

BOARD MEETING MINUTES

May 21-22, 2009

Marriott Riverside
3400 Market Street, Orangecrest Room
Riverside, CA 92501

May 21, 2009

Members Present

Ian Russ, Chair, MFT Member
Joan Walmsley, Vice Chair, LCSW Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Elise Froistad, MFT Member
Judy Johnson, LEP Member
Victor Perez, Public Member

Members Absent

D'Karla Leach, Public Member
Renee Lonner, LCSW Member
Karen Roye, Public Member
Rita Cameron Wedding, Public Member

Staff Present

Paul Riches, Executive Officer
Kim Madsen, Assistant Executive Officer
Sean O'Connor, Outreach Coordinator
Christina Kitamura, Administrative Analyst
Marsha Gove, Administrative Assistant
Kristy Schieldge, Legal Counsel

Guest List

On file

Dr. Ian Russ, Board Chair, called the meeting to order at 12:30 p.m. Marsha Gove called roll, and a quorum was established.

I. Introductions

Dr. Russ welcomed new board member, Dr. Harry Douglas.

Dr. Douglas provided a brief background. His background is primarily health services administration. Dr. Douglas retired from Charles R. Drew University of Medicine and Science where he served as President, Executive Vice President, and Vice President for Academic Affairs and Dean of the College of Allied Health. Prior to that, Dr. Douglas coordinated the opening of several hospitals. Dr. Douglas is a graduate from University of Denver and an undergraduate of University of California, Los Angeles. He also received a master's degree and a doctorate degree from University of Southern California. Dr. Douglas has been involved in international health programs, and recently worked with a group in Cuba. Dr. Douglas serves on several committees and communities.

Audience members, board staff, and board members introduced themselves.

II. Approval of February 26-27, 2009 Board Meeting Minutes

Donna DiGiorgio moved to approve the board meeting minutes of February 26-27, 2009. Judy Johnson seconded. The board voted unanimously (7-0) to pass the motion.

III. Chairperson's Report

A. Upcoming Board and Committee Meetings

Paul Riches indicated that a memo in the meeting materials lists the future board and committee meeting dates.

B. Discussion and Possible Action Regarding Mandatory Fingerprint Submission, Title 16, Sections 1815 and 1886.40 of the California Code of Regulations

Mr. Riches reported that the regulation regarding mandatory fingerprint submission was approved by the Office of Administrative Law on May 20th and will be effective within 30 days from that date. Staff was hired to fill the new positions to implement the program. Notices will be sent to the first batch of licensees in July.

IV. Petition for Reinstatement of License, Gerold Simon MFC 12383

Gerold Simon petitioned for reinstatement of his marriage and family therapist license. An Administrative Law Judge presided over the hearing. Karen Gordon, Deputy Attorney General, appeared on behalf of the Office of the Attorney General and the people. Attorney Sunil Sundar represented petitioner, Gerold Simon.

Opening statements and testimony were presented. Ms. Gordon and board members presented questions to the petitioner. The hearing concluded with closing statements from Mr. Sundar and Ms. Gordon.

The meeting adjourned for a break at 3:10 p.m., and reconvened at approximately at 3:20 p.m.

V. Petition for Early Termination of Probation, Cherrlynn Hubbard LCS 25055

Cherrlynn Hubbard petitioned for early termination of probation. An Administrative Law Judge presided over the hearing. Karen Gordon, Deputy Attorney General, appeared on behalf of the Office of the Attorney General and the people. Ms Hubbard represented herself.

Opening statements and testimony were presented. Ms. Gordon and board members presented questions to the petitioner. The hearing concluded with closing statements from Ms. Gordon.

VI. Pursuant to Government Code section 11126(c)(3) the board will convene in closed session to deliberate on disciplinary matters, including the petition for reinstatement (Gerold Simon MFC 12383), and the petition for early termination of probation (Cherrlynn Hubbard LCS 25055)

The board went into closed session to deliberate on the petition for restatement and the petition for early termination of probation.

