

BOARD MEETING MINUTES

November 18, 2008

The Westin Los Angeles Airport
5400 West Century Blvd
Los Angeles, CA 90045

Members Present

Ian Russ, Chair, MFT Member
Joan Walmsley, Vice Chair, LCSW Member
Elise Froistad, MFT Member
Judy Johnson, LEP Member
D'Karla Leach, Public Member
Renee Lonner, LCSW Member
Karen Roye, Public Member

Staff Present

Paul Riches, Executive Officer
Kim Madsen, Assistant Executive Officer
Tracy Rhine, Legislation Analyst
Sean O'Connor, Outreach Coordinator
Dawn LaFranco, Budget Analyst
Christina Kitamura, Administrative Assistant
Kristy Schieldge, Legal Counsel

Members Absent

Gordonna DiGiorgio, Public Member
Victor Perez, Public Member
Rita Cameron Wedding, Public Member

Guest List

On file

Ian Russ, Board Chair, called them meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was established.

I. Introductions

Dr. Russ began the meeting describing the Department of Consumer Affairs' (DCA) Professionals Achieving Consumer Trust (PACT) Summit that was occurring simultaneous to the board meeting, and which involved training sessions geared for the Board members. The summit also afforded various boards and bureaus within the DCA to meet and learn from each other and to see how each Board functioned. Dr. Russ commended DCA for arranging the event. Dr. Russ introduced Theresa Bello-Jones, Executive Officer of the Board of Vocational Nurse and Psychiatric Technicians, and Patricia Harris, Deputy Director of Board Relations. Audience members introduced themselves.

II. Approval of October 10, 2008 Board Meeting Minutes

Joan Walmsley moved to approve the October 10, 2008 Board meeting minutes. Renee Lonner seconded. The Board voted unanimously (7-0) to pass the motion.

III. Discussion of Examination Complaints

Audience member Patrick Thompson presented issues of his concern pertaining to the Board's licensure examination for social workers. Mr. Thompson spoke about his experiences when taking the Licensed Clinical Social Worker (LCSW) Clinical Vignette examination, including the misinformation he reported having received from the staff of the testing vendor, PSI. He referred the Board members to two letters pertaining to his concerns: 1) a letter dated March 3, 2008 and 2) a letter dated July 15, 2008; both of which he stated were relevant to the issues he would be discussing.

Mr. Thompson listed three issues he wanted to discuss: 1) the exam itself. He was pleased to hear the Board had formed an Examination Program Review Committee. His concern was that the Committee did not seem to have met yet or issued any report of its progress. Mr. Thompson noted that a meeting had been scheduled in December 2008; however, reported being concerned that it may not be moving forward quickly enough to have decisions made about the future of the exam when the contract with PSI expires in December 2009. 2) Incorrect information being disseminated by PSI to candidates. This problem has been acknowledged but, again, he did not see any report or other evidence to indicate anything is being done about it. 3) This concern, which has not been raised previously by Mr. Thompson, pertains to technical issues with PSI. It was reported in examination preparation classes that some test sites have not been updated. The computer screens do not show the vignette and the questions on the same page, so it makes it difficult to flip back and forth. Mr. Thompson was encouraged to call and find out if the site they would be using had such screens. He reported spending three weeks on the phone getting the run-around until finally a supervisor was able to find out that the site Mr. Thompson wanted to use had the new computers. Mr. Thompson qualified the concerns about the computer screens as minor, although he indicated that a more serious technical issue came up when he took the exam. At that time, on one of the answer choices, there were only three sections where usually there are four. Mr. Thompson found two blank lines. He informed the proctor and showed the problem to them; the proctor acknowledged there were only three sections with two blank lines in the middle, but since they could offer no solutions and because the test clock was still running, Mr. Thompson felt he had to continue, which created a lot of pressure.

Mr. Thompson reported the proctors assured him they had called about the problem and that what they had seen on the screen was correct and "that's just the way it was." Mr. Thomson later contacted the Board's Exam Unit, and the matter was investigated through PSI. The results of that investigation was that the proctors reversed what had been said previously and now said that there were four answer choices which they pointed out to Mr. Thompson and he acknowledged by replying "ok." Mr. Thompson denied that the events in this matter occurred as the proctors had indicated subsequent to the filing of his complaint. He told the Board members that he understood that there were two different stories being offered about the situation. However, he stated that there is enough pressure going to take such exams that having misinformation being given and having technical difficulties and not having a mechanism for reaching an agreement with the proctors as to what is happening during the exam when the clock is running – there needs to be such a mechanism in place.

Mr. Thompson expressed concern that "the list of things is getting longer," and the window of opportunity to address the problems is getting shorter. He again expressed his personal concern that there did not seem to be any resolution coming out.

Paul Riches addressed Mr. Thompson's concerns regarding the functioning of the Examination Program Review Committee. First, Mr. Riches reported that the plan was to have the Examination Committee begin meeting in July 2008; however, due to budgetary constraints, that meeting had to be delayed. The first Committee meeting is rescheduled for December 8, 2008 and will take place. He explained that the command to the Committee from the Board was much broader than investigating issues around the administration of the exam and the vendor. When and if the Board decides to make changes to the examination those changes can be made irrespective of who is administering the examination at that time. Mr. Riches clarified that the Board was not operating under the presumption that the Examination Program Review Committee would conclude its work by June 2009 and that policy decisions would be made by that time. The Board and Committee were always on a much longer window and will sort out the administration issues once the Board had made its decisions in this area.

Mr. Thompson responded that he knew there was a discussion about looking at the national exam, and that there was an opportunity to work with them to make some changes that could make that a more suitable exam for California, and his understanding was that the timeline was part of what the Committee was facing.

Mr. Riches indicated that those changes were happening independent of the Committee's work. The Board has been in continuous contact with ASWB; they are beginning their occupational analysis where many of the issues raised in the audit could be addressed. The Board will work with ASWB in their timeline as they proceed. That has not been dropped.

Mr. Riches continued that changes to the examination does not occur quickly but rather involves significant discussion and deliberation prior to implementation of such changes. He anticipated that the Examination Program Review Committee would target the end of the 2009/2010 fiscal year to present recommendations to the full Board regarding changes to the existing examination process.

Mr. Thompson asked if there was any possibility that the Board would miss out on the opportunity to get involved in the revisions to the national examination. Mr. Riches responded there was no chance of that happening and stated that ASWB was just beginning the analysis process. ASWB is well aware that the Board wants to work with them and they have a copy of the audit report. ASWB will work with California to get a broader sampling of California practitioners involved in the survey, which is the first step. He qualified that those events will occur over the span of approximately 18 months before ASWB's analysis is complete.

Joan Walmsley asked Mr. Thompson about his expectations of the board exam, and what he hoped to accomplish. Mr. Thompson responded that he had outlined a number of concerns with the examination and the examination process, and he wanted to see solutions. He expressed a willingness to follow through to ensure problems were resolved.

Mr. Thompson was assured he was not thought of as bothersome, and what he has to say is valid. Rather, Ms. Walmsley was looking for clarification. She explained that should the Board begin using the national examination in place of its state constructed examination, the change would apply only to the Standard Written examination; the clinical vignette examination would continue to be utilized by the Board.

Mr. Thompson was asked for clarification regarding the issues he was raising: did he have concerns with the examination itself? When Mr. Thompson responded affirmatively, Ms.

Walmsley encouraged him to write to her about those concerns. Mr. Thompson indicated that he realized a move to the national examination would impact only the written exam portion of the test, but added strongly that he believed there is still work to be done regarding the clinical vignette examination. Mr. Thompson expressed concern that the examination had not been independently tested despite a variance in pass rates from version to version.

Dr. Russ asked him to clarify what he meant by “independently tested.” Mr. Thompson responded that he meant the examination had not been given to an outside or independent group to review the questions and confirm that these are valid exams. He referred to the national exam’s consistent pass rate and compared that to the varying pass rates for the California exam.

Dr. Russ stated that his recollection of the presentations he has attended pertaining to the examination was that there will be variability on exam scores. This was more common or normal than overwhelming consistency which, when speaking about examinations, was looked at suspiciously. No one particular group of candidates was a perfect representation of the candidate pool. There should always be some variability.

Ms. Walmsley and Dr. Russ urged Mr. Thompson to attend and participate in all upcoming Examination Program Review Committee meetings. It was reiterated that the Committee would next meet on December 8, 2008.

Ms. Johnson indicated that when looking at validity and reliability, those were always factors of concern to the Board. She indicated that the national exam has much bigger and greater statistics over a longer period of time. Additionally, there is a unique climate in California, which is why it is not felt that the national examination currently, in the way it’s written, is something that is going to be as reliable and valid based on the population in California.

Ms. Johnson also discussed the fact that budgetary constraints had kept the Board from being able to yet pursue certain goals, such as beginning the work of the Examination Review Committee.

Mr. Thompson responded that he understood about the budgetary constraints and how that was one part of it, but he again stated his concern that there were problems with the current examination administration company, and wants to see how those problems are being resolved.

