor

Dr. Russ presented. If an allegation against a licensee, and there is evidence that sexual misconduct took place, the Board can revoke the license. However, the Board cannot take action when the alleged act happened prior to licensing and the Board issued a license prior to its knowledge of the alleged act. This bill would to correct that when there are allegations of sexual abuse.

Mr. Riches explained the statute of limitations the Board operates under when filing accusations is 3 years from the time that the Board receives the complaint for a normal case. There is an absolute outside limit that under ordinary circumstances, the accusation must be filed within 7 years of the conduct. In actions affecting minors and sexual abuse cases, it can go out to 10 years from the occurrence of the conduct.

This bill: 1) it allows the Board to file an accusation against a licensee based on conduct prior to licensure for an alleged act of sexual conduct with a minor, 2) modify the statutes of limitations for those cases and remove that outside 10 year limit.

Dr. Russ expressed that this is very important. One thing that has been realized over the years when dealing with sexual abuse is that minors has difficulty speaking about this.

Mr. Riches clarified that the 10-year statutes of limitations is held until the minor becomes an adult; therefore, it is 10 years from the age of 18. This bill would eliminate that for child sexual misconduct.

Ms. Riemersma stated that if this is applicable to good public policy, then it should be held to all healthcare professionals. This is only applicable to one board and its three disciplines.

Mr. Wong stated that social workers believe in rehabilitation of a person, no matter what they did. This legislation nullifies that ethical value principle. If the Board found out that a person did commit this crime, it was investigated and found true, they are going to be held to a different standard than other people regardless of their rehabilitation.

Dr. Russ did not agree with Mr. Wong, stating that the Board has the discretion to move on if there is no evidence that the person is involved in the conduct and the person has rehabilitated and received therapy.

Mr. Wong asked why the legislation is now needed. Dr. Russ responded that it is a time issue.

Mr. Wong stated that cases of this nature are difficult to on prove beyond a reasonable doubt in criminal cases. The Board states that it uses a different standard that is less difficult for a standard that is very difficult on a criminal case. The Board is setting itself up as a board that has the ability to do something that is difficult to do on the criminal side.

Mr. Perez stated that in the case of "beyond a reasonable doubt" exists because they are talking about life and liberty. Whereas here, we are talking about the ability to maintain a specific job. That is why there are two completely different standards. The Board is always held to the same standard. The Board has a completely different set of standards and considerations than the people who want to prosecute that person. It's not justified to mix the interpretation of the two.

Ms. Riemersma stated that we're dealing with a highly charged piece of legislation that is moving very fast. CAMFT was not able to slow it down and consider some of the pieces of the bill. It looks politically incorrect if we attempt that because it will look like we are protecting the bad doers. CAMFT wants to help correct some of the problems, look at the best way to fix the issue and look at how this should apply to all healthcare providers. There are issues in this bill that is a serious concern, but we have done all that we could do at this time. CAMFT has been told that this bill is going to happen.

Ms. Schieldge recommended that the Board get clarification on the application of the statute because it is not clear whether it would apply to new complaints, new licensees, or new applicants.

Ms. Lonner stated that it is just as horrible for a child to be molested by a dentist as to be molested by a psychotherapist. However, the psychotherapist has unique access to the children and unique privacy with that child. And regardless of when this happened, offenders do repeat.

Dr. Russ stated that predators find access to children. He is disturbed that it doesn't apply to other mental health professions. This gives the Board the opportunity to reflect on those situations and give it due process that it would have in the courts. He asked if the Board could support it but add that should include other mental health professions. Mr. Riches responded that it could be done.

Renee Lonner moved to support Senate Bill 797 with a comment that all health care agencies be included, and to ask for clarification on the application. Victor Perez seconded. The Board voted unanimously to pass the motion.

VIII. Planning Committee Report

A. Strategic Plan Objective 1.7

Ms. Johnson reported. The Planning Committee is a new committee assuming the former Communications Committee and the Budget and Efficiency Committee.

