

BOARD MEETING MINUTES May 6-7, 2010

Pepperdine University – Irvine Graduate Campus
Lakeshore Towers III
18111 Von Karman Ave, Rooms 324 & 326
Irvine, CA 92612

May 6, 2010

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Samara Ashley, Public Member
Jan Cone, LCSW Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Mona Foster, Public Member
Judy Johnson, LEP Member
Patricia Lock-Dawson, Public Member
Victor Perez, Public Member
Michael Webb, MFT Member
Christine Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
James Maynard, Legal Counsel
Marsha Gove, Examination Analyst
Rosanne Helms, Legislative Analyst

Members Absent

None

Guest List

On file

FULL BOARD OPEN SESSION

I. Introductions

Renee Lonner, Board Chair, called the meeting to order at 9:12 a.m.

Ms. Lonner expressed her thanks to Pepperdine University for providing the setting for the day's meeting, and to the members of the Pepperdine faculty and staff. In particular, Ms. Lonner thanked the Associate Dean, Dr. Robert Mayo, and Deans Margaret Webber and Kathleen Wenger. Ms. Lonner also thanked Pepperdine University for providing meeting accommodations at several sites for various MFT educator training sessions held throughout the state.

Marsha Gove called roll, and a quorum was established.

II. Approval of the January 23, 2010 Board Meeting Minutes

Harry Douglas moved to approve the board meeting minutes of January 23, 2010. Judy Johnson seconded. The board voted 11-0 to adopt the minutes.

III. Approval of the February 16, 2010 Board Meeting Minutes

Gordonna DiGiorgio moved to approve the board meeting minutes of February 16, 2010. Michael Webb seconded. The board voted 11-0 to adopt the minutes.

IV. Chairperson's Report

a. Introduction of New Board Member – Janice Cone, LCSW

Ms. Lonner announced the Governor's appointment of Janice Cone, LCSW, to the Board in March 2010. She touched briefly on Ms. Cone's background and experience, and asked Ms. Cone to speak about her current practice. Ms. Cone reported she is in practice in San Diego.

Ms. Lonner next announced it was the first board meeting for new member Christine Wietlisbach, Public Member. Ms. Wietlisbach reported she is an occupational therapist with a specialty in upper extremity rehabilitation. She is also on faculty at Loma Linda University.

Ms. Lonner welcomed both new board members.

Ms. Lonner noted that the day's meeting would be the last for Victor Perez, Public Member, due to the conclusion of his term. She thanked Mr. Perez for the contributions he has made during his tenure as a member of the Board.

Ms. Lonner commended the new members and others who had joined the Board in recent months for their input and overall performance as board members.

b. Upcoming Board and Committee Meeting Dates

Ms. Lonner announced the following committee and full-board meeting dates and locations for the remainder of 2010.

FULL BOARD

July 28-29, 2010	Sacramento, CA
November 4-5, 2010	Sacramento, CA

POLICY AND ADVOCACY COMMITTEE

June 7, 2010	Sacramento, CA
October 12, 2010	Sacramento, CA

LICENSING AND EXAM COMMITTEE

June 14, 2010 Sacramento, CA
September 13, 2010 Sacramento, CA

COMPLIANCE AND ENFORCEMENT COMMITTEE

June 25, 2010 Sacramento, CA
September 24, 2010 Sacramento, CA

Board Member Harry Douglas asked if the meeting scheduled in July was to coincide with a meeting involving other boards within the Department of Consumer Affairs (DCA). Kim Madsen, Executive Officer, confirmed that the two-day meeting of the full board scheduled July 28-29, 2010 would follow a one-day gathering during which DCA would provide a board member training and provide an opportunity for interaction between members of the various boards. The board members briefly discussed the July meeting schedule. Ms. Madsen encouraged the members to plan attending the DCA and Board meetings in July. She noted a presentation later on the agenda by Kimberly Kirchmeyer, Deputy Director, DCA, during which information about the July 27th meeting would be provided.