Mr. Riches noted that whenever there is a testing incident, there is an exchange of information between the Board, the Office of Examination Resources (OER), and the testing vendor, in an effort to determine what happened in terms of resolving the issues with the individual candidate. Mr. Riches indicated it is part of a larger quality improvement effort. The Board through PSI administers over 7,000 exams a year - a very large program to operate and a difficult undertaking. Every time an issue comes up or the Board receives a complaint, there is a collaborative effort involving the Board, OER, and PSI to address the problem. Opportunities to make improvements to the process are constantly being sought. Sometimes the issue involves a breakdown of some sort; sometimes an indication of a broader process that needs to be addressed. That is the work of the Board, of the Exam Unit, OER, and PSI every day. Mr. Riches assured the Board and Mr. Thompson that no complaints are passed over, and that everyone works on a daily basis to make the examination program the best program possible for the Board’s candidates.

Dr. Russ invited additional public comment on the subject. No public comments were made. Dr. Russ thanked Mr. Thompson for coming to the meeting and encouraged him to attend and participate in the Board's open meetings.

Mr. Thompson finished by repeating that, in terms of the technical problems and incorrect information, he had yet to hear a solution to that problem. He added that he had also yet to hear any solution for the kind of problem that he encountered.

Mr. Riches responded that a letter would be forthcoming specifying exactly what happened as a result of the two complaints and issues that were raised.

IV. Chairperson's Report

A. PACT Conference

Dr. Russ noted the Board was in the midst of the DCA PACT Summit. He encouraged the public to participate in the conference, stating his belief there was a lot to learn from the proceedings about how the state goes about protecting consumers. Consumer protection is the Board's role. He reported that in talking with other board members, all agreed that the role is taken very seriously as they all considered consumer protection to be an important and exciting undertaking. Dr. Russ described the various ways in which the Board seeks to serve the community, and indicated they were going to use the opportunity of the conference to meet with other boards to exchange ideas about how they meet their goals.

Dr. Russ spoke about the changing demographics in the state of California. In terms of ethnic representation, culture, language, geography ... the Board is attempting to figure out how to protect consumers from the impact of all of those areas in the state. He expressed that as people who are overseeing the licensing of mental health professionals, the Board sees it as their responsibility to ensure that services are available to people of all different cultures and geographies. He reported having spoken with students at Alliant University the previous evening, and "making a pitch" to students that if they were aware of people from their culture, or knew of a community that they felt needed mental health professionals to be trained so they could return to those communities to serve, the Board would show up. It is an idea to which the Board is dedicated and believes it is a critical piece of consumer protection.

B. Board Support of Senate Bill 823 (Perata)

Dr. Russ reported having written a letter to Senator Don Perata in support of Senate Bill 823. This was part of the Board's understanding of working with the Senator on various measures and bills, and to let him know the Board supported his attempt to recreate the Bureau for Private Postsecondary and Vocational Education. Although the bill did not pass, Dr. Russ wanted to inform the Board of his actions.

C. Upcoming Board and Committee Meetings

Dr. Russ reported that the board meeting scheduled in Eureka in August 2008 was cancelled due to the budget impasse. He indicated that in an effort to schedule meetings throughout the state to allow for more public participation, the Board will meet in San Luis Obispo in February 2009, in the San Jose area in May 2009, and in San Diego in August 2009. Dr. Russ noted that a meeting will be held in November in the Bay Area, though as yet the specific location of that meeting had not been determined.

He also indicated that the Board was looking into the possibility of a meeting in the Big Bear area. He added that whenever the Board goes to outlying areas, connections are made with the mental health institutions in those areas so representatives could attend the meetings and train the board members about the various mental health needs in California.

Dr. Russ noted that meetings of the Board's various committees were also scheduled.

Mr. Riches added that with respect to the LCSW Education Committee and Examination Program Review Committee, a tentative calendar of meeting dates had been established and was being finalized. He anticipated that the committee meeting dates for 2009 would soon be available.

D. Loan Forgiveness Program Update

Dr. Russ reported, explaining what the program is, what it does, and the process of making awards.

Dr. Russ asked anyone who may have ideas about how to ensure that information about those programs was distributed to outlying areas so that people from such areas can apply, please bring those ideas to the Board.

Ben Caldwell, Alliant International University, expressed his appreciation to the Board for its contributions to this program. In terms of distribution of monies and making sure the word is getting out to all who should know about it, he requested that the information be provided to the educational institutions, which he indicated have regular contact with alumni. Mr. Caldwell expressed a certainty that the alumni would appreciate an opportunity to know about and benefit from the program.

Olivia Loewy, American Association for Marriage and Family Therapy (AAMFT) California Chapter, asked if the Board had communicated with the California Mental Health Director's Association to make them aware of the program and engage their assistance in distributing information about the program to the association's membership of county directors.

Ms. Johnson offered to assist in the process by distributing available information to associates in the more remote geographical locations. Several other Board Members joined her in expressing their willingness and commitment to getting the information out there.

Mr. Riches added that information about the program is available on the Board's website.

V. Executive Officer's Report

A. Budget Report

Mr. Riches reported that not only had the budget now been signed, but the board had received an exemption which allowed for full restoration of operations. He indicated that, as a result, the board functions that had been put on hold during the budget impasse could resume.

Information from the 2007/2008 fiscal year was presented. Mr. Riches indicated that again the board had finished the fiscal year with an unexpended reserve of approximately \$350,000, an amount that was a little higher than in recent years. Mr. Riches provided a brief explanation regarding the ending balance.

With respect to the 2008/2009 fiscal year budget, Mr. Riches reported having a very good year with respect to budget change proposals. The board was awarded a number of additional positions, including two enforcement analysts to perform field investigations. Mr. Riches noted that heretofore the board has used the DCA Division of Investigation to conduct field investigations. Due to staffing issues, however, the investigations were taking an average of eighteen months to complete. He reported that the two new positions were not sworn peace officers, but rather civil servants who can go out and perform the majority of field investigations as part of the Board's enforcement process. Interviews had been conducted, and he anticipated that employment offers would be made shortly. Mr. Riches estimated that with the hiring of staff to fill the two enforcement positions, the backlog of investigations could be eliminated within one year.

Mr. Riches continued by reporting that an additional position had been obtained for the board's licensing unit. He indicated that in fiscal year 2007/2008 the board's overall application volume increased 15%, with a total increase of 25% during the last four years. Until now, no new staff had been added to the licensing unit. A new licensing technician was hired recently to assist with the processing of applications.

The new budget also included funding for a two-year period from Mental Health Services Act (MHSA). The board was given monies to obtain outside expertise to assist the board in its efforts in terms of aligning the board's licensing programs with the MHSA. A significant amount of the funding for the current year is being used to engage the services of psychometrician Tracy Montez. Dr. Montez will assist the Examination Program Review Committee on a full-time basis, providing her expertise to the Committee throughout the process of evaluating the board's licensure examinations. He added that OER would also be assisting in the Committee.

Mr. Riches stated that a portion of the funding from MHSA will also be used to provide education about the curricular changes being proposed for marriage and family therapy. He stated the Board is asking for a big change in a big system and that it happen fast. Work is currently underway to develop a program for presentation in spring 2009 to provide resources to help the education community work its way through what amount to pretty major demands in the MHSA legislation. It is anticipated that the remainder of the funding from MHSA for fiscal year 2008/2009 will be used toward this effort.

Mr. Riches indicated that the three "wins" experienced with the current budget provided much needed help to the Board, both in the area of key operational needs as well as major strategic policy needs.

Currently under development is the budget for next year. Budget Change Proposals (BCP) have been submitted for approval with responses from the reviewing agencies expected shortly. When the Governor's budget is released in January, the Board will be apprised of the outcomes of those BCPs.

Mr. Riches presented the expenditure report regularly provided at each board meeting. He indicated that the report did not provide a lot of information as it is still early in the

fiscal year. He stated that the report presented at the February 2009 meeting would contain information that would provide a better picture of the Board's expenditures; he indicated that at the present time everything is fine.

Ms. Roye commended Mr. Riches on his report and the information provided. She requested that the report to be submitted in February could contain an organizational chart. Mr. Riches replied affirmatively and also offered to provide a breakdown by component to show how the various board programs are funded and how the monies allotted to each program are spent.

Ms. Roye also asked how the budget is supporting the Board's Strategic Plan. Mr. Riches indicated that Kim Madsen, Assistant Executive Officer, would be presenting a brief update on this subject later in the meeting.

Mr. Riches touched on issues in the Strategic Plan that require additional funding, including the area of complainant satisfaction. He stated that the steps the Board has taken to address the bottleneck in the investigation process also serve to address that issue. He also made note that some of the objectives in the Strategic Plan, such as the outreach program, have been adequately addressed with existing staff.

Ms. Roye asked if Mr. Riches planned to have future discussion around the Strategic Plan so that the Board would have a chance to see where strides have been made or where adjustments are needed.