Following deliberations, the meeting was adjourned.

May 21, 2009

Members Present

Ian Russ, Chair, MFT Member
Joan Walmsley, Vice Chair, LCSW Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Judy Johnson, LEP Member
D'Karla Leach, Public Member
Victor Perez, Public Member

Members Absent

Elise Froistad, MFT Member
Renee Lonner, LCSW Member
Karen Roye, Public Member
Rita Cameron Wedding, Public Member

Staff Present

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

Guest List

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Dr. Ian Russ, Board Chair, called the meeting to order at 8:30 a.m. Dr. Russ introduced Earl Plowman, Deputy Attorney General. Mr. Plowman has worked closely with the Board of Behavioral Sciences for over 25 years. The board presented a Resolution to Mr. Plowman for his service to the board and to the people of California.

Marsha Gove called roll, and a quorum was established.

Judy Johnson presented a Resolution to Dr. Russ for his dedication and service to the Board of Behavioral Sciences as the Board Chairperson. Ms. Johnson highlighted Dr. Russ' work on the MFT Education Committee meeting and the proposed legislation to change the MFT curriculum requirements, the loan forgiveness program for mental health workers, and his leadership.

VII. Executive Officer's Report

A. Budget Report

Paul Riches reported on the state budget crisis. Current numbers indicate the deficit is \$21 billion on the general fund budget that is running on \$85 billion this year. The Governor presented two May revised budgets. The plans contain a massive reduction in state spending. The second plan is a contingency plan if ballot measures were not approved by voters. This plan contains language for \$6 billion in borrowing, \$15 billion in reductions, and \$6 billion in "borrowing and rolling it over."

The legislature must work to immediately reduce the deficit, and it must work through the summer to find a way to change the system. As of July 1st, there is a budget in place; however, it is \$21 billion in the hole. That budget was balanced partly on a significant number of tax increases that were included in the February budget agreements that were going to be extended by Proposition 1A, which failed. Those increases will expire and in the next budget year, that revenue will be lost. With the additional revenue those provided, it kept state revenue flat. The general fund revenue expectations from the February budget was about \$86 billion dollars for 2008-2009. In 2009-2010, with tax increases, the general fund revenue which projected at \$86 billion. Taking those tax increases away, it will be much worse in 2009-2010.

Among the recommendations that the Legislative Analyst Office made was to implement a third furlough day for state employees. State employees have been subjected to a 2-day furlough, which reduces pay by 10%, and the employees are granted 2 days of leave. Furloughs provided immediate savings as opposed to layoffs, which may take up to 6 months to implement. At the moment, general fund agencies are subjected to layoffs. As a special fund agency, the board does not receive tax dollars. The board is completely self-sufficient and continues to operate within its means.

Among the issues in the Governor's May budget revision is the revival of the proposal to merge the Board of Behavioral Sciences with the Board of Psychology and the Psychiatric Technician Program into one program. This proposal does not save any general fund money. This proposal would require a statutory change. All three boards and executive officers would be eliminated. A new board, the Board of Mental Health, would have an entirely new board and executive officer; the staff would stay in place.

Another issue is that as of the end of June, the state will have no money. Currently, there is about \$6 billion dollars in the state's bank account, which is special fund money. State operations incur most of its expenses in the first 6 months of the year, and most of the revenues are accrued in the last 6 months of the year. Every year, the state has cash flow issues that are covered by borrowing. This year's borrowing need is about \$23 billion dollars. Considering the market and economy, there's an issue regarding the state's access to cash. The state will most likely be in a situation where it will selectively pay bills. By the Constitution, k-12 schools will be paid first and debt service is second. Vendors and services secured through contracts may not be paid immediately. The board makes a profit everyday; therefore, the board's operations are covered.

Dr. Douglas asked how the current state cash situation will impact the board's operations. Mr. Riches responded that the board will start to feel the pressure soon. The board is subject to two-day furloughs per month. Work performance has remained steady due to this year's salary savings. With that savings, staff has been able to work overtime to complete work that could not be completed due to the furloughs. That budget flexibility will no longer exist as of July 1st. The special fund agencies are not subjected to the hiring freeze. However, a third furlough day is expected, and it is not expected that staff will sustain the levels of performance that it has to date. This will be seen especially in the enforcement program.