V. Executive Officer's Report

a. Budget Report

2009-2010 Fiscal Year

Ms. Madsen noted that, given the economic climate in California, both Governor Schwarzenegger and the State and Consumer Services Agency had requested a minimizing of expenses related to travel. This impacted the Board's scheduling of board and committee meetings and outreach events. Ms. Madsen emphasized that the work of the Board would continue; however, when determining participation in an event the location of and need for the function will be carefully evaluated.

Ms. Madsen stated that despite the above-referenced cutbacks, the Board anticipates a year-end balance of more than \$209,000 for Fiscal Year (FY) 2009/10. She also noted that a year-end balance of over \$3,000 was projected for the Mental Health Services (MHSA) program at the Board.

Ms. Madsen reported that in March 2010, a meeting was held with DCA and the various Executive Officers and Bureau Chiefs to discuss the Governor's Job Creation Program. DCA directed that any board or bureau experiencing a licensing backlog take steps to reduce the backlog fifty percent by June 30, 2010. Ms. Madsen noted the steps the Board was allowed to take to achieve that objective. She stated that a backlog of 580 applications had been identified, leaving the goal of 290 applications to be processed by the end of June. Ms. Madsen reported that to date the backlog had been reduced to 285 applications. She stated the majority of that balance pertained to applications that had been reviewed but found deficient in some way. She explained it is the applicant's responsibility to ensure the missing documentation

is submitted to the Board. Ms. Madsen commended staff for their efforts in reducing the backlog.

Ms. Madsen stated the Board will continue to evaluate all expenditures, including purchasing and travel.

2010-2011 Fiscal Year

Ms. Madsen reported that the Board's budget will increase significantly in the next fiscal year, due in large part to the addition of the new licensing program, Licensed Professional Clinical Counselor (LPCC). She also indicated that the Board's MHSA program would see a significant reduction in funding, resulting from both the loss of one-time funding from the Department of Mental Health (DMH), and reductions to the DMH budget.

It was further reported that a recent Executive Order (S-01-10) issued in January 2010 directed state agencies to reduce personal services expenditures in FY 2010/2011. Ms. Madsen outlined the steps the Board will take in its efforts to achieve the five percent savings required by the Governor's order. These steps include elimination of paid overtime, staggered recruitment and hiring of staff for the LPCC program, and delayed recruitment for any vacant staff positions. Ms. Madsen expressed that while the prospect of beginning a large program is generally overwhelming, the prospect of doing so at the same time program staff is being hired and trained is even more daunting. Nonetheless, she spoke highly of the work existing staff has completed to date on the LPCC program and others.

Ms. Madsen spoke briefly about the end of the fiscal year and the expectation that a state budget would not be signed and in place by July 1, 2010. She indicated board staff has taken steps to ensure sufficient supplies are available and work can continue smoothly during the period from July 1 until a new state budget is in place.

Ms. Madsen indicated that her report contained information about the Board's expenditures, for the board members' reference. She stated the report also contained information about the upcoming LPCC program, including anticipated revenues. Ms. Madsen briefly explained the projected decrease in LPCC revenue expected in FY 2011/12, as noted in the report.

Ms. Madsen concluded this portion of her presentation by stating that while economic recovery appears to be occurring in California, the process remains slow. She anticipates the Board, although self-funded, will continue to feel the impact of statewide budget issues for the foreseeable future.

Note was made of the reconfiguration of the Board's office space to support staff growth. Ms. Madsen reported that existing office space is insufficient to accommodate the additional expansion that will be required to house employees hired for the LPCC program. She spoke briefly about the likelihood that the Board's offices will be moving within the next several months.

Mr. Douglas asked for confirmation of the availability of funding to sustain the Board's move while still ensuring timely service and consumer protection. Ms. Madsen confirmed the move would not impede the performance of the Board's

mandated functions. She indicated that approval and funding for the LPCC program was expected, but added that the program would not be implemented absent the necessary funds.

b. Operations Report

Ms. Madsen referred the board members to the Operations Report, indicating the document was intended to provide an overview of the Board's programs and business practices. She made specific reference to the increases in processing times reflected in the report. Ms. Madsen noted that such increases are scrutinized carefully and often are taken as cause for concern. Ms. Madsen attributed the areas of upsurge, in part, to the impact of reduced hours of operation brought about by mandatory furloughs. She added that the holiday season and staff vacations at year end also serve to explain the minor increases in processing times.