Mr. Riches responded that a management meeting had recently been held at which time an issue of discussion was the status of the Strategic Plan. He anticipated being able to present the Board with a picture of how the Strategic Plan is progressing at the February meeting.

Judy Johnson expressed concern that the current economic climate will result in more individuals changing careers and, therefore, more applications will be received by the Board. She indicated the need to be ready for the impact of such changes, and wanted to make sure the Board is prepared in every way possible. She added that, also in light of the economic climate, more people are seeking mental health assistance.

Mr. Riches responded that such changes, and how to absorb and address such changes, were a topic of discussion at the recent management meeting. He then discussed areas, such as school enrollment, in which data was being compiled in an effort to work with the current and coming changes.

B. Operations Report

Mr. Riches presented a quarterly report document that illustrates various aspects of the Board's business processes. The report gives a breakdown of each unit in the Board and explains each unit's processes and workload statistics. He noted that many of the previous limitations in compiling this type of data no longer exist. Staff has been working diligently over the last several months to take advantage of new programs and data collection options to gather information that is valuable in running the office. He anticipated making a report of daily operations a standard part of the Executive Officer's report at future board meetings.

Dr. Russ requested that staff put together a report showing complaints on examinations. Ms. Roye requested an explanation for peaks and valleys in upcoming reports. She also requested an outline of programmatic level of expectation. For enforcement statistics, Ms. Roye requested a breakdown of actionable complaints versus those that do not require action.

The Board adjourned for a break at 10:06 a.m. and reconvened at 10:30 a.m.

D. Personnel Update

Mr. Riches reported the hiring of new staff, including Kim Madsen who rejoined the Board as its Assistant Executive Officer. Ms. Madsen had previously worked for the Board as a program manager. A new licensing technician, Gena Beaver, had been hired, as well as the position of Enforcement Manager having been filled through the promotion of Pearl Yu, who previously had been serving as an analyst in the Enforcement Unit. A new enforcement analyst, Cynthi Burnett, had been hired to fill the position vacated by Ms. Yu. Additionally, offers would soon be extended to fill the new investigator positions in the Enforcement Unit. Laurie Williams has joined the staff as an analyst in the Administration Unit, and Darlene York was hired as an evaluator in the LCSW program.

E. Mental Health Services Act Coordinator's Report

Mr. Riches presented a report regarding the MHSA Coordinator activities since the May 2008 Board meeting. He reported that the coordinator, Christy Berger, had been working with the Department of Mental Health and other agencies throughout the state on the alignment between MHSA and the Board's licensing programs. The Board and Mr. Riches commended Ms. Berger for her efforts in representing the Board in this arena.

F. Presentation on Licensing Outcomes Statistics

Mr. Riches stated that a major project undertaken by the Board involved obtaining information pertaining to outcomes in the licensing program. Mr. Riches introduced staff member Sean O'Connor as the individual who had headed up this project, and invited Mr. O'Connor to present his report on the licensing process.

Dr. Russ added that he believed the topic warranted a community discussion." He reported having reviewed the information to be presented, and indicated that the Board was not yet sure about the significance of that information or what to do with it. The Board needed and would benefit from assistance from the community to determine the most appropriate use of the data, what is important, what is a problem, what is not a problem, what can be explained easily, etc. He encouraged community participation in that discussion.

Mr. O'Connor began his presentation by referring the Board to a document titled "Tracking the LCSW and MFT Licensing Processes, A Current Snapshot of 2002-2004 Graduates." He explained the August 21, 2008 date of the report by stating it was originally to be presented at an earlier meeting that had to be cancelled.

The report contains information about individuals who earned their Master's Degree from a Board-approved program during the years 2002-2004, and who have gone on to

register either as an Marriage and Family Therapist (MFT) Intern or Associate Clinical Social Worker (ASW). He clarified that the data did not include information about candidates who did not enter the system by becoming registered with the Board after graduation. An attempt was made to obtain data concerning the number of people who have graduated from the various board-approved programs, but the data was hit or miss. While such data could be obtained in the future, Mr. O'Connor indicated that it was not included in the present report.

The population studied by Mr. O'Connor included approximately 3,400 ASWs and nearly 5,500 MFT Interns. He described the reason for examining this data as an opportunity to look at outcomes. The review was an exploratory look at the individuals who graduated during the above-referenced time frame, to see where they are today. The report does not offer any causal reason for why the group studied was where they were at the time of the snap-shot that is the basis for the report.

The report was reviewed section by section. It was determined that a significant portion of the population reviewed had not yet become licensed by the Board. A pie-chart included in the report showed the population could be in one of four places: 1) registered still but not yet having entered the exam process; 2) entered the examination process; 3) become licensed by the Board; or 4) registered at one time but who subsequently fell out of the process. The definition for those who fell out of the process was individuals who registered but who had not renewed in the six-month period prior to the time-frame covered in the report.

Dr. Russ asked for clarification that the data pertained to individuals who were four to six years out of school. Mr. O'Connor acknowledged that was correct. He pointed out trends reflected by the data, such as that only 18% of the ASWs in the study have become licensed, and 31% of the MFT Intern population has received a license. He also noted that at the back of the report the data was broken down by year graduated, for each registration type, with evidence showing that many of the group studied have yet to make it to the examination process.

Upon Board member request, Mr. O'Connor confirmed that the information reflected in the pie charts pertained to registrants versus graduates who had not become registered with the Board after graduation. It suggested that it would be clearer to label the studied groups as registrants instead of graduates, as there was no doubt the pool of graduates who had not applied to the Board was larger than the pool covered in the report.

Dr. Russ asked if it appeared there were many more who graduated who had not become registered. Mr. O'Connor responded that he believed it would differ between the two professions.

Mr. O'Connor pointed out that one similarity between the data presented is the percentage of registrants who have fallen out of the process.

One rather strong trend that was observed is that those who registered early (under a year after graduation) with the Board by far tended to be the individuals who made it through the process and received a license. Data that was offered pertaining to the early registrants revealed that 93% of the ASW population that registered with the Board within one year of graduation went on to become licensed, while 99% of the MFT Intern population who registered early ultimately received an MFT license.

Another trend noted by Mr. O'Connor is that of the individuals studied, a majority who went on to become licensed did so within three to five years of graduation.

Mr. O'Connor pointed out that everyone who becomes licensed takes at least two examinations, a standard written examination and a clinical vignette examination. He stated that it would be impossible for someone to be licensed and have taken only one exam. In reviewing the data, one facet that was reviewed involved the number of attempts made at the test. Mr. O'Connor noted that of the individuals who made it through the entire process and became licensed, the average attempts at the exam was between two and three. He qualified that the average exam attempts was based only on the people who were actually licensed, not those who were only part way through the process.

It was again noted that the study at hand was exploratory in nature, and makes no look at any type of causal inference. Mr. O'Connor indicated that one potential research avenue would be for someone to investigate the reasons why the numbers appear the way they do. He expressed in meeting with educators and administrators he has heard things that have led him to have ideas about what might be independent variables that impact the data being reviewed. Such variables could include geographic location; age of person working through the process; availability of supervision, employment, direct psychotherapy experience, and the "life happens" category and events occur that one might not have taken into consideration when starting down the road toward licensure.

Mr. O'Connor concluded his presentation and entertained questions or discussion from Board members and meeting guests. One question posed by the Board addressed the availability of statistics regarding candidates who are granted accommodations for completion of the testing process. Mr. O'Connor responded that while those numbers have not as yet been reviewed, it was definitely a possibility, and had in fact been brought up previously by Mr. Riches as an area to review. The new reporting tool that is now available to the Board allows for the study of that type of data. Mr. Riches added that this would likely be a key issue to be addressed by the Examination Program Review Committee.

Mr. O'Connor reminded the Board and guests that the report presented at that time was possible due to a new reporting tool now available to the Board, and was the first of many such reports. He believes that the data would be reviewed on a regular, at least yearly, basis and possibly be expanded to include additional pertinent data.

Dr. Russ posed questions to the community, asking if the data is surprising to them and what it means.

Carla Cross, Ventura County Behavioral Health, expressed curiosity about how the data compares to other disciplines or professions. Are the numbers the same or comparable in other professions (attorneys, cosmetologists, etc.) for individuals who get into the exam process and then become licensed? Are the numbers indicative of the nature of the process, and not applicable only to the professions regulated by the Board?

Ben Caldwell, Alliant International University, reported having looked into that end of things when the current discussion first came up. He found data pertaining to social work, education, and psychology seemed to indicate that the attrition rate across the

three professions was fairly even, and lower than in the professions of marriage and family therapy and clinical social work. He expressed that it would be interesting to study why the MFT and LCSW attrition rates were higher.

Mr. O'Connor added that it is not only falling out of the process that bears additional investigation, but also, whether this a question of an acceptable time frame for completion of the process. Is four to six years sufficient? He reported that a large number of the individuals included in the study are still registered with the Board and/or in the exam cycle, and have not yet realized the final goal of licensure. Therefore, another important question is if this an appropriate or acceptable time frame for obtaining a license, and why are people taking as long as they are.