The most critical contract the board has is for administering the examinations. Last year, the board received an exemption for that contract.

Mr. Riches reported that the board will end the year with a balance of \$230,000. Mr. Riches reviewed the fund condition and predictive model. Sean O'Connor developed the predictive model to determine, or predict, the growth scenario of the application workload and bottom line revenue.

B. Operations Report

Mr. Riches reported that most of the programs are doing well in spite of the furloughs. Staff has been making progress in the LCSW application backlog; processing time has been reduced from 48 days to 31 days. As for the enforcement program, the report does not reflect the hiring of new staff and getting them fully trained. The first reports are beginning to come in regarding field investigations.

Mr. Riches added that the budget allocation for the Attorney General's Office is about \$450,000 a year. This year, the board will finish the year at \$560,000. The board will receive an additional \$400,000 over the next couple of years to fund the fingerprint program.

C. Personnel Update

Mr. Riches reported that 4 positions were filled for the fingerprint program; two of those positions were filled internally. The board is in the process of filling the 2 vacant positions. Mr. Riches referred to the personnel update provided in the meeting materials regarding the new hires and vacancies listed.

An issue the board is dealing with is finding space to build additional cubicles for the new staff. A new building is being constructed at the headquarters site, which is expected to be completed by June 2010. The board will likely be moved to the new building.

The board adjourned for a break at 9:46 a.m. and reconvened at 10:08 a.m. Victor Perez excused himself temporarily from the meeting.

VIII. Report of the Policy and Advocacy Committee

A. Recommendation # 1 – Support AB 244 (Beall)

Donna DiGiorgio reported on AB 244, the mental health parity bill, which would require health care service plan contracts which provide hospital, medical, or surgical coverage, and health insurance policies issued, amended or renewed on or after January 1, 2010 to provide coverage for the diagnosis and treatment of a mental illness of a person of any age under the same terms and conditions applied to other medical conditions.

Tracy Rhine added that this bill is almost identical to a bill the board supported last year. There was a federal bill that was past that required parity in treatment limitations between health and mental health plans. AB 244 states that a health care plan that only provides health care service must provide mental health services. The Policy and Advocacy Committee (committee) recommended a position of support.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to support AB 244.

Upon Mr. Perez's return, the full board took the following action:

Judy Johnson moved to support AB 244. Donna DiGiorgio seconded. The board voted unanimously (6-0) to pass the motion.

B. Recommendation # 2 – Oppose AB 484 (Eng) unless amended

Donna DiGiorgio reported on AB 484 regarding license suspension due to unpaid tax liability. This bill would allow the Franchise Tax Board to send a notice of license suspension to the issuing state licensing entity and to the licensee if the licensee has unpaid state tax liabilities. The committee recommended a position of oppose unless amended.

Ms. Rhine reported that the recommended amendment is to allow the board to suspend the licenses of individuals with outstanding tax liabilities based on the model currently used for individuals in violation of a judgment or order for child support. The Department

of Consumer Affairs (DCA) and the board already have a process in place that allows the board to receive information regarding individuals out of compliance with child support orders, and, in turn, requires the board to take action against those licensees, including suspension or denial of licensure.

Ms. Rhine added that AB 484 failed in the policy committee where it was heard. AB 484 is no longer viable; however, this bill can be reintroduced under a different bill number. Ms. Rhine suggested that the board take a formal position in case the bill is reintroduced later.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to oppose AB 484 unless amended.

Upon Mr. Perez's return, the full board took the following action:

Donna DiGiorgio moved to oppose AB 484 unless amended. D'Karla Leach seconded. The board voted unanimously (6-0) to pass the motion.