Ms. Madsen announced that the current Operations Report included the first presentation of Enforcement Unit statistics using the performance measures being put forth by DCA, and which the Board supports and is working to implement. She summarized those standards as seeking to reduce the complaint processing and investigation times from the more than three-years reported by some agencies within DCA, to 12-18 months. Ms. Madsen reported that the time frame was from receipt of the complaint to final disposition of the matter. She commented that the statistical information would be included in board meeting packets, as well as reviewed by the Compliance and Enforcement Committee, on a regular basis.

Ms. Lonner asked if the enforcement data was reflective of the Board's efforts to obtain fingerprints from individuals licensed prior to 1992, when the existing requirement was implemented. Ms. Madsen responded that some of the increases, particularly in the area of arrests and convictions, were a direct result of the retroactive fingerprinting project. She indicated that an increase has also been seen in the number of new applications submitted by individuals with an arrest and/or conviction history. Whether or not Board action is warranted, cases present a workload that must be monitored.

Ms. Madsen added that all criminal history reports received from the Department of Justice (DOJ) are reviewed on a case-by-case basis to determine what Board action is appropriate. Ms. Lonner asked if an applicant's failure to disclose a criminal history on the application was considered automatic grounds for denial of the application. Ms. Madsen responded that while failure to make such disclosure does not always result in rejection of the application, it does warrant attention by the Board. She indicated that factors such as recentness and nature of the conviction are considered when determining how to proceed in such cases.

Mr. Perez asked if the Board had the discretion to not take action if the incident is considered remote. Ms. Madsen confirmed the Board's discretion. She explained that in such cases, not only is the nature of the crime taken into consideration, but also the individual's history from the date of the conviction to present.

Christina Thomas, Deputy Attorney General, Board Liaison, offered perspective from the Office of the Attorney General (AG). She spoke about the level of analysis, by both Board and AG staff, involved in taking disciplinary action based on conviction

history. Ms. Thomas touched briefly on other factors, such as subsequent arrest history, that are considered when determining the legal practicality and need for the disciplinary action. She commended Ms. Madsen and board enforcement staff for their dedication and the ongoing quality of their work.

Ms. Madsen commented that the goal of the retroactive fingerprinting project is to have a method of notification should a licensee continue to engage in inappropriate or illegal conduct.

Ms. Froistad asked for an explanation of the different categories reflected on the Enforcement Unit report. Ms. Madsen provided a brief description of each category and the meaning of the numbers therein. She repeatedly commended staff for their thoroughness and dedication while carrying a heavy workload and experiencing a shortened work schedule due to furloughs.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), asked Ms. Madsen for clarification about an earlier comment regarding completion of the renewal application; specifically, that few of the renewals received reflect a response to the question about conviction of a crime. Ms. Madsen qualified her statement, stating it was not her intent to convey inaccurate information regarding the renewal application. She explained that it is difficult to determine if a licensee withheld information from the Board prior to the inclusion of a question regarding arrest and conviction on the renewal form. Ms. Thomas and Ms. Madsen both commented on the licensee or applicant responsibility to be forthcoming about arrests and convictions. Ms. Thomas noted that while failure to answer the question on the renewal application does not generally constitute the sole grounds for disciplinary action, neither is it taken as trivial by the Board or the AG's office staff.

Referring back to the report, Ms. Madsen stated that the benchmark pertaining to the performance measures is the average length of time (in days) required to close a case. She reported that DCA has proposed a 12-18 month timeframe; the Board for the first quarter of 2010 took an average of 119 days. She offered her assurance that necessary steps would be taken in an effort to continue meeting the recommended standard.

Ms. Madsen made note of the efforts being put forth by the AG staff as well as the Division of Investigation (DOI) to reduce the length of time needed to complete disciplinary orders and investigations, respectively.

c. Personnel Update

Ms. Madsen presented information about various personnel changes that have occurred at the Board since January 1, 2010.