The Committee worked with staff in drafting this strategic plan objective 1.7 and the methodology. The Committee approved of the draft sample methodology. Minor suggestions included:

- Changing the index giving more weight to the Enforcement index as it is crucial in maintaining the board's mandate to protect the public;
- Defining *Community Engagement* as "wearing the BBS hat" at volunteer functions or non-board sponsored events
- Adding to the self assessment index one's personal passion or goal of being a board member and asking questions such as: 1) Why am I here? 2) What am I passionate about in relation to being on the BBS? 3) Am I purposely moving towards achieving this personal goal?

The Committee recommends that the Board approve the draft objective 1.7. Mr. Riches added that if this is acceptable, it will take about a year to establish a baseline and the target of the objective is at the end of 2012, the baseline will be moved up by 10%.

Victor Perez moved to approve the draft objective 1.7. Elise Froistad seconded. The Board voted unanimously to pass the motion.

B. Fee Reduction Proposal

Mr. Riches reported. The loan repayment program is underwritten by surcharges in the licensees' renewal fees. This program is tentatively getting off the ground this year. The

Board approved previously to reduce renewal fees and redirected it to the repayment program. Currently there is a \$10 surcharge on renewal fees for licensed clinical social workers and marriage and family therapists that is put into this fund. That generates about \$200,000 a year for this program to underwrite loan repayment for licensees who work in under served areas.

The Board has a 12-month reserve on hand. The Board also has an outstanding loan made to the state general fund in the amount of 6 million dollars, which will be paid back in part or in whole over the next several years. It is an unnecessary reserve. The Board can reduce fees, refund process, or find another creative solution in which to use the revenue. The Board arrived at a redirection of the some of the on going fee revenue to the loan repayment program, and spend down the reserve. That decision was made but held until the program was up and running. The revenue has been collected over a number of years, and there are about to be some payout to individuals. The recommendations brought forward were: 1) to reduce fees \$25 and 2) to increase loan repayment fund by \$25. Projections were provided for several scenarios. If the Board does nothing, it is looking at a 15 million dollar reserve. It will take about 5-6 years to spend down the reserve. The general guidance from the Department of Finance is to maintain about 3-6 months of reserve. The Board will then need to revisit the fee structure.

Judy Johnson moved to direct staff to prepare a draft fee reduction regulation reducing renewal fees for Licensed Clinical Social Workers and Marriage and Family Therapists by \$20 and to sponsor legislation that would increase the license renewal surcharge by \$20. D'Karla Leach seconded. The Board voted unanimously to pass the motion.

C. Budget Update

Mr. Riches reported. The expenditure report was provided. The report shows an encumbered balance as of the end of the fiscal year is a negative number. For that last couple of years, the Board has not been spending its spending authority and reverting about \$400,000 - \$500,000 per year. It's not good to do that on an ongoing basis because there is the luxury of having funds to do one-time discretionary acts. But it is difficult to build a sustained program on a year-to-year of availability of money that cannot be predicted. The Board wants to increase enforcement activity, increase outreach activity, taking on larger policy issues. These sustained activities that need to be built into the budget. It is impossible to request more money from the Department of Finance, when we are not close to spending what we currently have. Staff submitted a Budget Change Proposal (BCP) to bring on two more enforcement analysts that were badly needed. This was done by redirecting funds from the Attorney General and OAL to fill create these positions. That was approved.

Over the last several years, the Board had a significant amount "dock" or leave without pay. There was a chronic attendance problem among staff. There was about 350 hours a month of unpaid leave; now there is about 40-50 hours of unpaid leave per month. We hired part-time employees with the unpaid personnel money. The Board can fill about 4 full-time employees from the part-time fund. There have been a number of adjustments on staff; a couple of part-time positions are going to be eliminated because there is now full-time staff doing those jobs. Staff identified approximately \$250,000 of surplus.

Recently, the Governor told state agencies to cut their budgets by 10% for the 2008-2009 fiscal year. This does not directly impact BBS because we are not funded by the

general fund. The Department of Finance will apply budget restrictions to everyone whether it affects them or not. This year, the BBS has a 5.7 million dollar budget. We can't touch 3.5 million of that which goes to payroll, benefits, prorata, and rent. If they actually impose the 10% cut for BBS, we will have to: 1) shut down the enforcement unit, 2) stop testing, or 3) do either for 6 months. By June 30th, we may see a hiring freeze, and we may see a vacancy reduction drill in 12 months.