C. Recommendation # 3 – Oppose AB 612 (Beall)

Ms. Rhine reported that AB 612 regarding parental alienation in child custody. This bill has been substantively amended. The new version of the bill is not within the jurisdiction of the board. No discussion or action was needed.

D. Recommendation # 4 – Support AB 681 (Hernandez)

Ms. DiGiorgio reported on AB 681 regarding confidentiality of medical information, psychotherapy exemption. This bill would allow a psychotherapist to disclose information related to the patient's outpatient treatment, if the psychotherapist believes the disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a reasonably foreseeable victim or victims, and the disclosure is made to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat, without a written request, as specified in current law. The committee recommended a position of support.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), added that this bill protects therapists when making reports.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to support AB 681.

Upon Mr. Perez's return, the full board took the following action:

Donna DiGiorgio moved to support AB 681. Judy Johnson seconded. The board voted unanimously (6-0) to pass the motion.

E. Recommendation # 5 – Support AB 1113 (Hernandez)

Ms. DiGiorgio reported on AB 1113 regarding marriage and family therapist intern experience within the Department of Corrections and Rehabilitation (CDCR). This bill would allow licensure requirements for mental health practitioners employed with the state correctional system to be waived for a person to gain qualifying experience for licensure as a marriage and family therapist. The committee recommended a position of support.

Ms. Rhine added that the board supported this bill last year as AB 2652. The committee recommended to the board to support this legislation, however, the bill was no longer viable at the time the board considered a position on the bill, and therefore no formal position was adopted by the board.

Ms. Riemersma noted that AB 1113 passed the Assembly and will have difficulty in the Senate. The union that represents CDCR employees who are psychologists and clinical social workers have gone to the statewide union and convinced the board of the statewide union to take a position of opposition.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to support AB 1113.

Upon Mr. Perez's return, the full board took the following action:

Victor Perez moved to support AB 1113. Donna DiGiorgio seconded. The board voted unanimously (6-0) to pass the motion.

F. Recommendation # 6 – Oppose AB 1310 (Hernandez) unless amended

Mr. O'Connor reported on AB 1310 regarding the data survey requirement for healing arts boards. The Office of Statewide Health Planning and Development (OSHPD) was given authority to develop the Health Care Workforce Clearinghouse, which is responsible for the collection analysis, and distribution of information on the educational and employment trends for health care occupations in the state. This bill would require specific healing arts boards in DCA to collect certain types of data and provide that to OSHPD. The committee recommended a position of oppose unless amended.

Mr. O'Connor explained that the bill mandates the collection of the data, and it tells the healing arts boards how it is to collect the data which is through license renewals. This is problematic for the board. The bill also lists the types of fields the healing arts boards must collect. This would require DCA to make modifications to its current database, which would be a lengthy process. Additional reasons for the committee's position of oppose unless amended was provided in the bill analysis.

Kristy Schieldge added that this bill would also require social security numbers to be disclosed on renewal applications, and DCA is not permitted by law to do so. In addition, all of the highly personal information to be disclosed on the first application of licensure as well as the renewal form, this information is not necessary to determine whether someone qualifies for licensure. Yet if they do not disclose the information to the board, it will be a basis for not processing their license renewal.

Kim Madsen added that although the bill does not include the Board of Behavioral Sciences, the author's staff indicated that it is the intention to include the board.

Mr. Riches stated that if OSHPD resolves the board's operational and legal issues with the bill, the board could take a position of support.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to oppose AB 1310 unless amended.

Upon Mr. Perez's return, the full board took the following action:

Donna DiGiorgio moved to oppose AB 1310 unless amended. Judy Johnson seconded. The board voted unanimously (6-0) to pass the motion.

G. Recommendation # 7 – Support SB 43 (Alquist)

Mr. O'Connor reported on SB 43 on improving healthcare workforce and education data. Existing law established the Office of Statewide Health Planning and Development (OSHPD) Health Care Workforce Clearinghouse. This is another data collection bill like AB 1310. SB 43 does not mandate that the healing arts boards collect the information; instead it authorizes the collection of information. SB 43 does not mandate that the information be collected at the time of licensure application or license renewal. SB 43 authorizes the collection of smaller amounts of data related to cultural and linguistic competencies. The committee recommends a position of support.