Ms. Lonner complimented Ms. Madsen and board staff for their continued hard work and professionalism. She welcomed new staff and offered congratulations to individuals who had been promoted.

VI. DCA Update – Kimberly Kirchmeyer, Deputy Director, Board and Bureau Relations

Kim Kirchmeyer, Deputy Director of Board and Bureau Relations, DCA, expressed her appreciation to the Board for the invitation to present at the meeting. She commended Board staff for the thorough statistical information provided to the department on an ongoing basis, and expressed appreciation for the responsiveness shown when data is requested. Ms. Kirchmeyer specifically complimented board staff Lynne Stiles and Sean O'Connor for the regular input and assistance each provides to DCA.

Ms. Kirchmeyer stated she was appearing before the Board on behalf of the DCA Director Brian Stiger to present an update on the Consumer Protection Enforcement Initiative (CPEI). She made reference to a presentation made at a previous meeting, during which she discussed CPEI and the goal of reducing the time from receipt of a complaint until disciplinary action is taken. She spoke of the three-pronged approach taken in addressing the challenge, which included Administrative Improvements, Staffing and IT Resources, and Legislative Changes. Ms. Kirchmeyer provided updates in each of those areas.

Administrative Improvements

Ms. Kirchmeyer reported the initiation of the Enforcement Academy on April 19, 2010. She noted that 80 participants from the various enforcement programs within DCA were involved in the academy at that time. She expressed DCA's enthusiasm about the program in that it provides both training and education in enforcement, as well as affording participants the opportunity to interact with and learn from enforcement staff from other boards and bureaus.

Next, Ms. Kirchmeyer spoke about the department's requirement that the various boards and bureaus within DCA submit enforcement statistics. She indicated data has been received by DCA and is being reviewed. Ms. Kirchmeyer stated that Paul Riches, Deputy Director, Enforcement and Compliance, has met with boards to review the statistics as well as improvement plans the offices have been required to provide.

Staffing and IT Resources

Ms. Kirchmeyer announced that the budget change proposal for additional staff for the healing arts boards was approved by the Assembly Budget Committee and had moved to the Senate Budget Committee. Ms. Kirchmeyer conveyed the department's anticipation that the proposal would continue to be approved. She explained that the budget change proposal was for 107 enforcement positions in the current fiscal year and 138 in the following fiscal year. The positions would be distributed among the various boards. Ms. Kirchmeyer also commented about steps being taken to obtain a vendor to move forward with the new IT project.

Ms. Kirchmeyer spoke about Senate Bill (SB) 1111, noting that the legislation was not approved through the Senate Business and Professions Committee. Nonetheless, the determination was made that many of the provisions in the legislation could be implemented through the regulatory process. She provided a list of the items the DCA legal office identified as possibly meeting this criteria, and asked that the Board place an item on its next Board Meeting agenda to further discuss the nine provisions. Ms. Kirchmeyer also requested that board staff meet with legal counsel to draft language that

could implement the provisions, if necessary. She conveyed DCA's commitment to work with the boards to make improvements to the enforcement process.

In response to a question about timelines for implementation of the suggested changes, Ms. Kirchmeyer expressed the anticipation that new regulations might be put in place within the next year. Ms. Madsen commented that information regarding the suggested regulatory changes had only recently been received by the Board, and no action had yet been taken. She confirmed the Board's willingness to review the suggested changes, but could not commit to taking on additional regulatory work pending approval and implementation of the current regulatory package pertaining to the LPCC program. Ms. Rhine explained that the LPCC regulations amend every section of the Board's existing regulations, and it is not permissible to have concurrent regulatory packages amending the same section of regulations. She noted that it would be acceptable to have discussions regarding the changes suggested by DCA, and draft language as appropriate.

Continuing Competency

Ms. Kirchmeyer acknowledged DCA's focus on improving the manner in which a complaint is addressed, but also spoke about the idea of ensuring consumer safety through competent practitioners. She announced there would be a speaker at the department's July 27, 2010 meeting, to present information regarding continuing competency. She commented about steps taken by other boards within DCA to implement continuing competency, and the reduction in complaints that was subsequently noted.