Discussion ensued about the various hurdles that can arise in the context of "life happens" to impact one's goal of obtaining licensure.

Paul Riches spoke about breaks in the population. A small percentage (15 – 20%) are fast track. A question that arises is why is this population so successful. How much is good fortune and how much is a byproduct of the "really directed person" issue?

Mary Reimersma, California Association of Marriage and Family Therapists (CAMFT), asked if the schools conduct surveys of alumni and, if so, if that data could be tied in with the data presented in Mr. O'Connor's report to get a better sense of what might lead to a falling out of the process.

Mr. Caldwell noted that the schools are required as part of the accreditation process to regularly survey graduates to see where they are. He indicated that some of the information collected could be useful to the Board, and offered to work with the Board to see what kind of contribution would be helpful.

A representative from the USC School of Social Work indicated that the recent development of an alumni association afforded the school the possibility of contacting graduates. She noted that although the LCSW alumni had not been surveyed, two of the biggest issues raised by former students are the lack of supervision and number of attempts at the exam.

Dr. Russ asked about the lack of supervision. Is it agencies or private practice that has difficulty obtaining good supervisors, or is it the lack of supervision in general? In response, it was noted that it is primarily agencies that are having difficulty in this area due to issues such as cutbacks, lack of time, and availability. Additionally, graduates have trouble finding outside supervision because there are not a lot of people who are willing or able to provide that service.

Ms. Walmsley spoke about the differences between social workers and marriage and family therapists. She reported that social workers generally obtain employment right out of school, and are able to collect the required hours of experience without much difficulty. Marriage and family therapist graduates, on the other hand, are piecing together several different jobs as they work to gain needed supervision. Ms. Walmsley also noted that some counties do not offer supervision as part of the job, although many graduates go to work for the county. So many individuals are working in environments to gain experience but cannot obtain supervision for that experience. It was noted by an

audience member that this problem does not pertain only to large agencies, but also to smaller community-based organizations.

Ms. Johnson noted that, on the other hand, some counties were paying for their employees to obtain supervision. Ms. Walmsley added that administrative supervision is provided, but supervision from a licensed clinician is neither mandated nor demanded. Board members and audience were surprised with this information.

Heather Halperin, USC School of Social Work, indicated that LA County Mental Health does provide supervision, and has a requirement that an employee become licensed after no more than seven years of employment, or that employment is lost.

Carla Cross, Ventura County Behavioral Health, suggested that one of the issues might be that individuals are hired into positions that do not require licensure, and therefore clinical supervision is not provided. She noted that there are many areas in which social work graduates can become employed that have nothing to do with becoming licensed or being licensed. Those types of agencies are probably not going to be providing supervision because it is not necessarily part of their job duties. She noted that in agencies where becoming licensed and providing licensed services is part of the equation, licensed supervision will be provided. Ms. Cross stated that every time her agency hires an MSW that is unlicensed, it is a given that part of the employer's job is to provide the necessary clinical experience.

Ms. Cross put forth that an issue which could be different between social work and marriage and family therapy candidates is the requirement that there is a limitation on how much supervision can be provided to an associate clinical social worker by someone other than a licensed social worker. She continued that the requirement creates a complication for her agency in terms of taking students and internships as well as hiring. There is no similar restriction for supervision of a marriage and family therapy intern.

Dr. Russ asked if it was that there were graduates who worked for county agencies who were performing unsupervised clinical work and not earning hours of experience, or that those individuals were not performing clinical work because of the lack of supervision. Ms. Walmsley responded that part of it could be how one defines doing clinical work.

Discussion continued about the issue of supervision, and the differences in this and other areas between the LCSW and MFT professions.

Mary Riemersma, CAMFT, pointed out that, by law, individuals working in a governmental setting face a limited length of employment during which licensure must be obtained. This is despite the fact that governmental agencies are exempt from the licensure requirement according to the statutes governing the profession. She indicated the supervision issue is a concern because, by virtue of the fact that an individual is registered, he or she is required to be supervised in order to be compliant with the law. Ms. Riemersma added that another area of consideration is the growing reluctance of people to supervise, due to the fear of risk assumed by being a supervisor, even when doing so on behalf of an agency, whether governmental or private. She questioned what can be done to alleviate that fear. Ms. Riemersma described the issue as huge and one that needs to be addressed in terms of how it can be resolved.

Mr. O'Connor indicated that the lack of supervision issue is interesting. Licensees are needed to provide supervision, but if such supervision cannot be obtained in order to become licensed, the problem snowballs. He qualified his comments as anecdotal, and stated they were based on discussions he has had, with no supporting statistics involved. Mr. Riches added that there are workforce issues that differ in different areas, and research has shown that there are many areas where services are not adequately available. The issue then becomes how to break the self-defeating cycle. He expressed an uncertainty as to how much can be done about the problem globally; however, there could be the opportunity to target more underserved communities in an attempt to alleviate the self-defeating cycle that is resulting in the targeted areas remaining underserved.

Ms. Loewy referred her questions to information previously presented by Mr. O'Connor. She asked if when it was stated that candidates may have taken the exam two to three times, did that number of attempts include taking both the standard written and clinical vignette examinations. Mr. O'Connor clarified that the number was indicative of the total number of tests taken. He provided examples of how a candidate might have to take a total of three tests in order to become licensed. He anticipated that in the future, as more familiarity was gained with the reporting tool used for the current presentation, a report could be generated that outlined the number of attempts made at each part of the test per candidate.

Ms. Loewy then asked about the goal of the Board in conducting the present study. Was the Board attempting to ensure that going through the process was attainable for people interested in licensure? Was the Board evaluating its own process? Is there another goal of wanting to get more people licensed? She expressed an uncertainty about what the ultimate goal is in obtaining the data, and where the Board wanted to go with it.

Dr. Russ responded that during his time as a Board member, the Board has been examining the mental health needs in the state of California, and have determined those needs are not being met. This is due to a variety of factors including geography, economic issues, and culture. He emphasized it is a concern of the Board to have competent, licensed clinicians meeting those needs. He questioned why the individuals who did not complete the process and become licensed failed to do so, and what could be done to respond to this apparent problem.

Mr. Riches expressed the premise that the better one understands the process, the better the decisions will be that are made about that process. He reported that the present Board has been eager and willing to engage in self-examination, and he named several areas in which steps have been taken to complete such evaluation. Although unsure where the data obtained through the Board's studies will lead, Mr. Riches expressed that at a minimum it will help the Board ask and answer questions about what we do and how improvements can be made. Mr. Riches continued that the Board's job is to get safe and minimally competent practitioners in the workforce, and it is always good to ask if the existing process does that.

Dr. Russ expressed the hope that the information would stimulate the educational institutions to develop a program whereby individuals interested in that school could see where graduates are today.

Janlee Wong, National Association of Social Workers (NASW), stated that this research is interesting; however, the research is without purpose, and the Board is looking for a purpose for this research. He added that the proper way to do research is to start with a question that needs an answer.

Mr. Wong also noted that not every MSW wants a license; however, it seems that every MFT wants to get a license, and in terms of intent that is a very big distinction. The two professions cannot be compared by their outcomes. The whole idea of how many years it takes to get a license – longer amount of time is bad and shorter amount of time is good – that idea is an assumption.

Discussion continued with comments from the audience about the information presented, the meaning and/or validity of the data, and how it might be used. It was suggested that for future reports it would be helpful to generate questions about the mission of the Board, and do additional research along those lines. Dr. Russ responded that the purpose of the discussion at hand is to gather input, and that all comments will be considered potential avenues of research to pursue. He noted that the future plan includes focus groups, interviews, and other forums for discussion. In closing, Dr. Russ commended Mr. O'Connor for his efforts and report, and concluded there are many questions to be asked and answered in this evaluation of the existing process.

G. Strategic Plan Update

Kim Madsen, Assistant Executive Officer, presented an update of the Board's Strategic Plan and the steps that have been taken toward meeting the goals of that plan. Ms. Madsen reported that the current objectives of the Strategic Plan are very appropriate to the work of the Board, and significant progress has been made toward meeting those objectives. She added, however, that due to the challenges recently faced by the Board in terms of vacancies and hiring freezes, not as much progress has been made as the Board would have liked. Nonetheless, progress has been made and continues to move in the right direction. Ms. Madsen stated that at the February Board meeting a more detailed report would be provided outlining the progress on specific objectives and the timelines associated with those objectives. That report will include suggestions about any changes or adjustments to the plan that may now be appropriate.

VI. Report of the Policy and Advocacy Committee

A. Legislation Update

Mr. Riches reported that Board-sponsored AB 1897, legislation that extended the Board's dealing with schools approved by the Bureau of Private Postsecondary and Vocational Education (BPPVE), was passed and signed by the Governor. As a result, the relationship with those schools is extended through July 1, 2010. The legislation also resolves the issue of acceptance of regional accreditation. Therefore, degrees presented to the Board from schools that are otherwise accredited by a regional accrediting body and operate under BPPVE approval can now be accepted solely on the basis of the regional accreditation, independent of the timeline for bureau approval. Both of the Board's objectives with the legislation were achieved.