Ms. Schieldge added that SB 43 states that personally identifiable information collected pursuant to this section shall be confidential and not subject to public inspection.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to support SB 43.

Upon Mr. Perez's return, the full board took the following action:

Judy Johnson moved to support SB 43. D'Karla Leach seconded. The board voted unanimously (6-0) to pass the motion.

H. Recommendation # 8 – Support SB 296 (Lowenthal)

Ms. DiGiorgio reported on SB 296 on mental health services. This bill would find and declare that the coordination of care between mental health care providers and general physical health care providers is necessary to optimize the overall health of the patient. This bill would also require health care service plans to issue a benefits card to each enrollee for assistance with mental health benefits coverage information. The committee recommended a position of support.

Ms. Rhine added that SB 296 would require every health care service plan that offers professional mental health services to establish an internet Web site, to include plan policies and procedures related to enrollee benefits, modified contracts, providers, continuity of care, independent review and grievances.

Ms. Riemersma explained that a problem with the continuity of care, there are occasions when the mental health provided attempts to contact the managed care company to find out the primary care provider, and that managed care company refused to give the information. It's difficult to coordinate care. In regards to the cards, rarely is the direct contact information for mental health on the card.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to support SB 296.

Upon Mr. Perez's return, the full board took the following action:

Donna DiGiorgio moved to support SB 296. D'Karla Leach seconded. The board voted unanimously (6-0) to pass the motion.

I. Recommendation # 9 – Oppose SB 389 (Negrete McLeod) unless amended

Mr. Riches reported on SB 389 regarding fingerprint submission. This bill is a follow on to a series of articles published last year by the L.A. Times. Those articles highlighted on the fact that healing arts boards have collected fingerprints from new applicants for purposes of collecting criminal history and subsequent arrests information. However, those boards did not go back to fingerprint the those who were licensed before that requirement was implemented. The Board of Behavioral Sciences (BBS) proposed a regulation that was approved that mandates submission of fingerprints from all of its licensees who did not previously submit fingerprints. SB 389 was introduced to create a mandate for all boards do so as well. SB 389 would trump the board's regulation that was just approved and set the board back by 2 ½ years. Staff requested to the author to remove BBS from the bill. The committee recommends a position of oppose unless amended.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to oppose SB 389 unless amended.

Upon Mr. Perez's return, the full board took the following action:

Donna DiGiorgio moved to oppose SB 389 unless amended. D'Karla Leach seconded. The board voted unanimously (6-0) to pass the motion.

J. Recommendation # 10 – Consider SB 543 (Leno)

Ms. DiGiorgio reported on SB 543 regarding minors consent to mental health treatment. The committee did not take a position on SB 543. This bill would allow a minor who is 12 years of age or older to consent to mental health services on an outpatient basis or to a residential shelter facility if the minor is mature enough to participate intelligently in the counseling services or if the minor either would present a danger of serious physical or mental harm self or others without receiving the services or if the minor is an alleged victim of incest of child abuse.

Judy Johnson noted that licensed educational psychologists and credentialed school psychologists are regulated under the Department of Education, and their credentials in that regard gives them the right to confidentially speak to minors who are 12 years of age and older on campus. However, a parent is contacted.

As a subcommittee of the board, all voted (1 yea, 2 nay, 2 abstain) to recommend to the full board to not take a position on SB 543.

Upon Mr. Perez's return, further discussion took place.

Ms. Rhine explained that this bill would allow minors between the ages 12-18 to receive mental health services if they are: 1) in immediate harm or a danger to themselves, or 2) can intelligently participate in mental health services. Currently the minor must meet both criteria to receive services without parental consent. This bill states that the minor must only meet one of the criteria to receive services without parental consent. The bill would also allow services for minors at residential facilities without notification to the parent. Currently, the professional treating the minor would involve the parents unless the professional deemed it inappropriate. This bill would allow the professional treating the minor to involve the parents if they deemed it appropriate.