Ms. Kirchmeyer also discussed legislation pertaining to standards for substance abusing licensees. She reported that legal counsel had identified five items requiring legislation. She indicated that SB 1172 provides the legal authority to implement portions of the standards. She again asked the Board to move forward with regulation or policy decisions which would serve to actuate those standards.

In closing, Ms. Kirchmeyer spoke briefly about the Board Member training scheduled July 27, 2010. She encouraged board members to attend.

VII. Compliance and Enforcement Committee Report

Ms. Madsen reported that the newly formed committee conducted its first meeting on March 25, 2010. She provided an overview of the meeting and points of discussion. Ms. Madsen indicated that the purpose of the committee is to review the enforcement process; monitor the Board's progress in implementing and meeting the uniform standards introduced by DCA; address issues that impact consumers; and otherwise look for avenues to improve the existing enforcement process and continue the Board's consumer protection efforts.

a. Review and Discussion of Senate Bill 1111 (Negrete McLeod)

Ms. Madsen noted that the legislation was not successful in passing through the legislative approval process.

b. Update on the Substance Abuse Coordination Committee Uniform Standards

Ms. Madsen reported having met with DCA representatives to review and approve revised language in the proposed enforcement standards. She noted that one issue which resulted from the meeting pertained to the frequency of drug testing for probationers. She indicated the standard is currently written to require testing twice per week, or 104 tests per year, during the first year of probation. Subsequently, the testing requirement would be once weekly. She noted that the requirement conflicts with the premise of random testing that the Board has been following. Ms. Madsen reported that DCA Director Brian Stiger had appointed a CPEI subcommittee to review and make recommendations regarding resolution of the issue. She described the Board's concerns regarding the frequency of the requirement, as well as the costs associated with the testing.

Mr. Perez asked if a probationer's failure to take a required drug test resulted in the presumption of a failed or "dirty" test. Ms. Madsen responded that was not her understanding. She described the current process followed by the Board in notifying probationers of the need to test. Discussion occurred, with individuals raising concern regarding the feasibility and fairness of requiring such frequent testing. Ms. Kirchmeyer added that it was those types of concerns that led DCA to appoint the subcommittee to review this issue. Ms. Madsen reported that she is part of the group, and committed to relaying the Board's concerns to the subcommittee for consideration. Ms. Kirchmeyer informed Ms. Madsen and the Board that a contract should be in place by July 1, 2010, providing one vendor for use by all boards and bureaus within DCA when scheduling and conducting drug testing.

Mr. Douglas asked about the process of changing regulation and/or policy, and the board members' involvement in that process. Ms. Madsen made reference to the Board's Policy and Advocacy Committee, whose duty is to review and consider staff suggestions for regulatory and policy changes, and make recommendations to the full Board for action as appropriate. She stated that the Board is involved in changing regulations or policies by reviewing and making informed decisions regarding the suggested changes.

c. Enforcement Performance Measures

Ms. Madsen referred Board Members to her earlier presentation of the Operations Report, which contained information about the measures. Meeting participants commended Ms. Madsen on the clarity of the information presented in the Operations Report. Ms. Madsen responded that Board's former executive officer had espoused the idea of using statistics when evaluating the performance of a program. She voiced her support of that concept, noting the importance of Board Members having the information contained in the report.

The meeting was adjourned for a break at 10:30 a.m. and reconvened at 10:50 a.m.

VIII. Policy and Advocacy Committee Report

Tracy Rhine, Assistant Executive Officer, presented information on the following legislation:

a. Recommendation #1 – Oppose Assembly Bill 612 (Beall)

Ms. Rhine reported that this bill pertains to parental alienation. She noted that the term “parental alienation syndrome (PAS)” is used when speaking about a custody situation in which one parent has brainwashed the child against the other parent. She referred board members to information regarding PAS that is included in the meeting package. She explained that AB 612 prohibits the court in any child custody or visitation proceeding from relying on “unproven, unscientific theory by an expert witness or court appointed professional who has relied on an unproven, nonscientific theory,” including PAS.