D. Strategic Plan Update

The Board was presented with the Strategic Plan document. Mr. Riches stated that staff and Board members will be referring to this on an ongoing basis.

E. Communications Update

Sean O'Connor gave update on outreach program. As of September 24, 2007, Board staff has participated in 34 student outreach presentations. Based on satisfaction surveys completed at the conclusion of each presentation, over 500 marriage and family therapy and clinical social work students attended outreach presentations this year.

Staff is working on consumer-based publications with the public relations firm, BP Cubed. A brochure should be coming out in a month or so on how to pursue mental health. This brochure is awaiting approval by the Department of Consumer Affairs (Department).

IX. Policy and Advocacy Committee Report

A. Recommendation #1 – To Sponsor Legislation Making Technical Changes to Section 128.5, 4980.30 and 4981 of the Business and Professions Code

Dr. Russ reported. This recommendation is a technical clean-up of language. The clean-up is as follows:

- a. Subdivision (b) BPC Section 128.5 – Delete the word “Examiners” from the Board's name.
- b. BPC Section 4980.30 – Clarify that a person who desires to practice and advertise the performance of marriage and family therapy must obtain a license from the Board.
- c. BPC Section 4981 – Repeal this section, as it is an outdated reference to the application of Article 5, which formerly contained the Licensed Educational Psychologist (LEP) statutes. Article 5 does not currently exist.

Elise Froistad moved to sponsor legislation making technical amendments to BPC Sections 128.5, 4980.30, and 4981. Renee Lonner seconded. The Board voted unanimously to pass the motion.

B. Recommendation #2 – To Sponsor Legislation Repealing Sections 4996.20 and 4996.21 of the Business and Professions Code

Christy Berger reported. There are three sections of the Business and Professions Code (BPC) (4996.20, 4996.21 and 4996.23) that regulate supervised experience toward LCSW licensure. Each of these sections set forth different requirements depending on when the experience was gained. BPC Section 4996.23 currently regulates supervised experience. Because experience can only be counted six years back from the date of application, BPC Section 4996.20 is now obsolete and BPC Section 4996.21 will soon become obsolete at the end of this year.

Judy Johnson moved to sponsor legislation repealing BPC Sections 4996.20 and 4996.21. Victor Perez seconded. The Board voted unanimously to pass motion.

C. Recommendation #3 – To Develop Recommendations Regarding Changes to the Sunset Review Process

Mr. Riches explained that the Legislature is proposing to do away with Sunset Review process. A bill has been introduced to replace the Sunset Review process with another oversight process. This is important because the Sunset Review process is the only widely accepted model.

This is an opportunity to provide some input to the Legislature on how to do this and outline the elements of a good oversight process. The Sunset Process offered good policy-making opportunities, and it was an opportunity to focus legislative attention on board issues. It not only can be a tool to punish wrong doers, but it was a tool for progressive policy ideas were brought forward and put into place. The Board can offer a view on the Sunset Review process that the Legislature does not have. It has been an open and collaborative process.

Mr. Riches stated that what could be changed is its focus – it could be used to focus on specific entities. He also commented that the most dangerous thing about eliminating the Sunset Review process is that it has been a collaborative process. It has been run through a joint committee of the Legislature, both houses have members on the committee. It needs to be a hands-on process. That has been indicative of past processes when they worked well. That should be a required element.

Renee Lonner moved that the board develop recommendations for changes in the Sunset Review process consistent with the comments provided. Judy Johnson seconded. The Board voted unanimously to pass the motion.

D. Legislation Update

Ms. Berger reported. AB 234 addressing changes to the LEP and MFT laws was signed, and will take effect on January 1, 2008.

SB 1048, the BBS Omnibus Bill, was signed and takes effect on January 1, 2008.

AB 1178, Medical Information Disclosures was signed and takes effect on January 1, 2008.

AB 1525, Bureau for Private, Postsecondary and Vocational Education, was signed and took effect retroactively on July 1, 2007.