Mr. Perez stated that he opposes the bill.

Dr. Russ expressed his concerns about a 12 year-old minor seeking mental health treatment for issues lesser than a crisis or an emergency.

Mr. Perez expressed his concerns regarding absence of disclosure to the minor's parents.

Ms. DiGiorgio stated her position is to oppose the bill.

Mr. Riches stated that this bill presents an issue where everyone loses. There are a population of children, especially lesbian, gay, bisexual, and transgender (LGBT) youth, where there are issues regarding parental consent. There are good reasons why this population of youth does not want to go to the family. Those reasons may not fit comfortably in the current construct. This is the intent of the bill. The challenge is that it is difficult to write a bill that states it only applies to the youth that are desperate.

Ms. Riemersma explained that current law states that any child 12 years of age or older who can communicate effectively enough to engage in therapy and has been a victim of incest or child abuse or is a danger to self or others can seek treatment. The therapist will attempt to communicate with the family as soon as possible if it is appropriate. CAMFT took a position of support. CAMFT had concerns taking a position on the bill because of the risk that the current provisions in law will be lessened. This is a controversial bill.

Ms. Johnson stated that she already sees these systems in place on school campuses, under existing law. The movement is towards the campus right now. This is where students feel that they can usually come out to someone on campus. Statistics show that students will trust and open up to a person on campus even if that person is not a mental health provider.

Donna DiGiorgio moved to oppose SB 543. Victor Perez seconded. The board voted (4 yea, 2 abstain) to pass the motion.

K. Recommendation # 11 – Consider SB 638 (Negrete McLeod)

Ms. Rhine reported on SB 638 regarding Board membership reconstitution. Currently in statute, boards under DCA have sunset dates, meaning there are specific dates when each board becomes inoperative and becomes a bureau. Under the Sunset Review Process, all boards to prepare an analysis and submit a report to the Joint Committee on Boards, Commissions, and Consumer Protection (JCBCCP) no later than 22 months before the board is scheduled to become inoperative. The JCBCCP holds public hearings to receive testimony from the Director of DCA, the board involved, the public and the regulated industry. This review takes place every four years to evaluate and determine whether each board has demonstrated a public need for the continued existence of that board. This has not happened over a number of years because the JCBCCP has not been funded; therefore, the sunset dates have been extended.

This bill would create a new process for evaluating boards. Instead of the boards becoming inoperable and becoming bureaus, their entire board memberships are reconstituted. The boards would continue as boards with new entirely memberships. This process does not provide for a committee; instead a policy committee in the legislature would evaluate and determine if the memberships would be reconstituted.

The committee did not take a formal position but suggested that the board provide comment to the legislature regarding revamping an effective oversight process. Staff provided ideas listed in the bill analysis.

Mr. Riches added that there was a different bill carried last year to reform the Sunset Review Process. The biggest problem with the Sunset Review Process is that it created situations where the boards disappeared. Boards have been effective entities due to the ongoing contact with the public, the open discussions that come with operating the board under the restrictions of the Public Meetings Act. When a board turns into a bureau, that structure goes away. A reconstitution approach is a big step towards a positive direction. There are no clear articulated standards regarding good performance.

Dr. Douglas asked how the oversight manifests itself. Mr. Riches responded that in SB 638, it manifests itself in two different ways. Under the prior structure, there was a joint committee that performed the oversight. SB 638 allows for committees in each house that are performing oversight and reaching opposite conclusions. There are inter-house politics present that make it difficult to reconcile the differences. This bill lacks a unified oversight.

Dr. Douglas agreed that this type of oversight becomes a political war, and added that the legislature does not have the time to oversee the process.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to not take a position on SB 638 and to continue the dialogue with the legislature and provide suggestions.

Upon Mr. Perez's return, the full board took the following action:

Donna DiGiorgio moved to take no formal position on SB 638 and to continue the dialogue with the legislature and provide suggestions. Judy Johnson seconded. The board voted unanimously (6-0) to pass the motion.