Mr. Riches next spoke about SB 1218, regarding proposed changes to the MFT curriculum. The bill easily passed the legislature and was supported through the approval process. Although the legislation was vetoed by the Governor due to the budget impasse,

it will be reintroduced during the next legislative session and will be carried by Senator Perata.

Other legislation of importance to the Board that was vetoed was SB 1779, the annual committee bill from the Senate Committee on Business and Professions, frequently referred to as the Omnibus Bill. This legislation would have made several substantive and non substantive changes to the statutes relating to the Board. In vetoing the legislation, the governor again noted that it was due to the delay in passing the state budget. Mr. Riches stated that the provisions of the legislation which were sponsored by the Board would be reintroduced in similar legislation during the upcoming legislation session.

Mr. Riches indicated that the balance of the report pertained to legislation that had been monitored by the Board, and the outcome of said legislation.

Mr. Riches was asked if any of the items sponsored by the Board, did any have negative repercussions on Board operations. He responded that the clean-up issues included in the Omnibus Bill generally serve to make the Board's job easier. With respect to the legislation pertaining to the MFT educational requirements, passage of the bill will result in some additional work in getting people up to date on those changes, but Mr. Riches felt the increased work would be manageable. Lastly, legislation regarding revisions to the unprofessional conduct statutes was discussed. Mr. Riches explained that staff is currently trying to compile all external unprofessional conduct found in statutes other than the Business and Professions (B&P) Code, and revise the B&P Code to include all unprofessional conduct related to Board licensees in one place.

The Board thanked Mr. Riches and staff for their efforts in the legislative process. Mr. Riches in turn thanked staff member Tracy Rhine for her daily accomplishments with respect to the legislative interests of the Board.

B. Regulation Update

Ms. Rhine referred the Board to the rulemaking update included in their board meeting materials. She reported that progress was being made on the three regulatory proposals previously approved by the Board. She provided the status of each proposal.

Mr. Riches referred the Board to the regulatory proposal relating to psychological services provided in nonpublic schools, put forward by the California State Board of Education. The Board provided a detailed comment letter on that proposal, which resulted in a 15-day Notice prepared by the Department of Education responding to all of the Board's concerns.

Dr. Russ complimented both Ms. Rhine and Kristy Schieldge, Staff Counsel, for their work in this regard.

The Board adjourned for lunch at 11:53 p.m. and reconvened at 2:00 p.m.

C. Recommendation # 1 –To Initiate a Rulemaking to Revise the Disciplinary Guidelines

Ms. Rhine reported that the Disciplinary Guidelines are used by Board staff, administrative law judges, representatives of the Office of the Attorney General, and other attorneys to determine penalties in disciplinary proceedings involving Board licensees. The guidelines

outline minimum and maximum penalties, as well as standard and optional terms and conditions that can be imposed on a respondent if that individual is placed on probation. The guidelines were last revised in 2004. Due to changes that have occurred in both statute and regulations, Board staff began review of the guidelines to see if revisions were warranted. Proposed revisions have been brought before the Policy and Advocacy Committee on two prior occasions, with long discussions ensuing.

One main issue that has come up is accessibility of court-ordered coursework respondents normally have to complete as part of probation. A second access issue discussed before the Committee pertained to accessibility of licensed mental health practitioners for supervised practice or personal psychotherapy, both of which are probationary terms regularly imposed on respondents. When the respondent is located in a rural area, it might be difficult to find a supervisor or personal psychotherapist. Ms. Rhine noted that this issue was first discussed by the Committee at its July meeting, and again at its last meeting in October. The Committee directed staff to change the guidelines to include a preference list so a respondent who is ordered to seek supervision or psychotherapy must first try to fulfill this requirement through face-to-face meeting. If that is not possible, the respondent may then attempt to obtain those services through video-conferencing. The next option, pertaining to supervision, is to obtain a supervisor who licensed in another profession. Absent the availability of the first three options, the last option available to a respondent is to seek supervision or psychotherapy with a clinician with whom a prior business or professional relationship has been established. Ms. Rhine noted that the changes to the disciplinary guidelines have been made as directed by the Committee.

Ms. Rhine moved on to discuss the issue of availability of educational coursework required of probationers. She indicated that an idea discussed by the committee was to have the Board sponsor such courses. This suggestion was made due to probationers reporting difficulty in finding and completing coursework mandated as a term of probation. Although the Committee did not come to a set resolution of the matter, the decision was to change the language so that in the future, should the decision be made to move forward with this idea, the language in the guidelines would allow such action. The language that was inserted indicates that a respondent may take a class from a Board-approved provider.

The Board members were referred to the sections in the Disciplinary Guidelines that reflect the language developed in compliance with the direction of the Committee. Ms. Rhine reviewed the language with the Board. She indicated it was the recommendation of the Committee that the Board direct staff to initiate the rulemaking process.

Dr. Russ provided a brief history of how the need for the changes came about. He indicated there are areas in the state where it is difficult to obtain supervision, because there are small communities where everybody knows each other. He stated that if a respondent from such a location does not have the opportunity to comply with the terms of probation, then the probation is for naught. The Board, therefore, is attempting to find a way to work with probationers who may face such obstacles. He pointed out, however, that the added language clearly states a respondent must have written permission from the Board to pursue other than face-to-face supervision or psychotherapy.

Mr. Wong, NASW, voiced concern about the language that could permit a respondent to be supervised by a clinician with whom the probationer has a prior relationship. He reported being uneasy about boundary violations that might arise, and spoke of a possible "hornet's nest" that may be created by allowing probationers this option.

Dr. Russ responded that this option would not be automatically approved for all probationers. Any request for use of the option would be reviewed by the Board to ensure the specifics of the disciplinary case made it appropriate to allow use of the option.

Mr. Riches underscored that the particulars of each case would be reviewed to determine the appropriate supervision arrangement. He spoke of two areas of behavior that constitute a majority of the Board's disciplinary cases, one being boundary violations. Mr. Riches stated that, with respect to supervision and psychotherapy, a disciplinary case involving boundary violations would be viewed differently than one involving substance abuse issues. He asserted that including the proposed language in the disciplinary guidelines would simply allow the Board an option to consider should the specifics of a case permit.

Elise Froistad suggested that the language pertaining to supervision with an individual with whom a prior business or professional relationship exists could be omitted and replaced with general language allowing the Board to consider such an option.

Ms. Rhine clarified that the language is written to require a probationer to secure a face-to-face relationship. However, if that is impossible, the next choice would be to use video-conferencing, and if that cannot be accomplished then, with the Board's written permission, the next option could be attempted.

Board members continued to discuss the topic. Ms. Roye indicated that when first looking at the supervision problem the Committee recognized the impacted population was very small. She stated, however, that the Committee was taking into consideration the bottom line problem which is the lack of supervision. The Committee wanted all probationers to be able to obtain the needed supervision. She reinforced that supervision is an issue that is closely looked at and decided on a case-by-case basis, and the selected supervisor must be approved by the Board.

Mr. Riches added that these are not commonly available alternatives. He stated that in order for the option to even be considered, it would depend on many factors including the circumstances leading to the request to use the option, and the nature of the prior relationship. He reported the priority of the probation is that it be meaningful and protective. By the same token, it is intended to be rehabilitative. Therefore, the Board should avoid imposing probationary conditions that fundamentally cannot be met, whenever possible.

It was suggested that a possible resolution to the problem would be to change the phrasing to allow the Board to approve a supervisor with whom a prior business or professional relationship exists. Kristy Schieldge, Staff Counsel, stated that existing language requires that a probationer submit a supervisor for prior Board approval.

Dr. Russ asked if the suggested language was deleted, would the Board still have authorization to approve a supervisor with whom the probationer has a prior relationship. Mr. Riches responded that existing guidelines strictly prohibit use of such a supervisor. Therefore, without a modification to the guidelines, the Board could not take such action.

Discussion continued about possible revisions to this language. Ms. Walmsley again visited the issue regarding probationers in rural areas and the difficulties that could be

encountered in finding a supervisor or personal psychotherapist. Dr. Russ asked for input from representatives of the professional organizations. Ms. Riemersma, CAMFT, noted that her organization's Ethics Committee suffers the same dilemma, and it ultimately is left to the Committee's discretion to accept or reject. She added her trust that the Board would make the appropriate decision in such a case.

Mr. Wong commented that he does not believe NASW would ever allow such a relationship, based on the premise that making such allowances sends the wrong message to licensees. He noted that, from an ethical standpoint, such a relationship should be never okay.

Ms. Roye asked Mr. Riches what happens if the Board sets probation for an individual and that probationer cannot complete the required probation under supervision. Mr. Riches responded that the Board then has two options: 1) modify probationary terms; 2) declare the probationer in violation of the probationary agreement and take steps to revoke the license.