The two-year bills that are going to be reconsidered are AB 1367, Licensed Alcohol and Drug Abuse Counselors, and AB 1486, Licensed Professional Counselors.

AB 509 created the Office of Suicide Prevention under the Department of Mental Health by Executive Order from the Governor.

Ms. Schieldge stated that SB 823 and AB 1182 should be watched, as they are the bills that the Governor wants to move in terms of post secondary education.

E. Regulation Update

Ms. Berger reported. The Department is expecting to approve Title 16, CCR Sections 1833.1 and 1870, Supervisor Qualifications and Title 16, CCR, Sections 1816.7, 1887.7, 1887.75, and 1887.77, Delinquency Fees for Continuing Education Providers today. It takes about 60 days from that date to take effect.

The budget office has completed their review on Title 16, CCR, Sections 1887.2(a) and 1887.3(a) Continuing Education Self-Study. It has gone to the Department for review, which takes up to 90 days.

X. Consumer Protection Committee Report

A. Recommendation #1 – To Sponsor Legislation Clarifying Rules for Group Supervision

Ms. Berger reported. MFT Interns and trainees and associate clinical social workers are required to obtain one unit of supervision every week that can be one hour of individual or two hours of group supervision. They can count up to 52 weeks of group supervision. Staff has become aware that people generally receive individual supervision in one-hour increments, but group supervision is often split up by the employer into more than one session. The law is unclear as to whether group supervision can be provided in segments of less than two hours, and staff has no way of knowing whether an applicant actually received two hours every week, or whether the number submitted is just an average over a one-year period.

Ms. Riemersma referred to Section 4980.43(c) and recommended wording change to: "Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited or services are provided in each work setting, as specified:.." This will bring clarity that supervision is still required while in the exam process.

Mr. Riches responded that this is an issue that staff is considering and will address that in committee at the January 2008 meeting, which is separate from what we're proposing now.

Judy Johnson moved to sponsor legislation clarifying rules for group supervision with the modifications indicated. Victor Perez seconded. The Board voted unanimously to pass motion.

B. Recommendation #2 – To Initiate a Rulemaking to Revise Continuing Education Exception Requirements

Ms. Schieldge presented the recommendation. The proposal is to amend Section 1887.2. There is a provision in the statutes that permits the Board to grant exceptions for good cause, and that is not defined in statute. It has been defined in regulation the exceptions to the CE requirements. This regulatory section was adopted many years ago. Since the initial adoption, the law relating the disabilities has changed. There is the American with Disabilities Act (ADA), which is the federal version of the civil rights law for disability. There is the California law, which is the Fair Employment and Housing Act (FEHA). FEHA's definition for disability changed and is different from the ADA's definition. The regulation was never updated to address that change. The Board has to comply with both ADA and FEHA. This is our attempt to get this implemented into regulation.

The accommodations process with respect to disabilities currently has an all or nothing exception. Included are request forms for a total exception, partial exception, or to complete all CE by self study, or a provision for other provisions. Takes pressure off of staff to determine disability, they will just look at the accommodation.

D'Karla Leach moved to direct staff to initiate the rulemaking process, authorize the executive officer to make any non-substantive changes, and set the regulation for hearing. Renee Lonner seconded. The Board voted unanimously to pass the motion.

C. Enforcement Statistics

The statistics were provided for reference. There was no discussion or comments.

XI. Marriage and Family Therapist Education Committee Report

Dr. Russ reported. Staff has received responses to the proposed changes to the MFT curriculum. Comments were received from MFTs and colleges. Overall, they are supportive. The largest changes are an increase in education regarding community mental health systems and the process of working with people through these agencies. The comments received reflect concerns about making MFTs into social workers. The response is that the core MFT curriculum is not being changed, but instead courses that are important according to the Department of Mental Health (DMH) are being added to the curriculum. These courses address important issues needed to work in various state agencies. MFTs are concerned about losing their identity. The idea of raising the required units from 48 to 60 is receiving support from institutions. However some colleges stated that this would create a burden. The next piece is increasing the amount of practicum from 150 to 225 hours. Some schools said that they are already doing that because that is where they learn, some other schools say that they do not have the resources. Overall there is support. Some institutions say that they will send letters of support to the legislature.