L. Recommendation # 12 – Consider SB 707 (DeSaulnier)

Mr. Riches reported on SB 707 regarding alcohol and other drug counselor licensing. There are a significant set of amendments pending; staff and the board will need to review the new language before taking action. Mr. Riches suggested bringing SB 707 back to the table after the amendments are made.

As a subcommittee of the board, all voted (5-0) to recommend to the full board to not take a position on SB 707.

Upon Mr. Perez's return, the Mr. Riches stated that no action was necessary due to pending amendments by the author of the bill.

M. Recommendation # 13 – Support SB 788 (Wyland)

Mr. Riches reported on SB 788 regarding licensed professional clinical counselors. The board has supported previous introductions and versions of this legislation. This bill would create a new category of license issued by the Board of Behavioral Sciences for professional counselors. This license would be another master's level psychotherapy counseling license. The bill introduced is very similar to last year's bill; those issues have not changed.

Ms. Riemersma noted that CAMFT's position is neutral on SB 788. The National Association of Social Workers (NASW) and the California Society for Clinical Social Work (CSCSW) also remain neutral on the bill as long as the grandparenting provisions for the MFT and LCSW professions remain. If those provisions are taken out of the bill, CAMFT, NASW, and CSCSW will turn their positions to oppose.

Olivia Loewy, American Association for Marriage and Family Therapy (AAMFT), noted that AAMFT opposes SB 788 due to the broad and overlapping scope of practice. The grandfathering clause indicates that there is not a distinction between the MFT and the licensed professional clinical counselor professions. In regards to workforce shortages, if this license were to become established, this could create more of a workforce shortage because those counselors now working in public mental health could leave and create private practices. Ms. Loewy explained that AAMFT is not opposed to having a license category for professional clinical counselors; AAMFT would like to see changes in the bill's language.

Mr. Perez returned to the meeting and joined the board in the discussion and action.

Judy Johnson moved to support SB 788. Donna DiGiorgio seconded. The board voted (5 yea and 1 abstain) to pass the motion.

Dr. Russ returned to the previous items to take action as a full board.

N. Recommendation # 14 – Sponsor Legislation Regarding Supervised Experience Requirements for Marriage and Family Therapists

Mr. Riches reported on a recommendation from the committee for the board to sponsor legislation. There are four significant changes to the experience requirements:

1. Double counting the first 150 hours providing family therapy. Many interns are not getting opportunities to obtain therapy in this fashion, which is key to marriage and family therapy. The incentive provided is similar to that for obtaining personal psychotherapy under current law.
2. Combine existing limits on telephone crisis counseling and telemedicine into a single category with a maximum of 375 hours allowed. Current law treats experience providing "telephone crisis counseling" and "telemedicine" separately despite the activities appearing to overlap one another. Telephone crisis counseling is currently limited to 250 hours and telemedicine is currently limited to 125 hours.
3. Change the supervision ratio for post-graduate experience to parallel that required of associate clinical social workers. Existing law requires IMFs to receive one unit of supervision (one hour of individual or two hours of group supervision) for each 10 hours of psychotherapy/counseling work experience. A typical MFT candidate must receive over 400 hours of supervision to be eligible for licensing examinations. However, a typical LCSW candidate receives around 150 hours of supervision. This disparity makes little sense given the overlapping scopes of practice and the limited availability of supervision.
4. Allow hours of experience to be gained in any category as a trainee. Current law restricts the types of experience that can be gained as a trainee to certain categories. This would allow trainees to gain experience for clinical documentation and psychological testing.

Mr. Riches clarified on page 1 (a)(7) of the draft language, the language should read “Not more than a total of 1250 hours of experience combined for...”.

Judy Johnson moved to sponsor legislation regarding supervised experience requirements for marriage and family therapists. Donna DiGiorgio seconded. The board voted unanimously (6-0) to pass the motion.