It was suggested that the proposed guidelines be reworked, with the caveat that the Board look at how many years a prior relationship should be severed before a supervisory or therapeutic relationship can be initiated. Would the Board interested in looking at a possible period of time where there is no longer a business relationship in place?

Ms. Schieldge advised that if the Board looks at narrowing the option to a specific timeframe, staff is then being precluded from using their judgment on a case-by-case basis.

Ms. Johnson added that it is important to remember that there are qualifications that have been set for a clinician to be considered a supervisor. She felt it important to understand that if such a relationship occurs, the supervisor is also under scrutiny by the Board.

Ms. Riemersma noted the importance of leaving discretion for the Board to make a decision.

Mr. Wong continued to voice disagreement on the subject, and emphasized the importance of having standardized rules in place and adhering to those standards.

Ms. Riemersma, CAMFT, responded with the reminder that dual relationships are not, in of themselves, illegal or unethical. The key is for therapists to know how to manage those relationships.

Board and audience members added comment on the subject.

Ms. Schieldge asked the direction of the Board. Is the current proposal acceptable or is further clarification required?

Dr. Russ asked if the Board was not able to agree on the acceptability of the proposal, did counsel have ideas for revised wording of the guideline.

Ms. Schieldge indicated it was dependent on whether the Board agreed that there should be a possible waiver of the prohibition against prior business or professional relationships.

Mr. Riches noted that what is in the guidelines is recommended language for decisions and settlements. It is standard language used by the Attorney General's office in drafting settlements or by an Administrative Law Judge in drafting a decision. Mr. Riches emphasized that it is a guideline, not a mandate. He offered as a possible resolution the option that when staff is presented with a probationer's difficulty in fulfilling such a probationary term, the matter can be brought back to the Board for its review, discussion, and possible modification of the terms of probation.

The Board expressed agreement with the proposal.

Kristy Schieldge indicated there may be a problem with modification of the terms of probation due to the existing statutory requirement that a probationer wait one year before petitioning for a change to the terms. Mr. Riches added that a probationer is generally required to submit a supervisor for approval within 90 days from the initiation of probation.

Ms. Schieldge suggested that if the Board is uncomfortable with allowing the waiver under certain circumstances on a case-by-case basis, the third option can be stricken and allow only a video conferencing waiver in and in the field of practice waiver.

Ms. Froistad asked how often the issue comes up that a probationer experiences difficulty in obtaining appropriate supervision or psychotherapy. Mr. Riches responded that he recalled only a few occasions where the problem had been reported.

Mr. Riches noted that statute restricts a probationer from petitioning for modification of the probation terms for one year. He asked counsel if the statute also precluded the Board from making such modification of its own initiative. Ms. Schieldge indicated she did not think the statute imposed such a prohibition on the Board.

Discussion continued.

Karen Roye moved to:

- **Direct staff to take all steps necessary to initiate the rulemaking process to propose these amendments to Section 1888 and the Disciplinary Guidelines, including a change to the proposed language that strikes from optional term for psychotherapy the following language: "Receive counseling with a therapist with whom a prior business or professional relationship exists if respondent's good faith attempts to secure a psychotherapist with no prior business or professional relationship are unsuccessful due to the unavailability of qualified health care professionals in the area."**
- **For number 4 (terms for supervised practice), strike the language in paragraph 3 which states "permitting respondent to secure a supervisor with whom a prior business or professional relationship exists, and set the matter for hearing."**

Elise Froistad seconded. The Board voted unanimously (7-0) to pass the motion.

D. Recommendation # 2 –To Sponsor Legislation Making Technical Changes to Sections 4982, 4982.2, 4989.22, 4992.1,4992.3, 4996.23, 4996.24, 4996.28, and 4996.5 of the Business and Professions Code

Ms. Rhine reported that every year the Board sponsors clean-up language in a legislative omnibus bill. The last such bill, SB 1779, was vetoed. As a result, in addition to the changes previously approved by the Board for inclusion in SB 1779, staff has included seven proposed changes, which she indicated were minor, conforming, but not necessarily non-substantive. She reported that the proposals were reviewed at the last Committee meeting with the Committee recommending to the Board to direct staff to sponsor legislation this year.

The first proposal is to add Business and Professions (B&P) Code Section 4996.24. Ms. Rhine explained that currently, in private practice, MFT interns are limited to two per supervisor. However, there is not a similar limitation on ASWs in private practice. The proposal is to add the same language for LCSWs and ASWs, so that there would be a limit of two ASWs per supervisor.

Dr. Russ opened the issue for discussion.

Mr. Wong, NASW, asked if there was a definition of private practice. Mr. Riches responded that there is not an explicit definition of private practice in the statute.

Robin Emerson, California Society for Clinical Social Work (CSCSW), commented that many supervisors do supervise both ASWs and MFT Interns; therefore, it makes sense to have as much consistency as possible in the statutes pertaining to supervision.

Mr. Wong also asked if the proposed legislation passes, did that then allow a supervisor in private practice to supervise four people, two ASWs and two MFT Interns. Ms. Rhine responded affirmatively. Discussion then centered on the appropriateness of requiring a supervisor to limit the type of supervisees, i.e., 2 ASWs and 2 MFT Interns vs. 3 ASWs and 1 MFT Intern or vice versa.

Mr. Riches explained that the issue is providing a consistent set of rules so supervisors could navigate the process reasonably. A separate discussion could be held about an appropriate limit on the number of supervisees, if that is the Board's choice.

Mr. Wong suggested that the Board consider not using the language specifying two ASWs, but instead stating two supervisees. He further suggested then making parallel changes to the MFT statute.

The Board agreed with the suggestion, and then discussed what an appropriate limit would be.

Carla Cross, Ventura County Behavioral Health, asked why it would be appropriate in an agency setting to supervise several people, but in a private practice setting a limit would be imposed. She also questioned the limit of two supervisees in a private practice.

Charlene Gonzales, LA County Children's Services, voiced concern with assuming that agencies in general have good oversight of supervision. She encouraged the Board not to

make such an assumption. If the Board is going to limit in one area, it would be wise to look at other areas as well.

Ms. Riemersma, CAMFT, provided history about how the existing limitation originated. She noted several reasons, including a desire to limit the possible exploitation of interns, because if a licensee is hiring many interns to work in that practice, the quality of supervision will not be there. She also spoke about the differences in environment between public agencies and private practice, and how those differences impact supervision.

Dr. Russ asked staff to include on a future agenda the investigation of supervision and supervisees in community, non-profit settings, and asked staff to invite representatives from DMH and appropriate agencies to speak with the Board. Ms. Walmsley recommended that representatives from hospitals (non-profit) also be included.

Dr. Russ asked the Board if four supervisees is a good number that doesn't have the potential of being a mill, that there could be proper supervision, or do we want to leave it at two.

After brief discussion, the Board agreed to keep it at two.

Judy Johnson moved to direct staff to sponsor legislation consistent with the attached statutory changes. For the proposed addition of Section 4996.24, direct staff to prepare language for proposed legislation to limit supervision to two supervisees and submit the proposal to the Executive Officer for approval and submission as a sponsor. Joan Walmsley seconded. The Board voted unanimously (7-0) to pass the motion.

Ms. Rhine reported on amending BPC Section 4996.28. Currently an ASW or MFT Intern may renew a registration no more than five times, after which a new registration would be required as needed. MFT Interns may not practice in a private practice setting under subsequent registrations. There is not currently the same stipulation for ASWs. The recommendation is to amend B&P Code Section 4996.28 to prohibit ASWs from practicing in a private practice setting under subsequent registrations.

There was no discussion on the issue.

Ms. Rhine reported on amending BPC Section 4996.23. She stated that previously a provision was added to the MFT licensing law to prohibit interns from leasing or renting space or in any other way paying for the obligations of their employer. The proposal would add a similar provision to the LCSW licensing law. The recommendation is to add a provision to the B&P Code Section 4996.23 that will prohibit an ASW from leasing or renting space, paying for furnishings, equipment or supplies, or in any other way paying for the obligations of their employers.

There was no discussion on the issue.

Ms. Rhine reported on amending BPC Section 4982.2. She noted that existing law allows licensees to petition for reinstatement or modification of penalty; however, the section fails to apply to registrants. This is a technical change that would allow the same provisions to apply to registrants.

There was no discussion on the issue.

Ms. Rhine reported on amending BPC Section 4982(r) and 4992.3(r). Currently in the unprofessional conduct statute it states that it is unprofessional conduct to engage in conduct in the supervision of a registrant that violates the laws and regulations adopted by the Board. However, the respective unprofessional conduct statutes only make it a violation if the supervision is of a registrant in the same field as the licensee. The recommendation is to amend the unprofessional conduct section of both the MFT and LCSW licensing law to include all supervisees.

There was no discussion on the issue.