Ms. Rhine commented that the Board had discussed the bill previously, and since that time the legislation had been amended so the language was no longer within the jurisdiction of the Board. As a result, the Board did not take a formal position on the bill. She added that there are currently methods in place to address PAS. She also spoke of the “Kelley/Frey” test, commonly used in the court system, which provides that the reliability and scientific basis of the evidence must be generally accepted. Ms. Rhine indicated that the concern is that passage of AB 612 would take away the court’s discretion.

The matter was then opened for discussion. Mary Riemersma, CAMFT, commented that AB 612 had been somewhat replaced by AB 2475. She noted that AB 2475 as written would eliminate judicial and quasi-judicial immunity for persons such as mediators and therapists. There is a possibility the bill will be amended further to include responsibility placed on the judicial council to provide greater oversight for individuals who conduct court-ordered evaluations and similar assessments. Ms. Riemersma indicated it was very unlikely that AB 612 would move forward because the issue has been included in AB 2475. She noted CAMFT’s concern with AB 2475 as currently written.

Ms. Lonner asked if, given the new information, Board action was still required to take a stance on the bill. Ms. Rhine noted the committee’s recommendation that the Board oppose AB 612. Ms. Rhine indicated that taking a formal position would be prudent as it would allow the Board’s opinion to be on record in the event the issue was brought up in future legislation.

Gordonna DiGiorgio moved that the Board adopt a position of oppose on Assembly Bill 612. Victor Perez seconded. The board voted unanimously (11-0) to pass the motion.

b. Recommendation #2 – Support Assembly Bill 1310 (Hernandez)

Ms. Rhine stated there is currently in place a workforce clearinghouse that receives data on workforce issues related to professionals in California. She reported that this legislation, which had come before the board previously, would require the board to obtain certain information regarding licensees and registrants and provide that data to the Health Care Workforce Clearinghouse.

Ms. Rhine indicated that since the last time the board had discussed the legislation, it had been amended to address concerns previously expressed by the board. She cited as examples of previous issues with the bill the manner in which the Board would have been required to receive the data. Ms. Rhine stated that the previous version of the legislation required that the information be obtained as a condition of renewal. She also noted another concern had been the timeline for implementation of the data collection. She reported that the amendments included an extension of that timeline.

Ms. Rhine stated there remain technological concerns pertaining to implementation of the legislation, due to the Board's current database. She reported that the Board currently collects much of the required data. She reviewed a list of changes to the existing system that would be necessary in order to comply with the provisions of the legislation. Ms. Rhine added that in terms of policy changes, there were no noted concerns with implementation of the bill.

A brief discussion followed regarding the need for particular data.

Patricia Lock-Dawson moved that the Board adopt a position of support on Assembly Bill 1310. Samara Ashley seconded. The board voted unanimously (11-0) to pass the motion.

c. Recommendation #3 – Support Assembly Bill 2028 (Hernandez)

Ms. Rhine reported the bill is one of several pertaining to Confidentiality of Medical Information: Disclosure, before the Board that day. She indicated that Board licensees are mandated reporters of child and elder abuse. She reviewed existing provisions of law that apply to release of information. AB 2028 would clarify that a psychotherapist is allowed to disclose information relevant to an incident of child or elder or dependent adult abuse, without complying with the written request provisions specified in current law. Ms. Rhine noted that the committee was recommending that the Board support the legislation.

The matter was opened for discussion. Mr. Perez expressed concerns that the bill would allow a therapist to release information beyond the parameters of the allegations of abuse being investigated. Ms. Rhine expressed her understanding that the legislation would apply only to the reported abuse. She indicated the bill was sponsored by CAMFT, and deferred to Ms. Riemersma for response.

Ms. Riemersma clarified that the release of information is permitted in current statute, which provides that a licensee may disclose additional information to the investigator of child or elder abuse allegations. AB 2028 recognizes that discretion in the Confidentiality of Medical Information Act, as well as exempts the requestor of

the information from having to comply with the written request requirement. The bill does not add anything to current law that is not already permitted.

Ms. Johnson confirmed that the legislation would bring statute into alignment with current requirements for credentialing of school personnel.