Mrs. Riemersma commended the Board on collecting information from every resource it could. This is an opportunity to make the MFT more rounded and better equipped to assume the positions that MFTs now occupy in California. She pointed out a correction needed on 4980.36(a), to change the word "begin" to "began." Ms. Riemersma noted another concern regarding language in Sections 4980.80 and 4980.90 relating to out-of-state requirements. The revised language is in conflict with another existing law and will bring that up at the next committee meeting.

Dr. Russ stated that staff will bring this back to a public forum, and then bring it back to the next Board meeting for legislation.

XII. Presentation by Janlee Wong Regarding the Social Work Reinvestment Initiative

Mr. Wong briefly presented the Social Work Reinvestment Initiative initiated by NASW. This initiative was designed to unify and advance the social work profession on both the state and national levels. The initiative is a plan that addresses key goals identified by the Social Work Congress.

NASW feels that social work is society's safety net for the disadvantaged, abused, underprivileged, oppressed, and exploited populations. NASW feels that social work is under attack due to "deprofessionalization," and poor salaries, among other reasons.

Mr. Wong outlined the four key goals of the initiative: 1) legislative political advocacy, 2) workforce development, 3) public education, and 4) stakeholder engagement. The four key strategies of the initiative are: 1) recruit new social workers, 2) retain current social workers, 3) retrain experience social workers, 4) reactivate community investment in social work.

Mr. Wong is making presentations around the state regarding this initiative, and invites feedback. Although most of the initiative is already implemented, NASW will be looking at expanding this to the local level in California.

XIII. Public Comment for Items Not on the Agenda

Ms. Riemersma thanked the Board for their sensitivity towards the schools and students regarding the issue of the approved schools.

Mr. Wong thanked the Board for its openness and for allowing everyone to join the discussion.

XIV. Suggestions for Future Agenda Items

Ms. Riemersma suggested the topic of coaching: 1) as it is done by unlicensed professionals who are calling it “coaching” when they are actually performing psychotherapy, and 2) as it is done by a licensed professional and how that should be segregated from the practice of marriage and family therapy or social work. She would like to revisit and engage in discussion regarding work settings for trainees. A few years ago, the list of work settings was eliminated. However, in doing that, were acceptable work settings for a trainee eliminated?

Open session of the meeting was adjourned at 3:26 p.m.

FULL BOARD CLOSED SESSION

XV. Pursuant to Section 11126(a) of the Government Code to Evaluate the Performance of the Board’s Executive Officer.

The closed session of the meeting was adjourned at 3:55 p.m.

Friday, November 9

Members Present

Dr. Ian Russ, Chair, MFT Member
Elise Froistad, MFT Member
Judy Johnson, LEP Member
D'Karla Leach, Public Member
Renee Lonner, LCSW Member
Victor Perez, Public Member

Staff Present

Paul Riches, Executive Officer
Christy Berger, Legislation Analyst
Sean O'Connor, Outreach Coordinator
Christina Kitamura, Administrative Assistant

Members Absent

Joan Walmsley, Vice Chair, LCSW Member
Gordonna DiGiorgio, Public Member
Victor Law, Public Member
Karen Roye, Public Member

Guest List

On file

FULL BOARD OPEN SESSION

Ian Russ called the meeting to order at 9:15 a.m. Christina Kitamura called roll, and a quorum was established.

XVI. Presentation Regarding Kingsview Behavioral Health Programs by Kingsview Behavioral Health Staff

XVII. Tour of Facility and Observation of Off-site Client Visits with Kingsview Behavioral Health Staff

Board and staff visited the South Tulare County Mobile Service Unit. The county staff gave a brief presentation regarding their facility and mobile unit, how they put MHSA funds to work, how it benefits consumers in the rural area, and why it works. Board and staff met with consumers of the South Tulare County Mobile Service Unit. The consumers shared their experiences and discussed how the program helped them. Board and staff also visited outlying rural areas in South Tulare County, residential programs, and other mental health agencies to learn about the culture, socioeconomic, and other unique issues of the population, as well as the issues with accessing mental health care in the rural areas.

Meeting was adjourned at 2:30 p.m.