Ms. Rhine reported on amending BPC Sections 4992.1 and 4989.22. She indicated that these two statutes do not include provisions incorporated in the MFT licensing law relating to examinations. The proposal would provide consistency and clarity in examination and record retention policy for all licensees. The recommendation was to amend B&P Code Sections 4992.1 and 4989.22 to include the same provisions found in B&P Code Section 4980.50 (c), (d), and (e).

There was no discussion on the issue.

Ms. Rhine reported on amending BPC Section 4996.5. She indicated the proposal would delete an errant reference to “annual renewal,” in that the Board does not have “annual” renewal of license. The recommendation was to delete the reference to “annual” as it relates to renewal fees.

There was no discussion on the issue.

Renee Lonner moved to direct staff to sponsor legislation consistent with the attached statutory changes. Elise Froistad seconded. The Board voted unanimously (7-0) to pass the motion.

E. Recommendation # 3 –To Initiate a Rulemaking to Amend Section 1811 of Title 16 of the California Code of Regulations Regarding Advertising

Ms. Rhine reported that the next three items are all related to advertising, so she would be speaking about them interchangeably. There are currently statutes that direct the Board to promulgate regulations on advertising and restriction on advertising of licensees. Currently there exists regulation, policy and guidelines relating to advertising, and there are inconsistencies in the three rules. Ms. Rhine provided examples of these inconsistencies.

The staff brought the issue before the Board in 2007, with a new proposal presented at the October Board meeting. She indicated that the proposed regulation stands as the base with the policy and guidelines following what the regulations state, so that everything is consistent. She then pointed out the major changes to the regulation. Ms. Rhine then provided information about some of the issues that were brought up previously and the changes staff was directed to make and bring before the Board.

Ms. Schieldge expressed her understanding that a delayed order of adoption could be developed for inclusion in the regulation should the Board choose to delay implementation of the regulatory changes.

Dr. Russ noted that such action would afford the Board the opportunity to apprise the community of the new requirements before the regulation becomes operative.

Ms. Riemersma requested that with regard to licensed marriage and family therapists, use of the initials LMFT or MFT be allowed, as both are commonly used. Also, with respect to educational degrees, she encouraged the Board to include language that states the degree must be relevant to the practice of the profession. She also encouraged requiring registrants to spell out the full title of the registration held.

Dr. Russ asked what would be required to make the suggested changes.

Ms. Schieldge spoke about the courts reaction to attempts by boards or bureaus to restrict any advertising that is true, including listing a degree that is not related to the practice of the license held. She indicated that the Board had previously attempted to regulate in this area, and that regulation was struck permanently by the Court of Appeal.

Mr. Riches indicated that existing law provides that if you advertise in a misleading fashion, you are subject to disciplinary action by the Board. That is an after-the-fact assessment which is made, and is wholly within the current authority of the Board. He added that when language is added to require that a degree be relevant, that is a before-the-fact restraint, which is different. He clarified that it is permissible for the Board to take action against a licensee who is misleading, but it is not permissible for the Board to say in advance that if certain information is inherently misleading if in fact the information is true.

Ms. Schieldge spoke about the issue of allowing use of the acronym LMFT in addition to MFT. She indicated there would be a need to justify the need for the change, and that such argument could be based on the fact that both abbreviations are currently commonly used and accepted.

Discussion continued, following which Dr. Russ entertained a motion on the item.

Joan Walmsley move to direct staff to take all steps necessary to initiate the rulemaking process to propose the amendments to section 1811 as presented in Option A, with the addition of "or LMFT" to proposed section (a)(2)(A), and set the matter for hearing. The Board further directs staff at the time of adoption to order a delayed implementation to January 1, 2010. Judy Johnson seconded. The Board voted unanimously (7-0) to pass the motion.

The Board adjourned for a break at 3:43 p.m. and reconvened at 3:58 p.m.

F. Recommendation # 4 –To Update Advertising Policy and Guidelines as Drafted to be Consistent with Proposed Rulemaking Amending 16CCR Section 1811

Ms. Rhine reported that the policy and guidelines are based on the regulations. The Committee has recommended that the Board to direct staff to modify the policy and guidelines to be consistent with the proposed regulatory changes in Section 1811.

D'Karla Leach moved to direct staff to take all steps necessary to initiate the rulemaking process to propose the amendments listed in Option A to Section 1811 with the addition of "LMFT" to subdivision (a)(2)(A), authorize the Executive Officer to make any non-substantive changes to the text, and set the matter for a hearing. The Board further orders that, at the time of adoption, that the implementation date be delayed to January 1, 2010. Elise Froistad seconded. The Board voted unanimously (7-0) to pass the motion.

G. Recommendation # 5 - To Sponsor Legislation Sections 4980.03, 4980.48, 4982, 4989.49, 4989.54, 4992.2 and 4992.3 of the Business and Professions Code Regarding Advertising

Ms. Rhine reported this change was to clean-up, making the statutes consistent. Two issues were discussed at the Committee meeting. First, B&P Code section 4980.33 was amended to replace reference to "church" buildings or bulletins to "religious" buildings or bulletins. The corresponding statutes pertaining to Licensed Educational Psychologists (LEP) and LCSWs were similarly amended.

The second issue pertained to advertising of services by trainees. Existing regulation, policy and guidelines do not reference trainees. There is not currently a regulatory relationship with trainees. The Committee discussed that trainees do provide services and therefore it would be prudent for the Board to develop consistent advertising guidelines for trainees. Therefore, B&P Code Section 4980.48 was developed to add provisions making the same requirements for trainees as for registrants.

Ms. Rhine concluded by stating it was the recommendation of the Committee that the Board direct staff to sponsor legislation making the applicable statutory changes.

Judy Johnson moved to sponsor legislation to make the recommended regulatory changes. D'Karla Leach seconded. The Board voted unanimously (7-0) to pass the motion.

H. Recommendation # 6 – To Initiate a Rulemaking Implementing Mandatory Continuing Education for Licensed Educational Psychologists

Ms. Rhine reported that in 2007 legislation was signed requiring LEPs to complete thirty-six (36) hours of continuing education every two years. The legislation became effective January 1, 2008. Now the Board must promulgate regulations specifying what the required continuing education needs to include. Ms. Rhine referred the Board members to documents outlining the proposed regulatory changes which add LEP to the continuing education sections of Board regulations.

Two issues came up during committee discussion of this topic. The first issue pertained to specific courses mandated for other licensees. The cited courses included AIDS Awareness, Human Sexuality, Child Abuse Detection, Aging and Long-Term Care, and Law and Ethics, all of which are currently required of MFTs and LCSWs, either pre-licensure or through continuing education. The Committee felt the same requirement was appropriate for LEPs. Ms. Rhine indicated that she had drafted language to include LEPs in the continuing education requirement.

The second issue for discussion was the timeline for implementation of the CE requirement for LEPs. Ms. Rhine stated that the committee had initially considered a

staggered implementation of the requirement; for example, 18 units to be completed by a certain date, with the full 36 units required for completion during the next full two-year renewal period. A similar requirement is currently in place for MFTs and LCSWs. Ms. Rhine expressed uncertainty that existing statute would allow for a staggered implementation of the CE requirement. Therefore, the Board had before them a proposal that the new requirements would not go into effect until January, 2012. LEPs would be required to complete thirty-six hours of continuing education for license renewals after 2012.

Another option before the Board would be to make a requirement similar to that currently made of MFTs and LCSWs, with eighteen units be completed for the first renewal, and thirty-six units required for each renewal thereafter.

The Committee recommended for the Board to direct staff to initiate the rulemaking process with specific CE requirements and delayed implementation.

Ms. Johnson, Licensed Educational Psychologist, commented about the importance of the proposed regulations, which she believes serve to increase the credibility of LEPs as independent practitioners. She was asked by other Board members to comment about the applicability of the proposed CE requirements to LEP practice. Ms. Johnson responded that she believed the required courses were applicable, and noted that although some continuing education is required through the Department of Education in order to maintain a school psychologist credential, the requirement of LEPs was also important in maintaining licensure.

Discussion continued briefly.

Dr. Russ then returned to the issue of implementation of the CE requirement for LEPs. The recommendation before the Board was to require eighteen hours of CE for the first renewal period, and thirty-six hours for each renewal period thereafter. He noted that Ms. Schieldge had advised the Board that existing statute requires licensees to certify completion of 36 hours of CE each renewal period. Therefore, there was the possibility that the regulatory proposal would be returned for modification. Mr. Riches emphasized that should the proposal be returned, the necessary modifications would be made to ensure passage of the regulations.

Ms. Schieldge asked what language the Board was proposing be removed or inserted. Ms. Rhine suggested, as discussed by Committee, the removal of all language referring to implementation of the CE requirement in 2012. It was recommended that language be inserted requiring completion of eighteen hours of CE for renewals occurring January 1, 2010 through December 31, 2010, and 36 hours of CE for all renewals beginning January 1, 2011.