O. Legislation Update

Mr. Riches reported that SB 33 passed out in the Senate and is awaiting similar action in the Assembly. Mr. Riches reported that the update contains the items that were previously approved by the board. Many of those items were carried over due to the Governor’s vetoes last year.

P. Regulation Update

Ms. Rhine referred to the Regulation Update provided in the meeting materials for review.

IX. Discussion and Possible Action Regarding Other Pending Legislation Affecting the Board

Mr. Riches stated that there is no other pending legislation to report.

The board adjourned for a short break at noon and reconvened at 12:10 p.m.

X. Discussion of Senate Bill 1441 (Chapter 548, Statutes of 2008)

Mr. Riches reported that SB 1441 was passed last year in the wake of the shut-down of the Medical Board’s Diversion Program. SB 1441 requires the development of standards to guide healing arts licensing boards in handling addicted licensees. SB 1441 creates the Substance Abuse Coordination Committee, which is composed of the Director of DCA, executive officers of all healing arts boards in the DCA, and the Medical Director the State Department of Alcohol and Drug Programs. This committee is required to develop uniform standards that each healing arts board will be required to use in dealing with substance-abusing licensees by January 1, 2010. The bill requires 16 separate standards to be developed. The committee has met twice and has developed 6 draft standards.

The legislation also requires the committee to consider the use of a “deferred prosecution” stipulation similar to the stipulation described in Section 1000 of the Penal Code, in which the licensee admits to self-abuse of drugs or alcohol and surrenders his or her license. That agreement is deferred by the agency unless or until the licensee commits a major violation, in which case it is revived and the license is surrendered.

This is an opportunity for the board to provide its thoughts regarding how to handle substance abuse among our licensees to bring those thoughts to the committee’s deliberations.

Dr. Russ indicated that he does not prefer a recovery program that will be monitored and overseen by the board.

Ms. DiGiorgio asked how this is currently handled in an urgent situation. Mr. Riches explained that there are several tools currently available to the board: 1) the ability to compel a psychiatric or physical examination of a licensee, 2) interim suspension order if there is evidence that someone is an immediate threat, and 3) Penal Code Section 23, which gives the board the ability to seek action in criminal court when a licensee is in a criminal process.

This usually results in suspension of the license pending resolution of the criminal process. The board usually becomes aware of the substance abuse problem through an arrest.

Ms. DiGiorgio asked if there is a way to do this that is not as harsh or happens sooner than an arrest. Mr. Riches explained that there is a provision in the professional conduct statutes that states that the use of alcohol or controlled substance in any manner harmful to self or others is unprofessional conduct. Mr. Riches stated that he does not recall that there has ever been a revocation of licensure, but some practitioners have decided to surrender their licenses. The enforcement program's approach is to get the practitioner supervision, get them in a rehabilitation program, and get them into therapy.

Ms. Riemersma stated that this has been visited in the past; it's been looked at the licensing boards' perspective, the associations and professional organizations perspective, and it's been before the board several times in the past. Prior boards came to the conclusion that there is not much that can be done on the board level other than through the disciplinary process. The profession organization considered coming up with a diversion program, and CAMFT came to the conclusion that it cannot do a diversion program because CAMFT handles it through their ethics process and the board handles it through its disciplinary process. It's difficult to separate it and handle it through a diversion program.

Mr. Riches stated that staff will report back to the board in August with an update.

XI. Ethical Decision Making for Regulators - Presentation by DCA Senior Staff Counsel Kristy Schieldge

Kristy Schieldge gave a presentation regarding ethical decision making for regulators as part of the DCA's efforts to promote good government practices. Ms. Schieldge discussed requirements for board members regarding ethics training Form 700 filing. Ms. Schieldge provided the Bagley-Keene Open Meeting Act to the board members and discussed the open meeting act's purpose and its requirements. Ms. Schieldge also discussed ethical decision making in disciplinary actions.

XII. Public Comment for Items Not on the Agenda

No public comments were made for items not on the agenda.

XIII. Suggestions for Future Agenda Items

No suggestions were made for future agenda items.

The board adjourned at 1:09 p.m.