Ms. Schieldge stated that staff would need to go back and draft a new proposal for Board approval. Dr. Russ directed staff to do so and bring it back to next Board meeting.

I. Recommendation # 7 – To Offer California Licensing Examinations at Out-of-State Examination Sites

Mr. Riches reported that the Committee at its last meeting discussed the provision in the existing examination administration contract that allows for use of select testing centers

outside of California for administration of the Board's licensure examinations. Only certain of the test administration company's sites meet the Board's security and design standards. The Committee recommended to the Board that steps be taken to allow for administration of the Board's examinations at the approved sites. If approved, testing at said sites could begin as soon as January 1, 2009.

Brief discussion ensued about the requirements for taking the licensure examination. Mr. Riches emphasized that existing requirements would remain in place, and that the proposal would simply allow for administration of the licensure examinations at out-of-state sites.

Renee Lonner moved that the Board allow administration of its licensing examinations at approved out-of-state locations. D'Karla Leach seconded. The Board voted unanimously (7-0) to pass the motion.

J. Recommendation # 8 – To Sponsor/Support Legislation Requiring All Board Licensees and Registrants to Submit Fingerprints

Mr. Riches reported that the Policy and Advocacy Committee recently had discussed issues relating to completion of fingerprinting and background checks on existing licensees. Currently, anyone who applies to the Board for registration or licensure is required to submit fingerprints and a background report is obtained reflecting most prior convictions. The process also provides the Board with a subsequent arrest report anytime an applicant is arrested following initial submission of the fingerprints. Mr. Riches stated that the requirement for submission of fingerprints became effective in 1992. For those individuals who became licensed prior to that time, which he noted is about half the licensee population or approximately 30,000 licensees, have no fingerprints on file.

Mr. Riches noted that when the need to collect fingerprints from individuals licensed before 1992 was first presented to the committee for discussion, no issues were identified. The Committee directed staff to draft a proposal regarding how to accomplish the task.

Although not considered to be an urgent matter, Board staff has identified the need to move forward with implementation of a program to collect the data. Mr. Riches indicated that the impact of such a program on Board operations would be significant and would roughly treble the workload relating to the current fingerprinting process. He noted that the estimated increase in work related solely to the processing of the background checks, and did not take into consideration any subsequent enforcement actions that might arise as a result. Mr. Riches stated that existing statute allows the Board to require fingerprints from applicants, but the Board has no current legal authority to make a similar requirement of existing licensees, and therefore additional legal authority is necessary to make such a mandate.

Mr. Riches referred Board members to legislation drafted by the DCA in an effort to address the problem. He stated that before the Board was a recommendation to support the department's legislation, and added that should the DCA legislation be unsuccessful, the Board could sponsor similar legislation. He emphasized the importance of moving forward with this matter.

Discussion ensued about related issues, including the statute of limitations. Mr. Riches indicated that of the subsequent arrest reports currently received in one year, only a very

small number result in initiation of administrative action. He reported that the criteria used to evaluate a conviction would include how recently the conviction occurred, the extent of rehabilitation, and if there were any arrests subsequent to the conviction. While he was certain the Board will obtain arrest information that may no longer be actionable due to the statute of limitations, Mr. Riches expressed the opinion that such occurrences would be few.

A member of the audience asked if, due to the statute of limitations, the Board was precluded from pursuing action against individuals who may have lied on the application by failing to disclose a conviction. Mr. Riches responded that the statute of limitations is generic to any accusation. The statute says that the Board cannot file an accusation after certain timelines have expired, with certain exceptions. However, a citation could be issued and would essentially serve to notify the public of the situation. He noted that there is no statute of limitations on the issuance of a citation and fine.

Discussion followed regarding who would make the decision about which cases should result in a citation and fine. Mr. Riches indicated that it was he who signed the citations. He added that these matters are not without due process, with informal and formal appeals available. It was confirmed that the process currently in place pertaining to this matter would be the same process used for evaluation of the previously unfingerprinted licensees.

Mr. Wong, NASW, asked if there were guidelines in place regarding uniform application should the decision be made to take action such as citation and fine. Mr. Riches responded that decisions to issue citations and fines were not made arbitrarily, and that guidelines regarding substantial relationship were followed in all such matters. Mr. Riches added that citations are also subject to judicial review, and that if it is demonstrated in court that the action was not warranted, judicial remedies are available.

The issue was raised about the sharing of information obtained through the fingerprinting process. Mr. Riches noted that there are very tight rules around the sharing of criminal offender information, and reported that the Board is audited regularly about its controls and use of such information. Protections are built-in to ensure that everyone's rights are respected.

The question was asked if the search is for felony convictions in California. Mr. Riches clarified that the subject was any subsequent arrest or conviction in the state only, not nationwide. There is currently no system to obtain that information nationally.

Dr. Russ entertained a motion to support the Department of Consumer Affairs' legislation regarding fingerprinting, or sponsor its own legislation if the DCA legislation is unsuccessful.

Joan Walmsley moved that the Board support the Department of Consumer Affairs' legislation regarding fingerprinting, or sponsor similar legislation should the DCA legislation be unsuccessful. Renee Lonner seconded. The Board voted unanimously (7-0) to pass the motion.

VII. Report of the LCSW Education Committee

Ms. Lonner reported briefly about the meetings of the Committee, which have occurred approximately once a quarter. She noted that the Committee was established in February 2008, and is charged with reviewing the core competencies for LCSWs in the current workplace. The Committee has invited any and all stakeholders to attend the meetings as well as others who can educate Committee members about what the current workplace is. Ms. Lonner named several topics which have been discussed by meeting participants, and indicated that at the next meeting it is anticipated there will be a representative from the military. The next meeting is scheduled December 8, 2008 in San Diego. She stated that the next few meetings will be used to gather information, and was pleased with the attendance and participation at the meetings to date.

Ms. Lonner was asked if ultimately the work of the Committee would result in legislation modifying the educational requirements for LCSWs. She responded that at the present time, the Committee was in a fact-finding mode, trying to identify the core competencies and determine if they need to be codified in some manner.

VIII. Discussion and Possible Action to Accept the Report of the Supervision Workgroup

Mr. Riches reported that the group began with assessing issues around the quality of supervision, and related concerns. The supervision workgroup has since developed a brochure educating potential and current supervisees about how to engage in the relationship with their supervisor. Mr. Riches described the brochure as including practical, hands-on advice supervision. He indicated that feedback from the publication has been positive.

Another issue that has come up is the lack of consensus overall about what supervision should accomplish. What is the process about? What kinds of things should occur? The workgroup has worked to define supervision, and initially developed a draft curriculum for supervisor training. This was not intended as a mandate or requirement, but rather was advice from people who had considered and talked about the issue. After many discussions, the workgroup determined it was the form of presenting said information that was problematic. The information was then restructured into a document outlining the work and findings of the group and listing the point of view of the workgroup regarding supervision. In conclusion, Mr. Riches stated that the Board was being requested to approve the workgroup's report.

Ms. Walmsley noted it was never the intent of the group to impose mandates on the supervisor. Rather, discussion stemmed from complaints received about difficulty passing the licensure examinations. It was determined that a large part of the problem pertained to supervision. Ms. Walmsley noted that the proposed report was only intended to give ideas about what to look for in supervision, and is essentially a worksheet of what a supervisee might look for when seeking quality supervision. The document in no way is intended to impose requirements or mandates.

Robin Emerson, CSCSW, thanked the workgroup for including the professional society as a resource in the report, and commended the group for the excellent resource list that was provided. She then noted three items in the report for which she offered suggested amendments. First, in item II, section D, the first sentence is written in a manner that could be misleading to many supervisors. Ms. Emerson explained that the sentence seems on the surface to conflict with the statute and with the responsibility statement the Board asks supervisors to sign. She expressed an understanding of the intent of the statement, but again expressed that the statement could be misunderstood.

Mr. Riches responded that the workgroup had discussed the issue at length. Although the group was definitely aware that many supervisors in agencies would be serving in both capacities, it was the strong feeling of the workgroup that those capacities be separate.

Board and audience members continued discussion. Several participants suggested that the language be rewritten to be clearer.

Dr. Russ then asked Ms. Emerson about the additional issues she had previously referenced. Ms. Emerson stated concerns with item II, section H, which she indicated seemed to blur the distinction between teaching and supervision. Last, Ms. Emerson referred the Board to item III, section B, and the bulleted list in that section. She expressed the opinion that the list seemed incomplete, and did not include very crucial interpersonal processes that the supervisee must be familiar with and understand, and which are tested on the licensing examination.

Ms. Schieldge suggested taking the document back to rework the introduction, and more clearly specifying that the information were the results and conclusions of the workgroup, not the Board.

Dr. Russ stated that he will work with counsel and the workgroup to work on changes and bring the issue back for discussion at the February Board meeting.

XI. Public Comment for Items Not on the Agenda

No public comments were made.

X. Suggestions for Future Agenda Items

No suggestions were made.

The Board adjourned at 5:00 p.m.