Mr. Perez asked if the therapist would be permitted to refuse to answer questions he or she believes are irrelevant to the matter under investigation. Ms. Riemersma confirmed that the mandated reporter would maintain the discretion to answer or decline to respond, as appropriate.

Renee Lonner moved that the Board adopt a position of support on Assembly Bill 2028. Gordonna DiGiorgio seconded. The board voted unanimously (11-0) to pass the motion.

d. Recommendation #4 – Consider Assembly Bill 2086 (Coto)

Ms. Rhine reported that this bill would require defined institutions to publish an internet address linking prospective students to the license examination passage rates for previous graduates of the program of interest. She noted that the legislation has been revised several times. Ms. Rhine reported that since the time the legislation was discussed by the Policy and Advocacy Committee, it has again been amended to address staff concerns related to language clarity and barriers to implementation. Previous issues were resolved, such as the manner in which the required information would be provided and who would be required to supply the data. Ms. Rhine reported that the Board currently provides the licensing examination pass rates, by school, on the BBS website; hence, AB 2086 would not impact staff workload.

Ms. Lonner opened the matter for discussion. Ms. Rhine confirmed that the legislation required the school to provide the data, as available. She reiterated that, due to current Board practices, the information is already provided by the Board and passage of the bill would not impose additional workload on board staff.

Victor Perez moved that the Board adopt a position of support on Assembly Bill 2086. Elise Froistad seconded. Seven (7) votes were received in support of the motion, and the motion carried.

e. Recommendation #5 – Oppose Assembly Bill 2167 (Nava)

Ms. Rhine stated the committee's recommendation of an oppose position on this bill. She explained that existing law requires applicants for licensure as a Clinical Social Worker (LCSW) to be tested by the Board. Applicants currently must successfully complete both a standard written examination and a clinical vignette examination. Ms. Rhine reported that AB 2167 would require an applicant to pass a national examination administered by the Association of Social Work Boards (ASWB), and a California law and ethics examination.

Ms. Rhine provided a brief history of the Board's use of the ASWB examination, from late 1991 through early 1999. She noted that use of the ASWB examination in California was discontinued when the Board and DCA Office of Examination Resources began having concerns about the test. Ms. Rhine reported that in 2007 ASWB approached the BBS and asked the Board to consider rejoining ASWB and using the national licensure examination. Subsequently, the Board contracted with Dr. Tracy Montez, Applied Measurement Services, to audit the ASWB test. In May 2008, Dr. Montez presented her findings to the Board. Her position at that time was that it would be inappropriate for the Board to offer the ASWB exam. Dr. Montez recommended that the Board continue administering the state-board-constructed standard written and clinical vignette examinations, and provided the Board with an outline of the issues she saw with the national examination.

Ms. Rhine reported that, since that time, the Board decided to look at restructuring the existing examination programs related to all licenses types regulated by the Board, including LCSW. The Board created the Exam Program Review Committee (EPRC). A series of public meetings was held throughout the state, beginning in 2008. Topics of discussion included use of the national examination for clinical social workers. Ms. Rhine noted that one incentive for use of the ASWB exam is the existence of a national loan repayment program that requires individuals to have completed the national examination in order to be eligible for the program.

Ms. Rhine reported that in early 2010, staff began working on a proposal to restructure the Board's existing examination programs. The framework proposal would include completion of a standard written examination and a law and ethics examination. At such time as the national examination meets the California standards for minimum competency, the existing structure would then allow for the replacement of the standard written examination with the national examination. She emphasized that although the Board has been working on this issue for quite a while, the need remains for the national licensing examination to meet the California standards for competency. At the time Dr. Montez presented the findings from her audit of the ASWB examination, it did not meet those standards.

AB 2167 was introduced in the legislature in early 2010. It requires the Board to administer the ASWB examination. Staff has worked with the sponsor, the author's office, and ASWB toward resolution of problems presented by the legislation. She reported that the Board has contracted with Dr. Montez to perform an audit of the changes ASWB has made in an attempt to address the Board's concerns.

Ms. Rhine stated the current version of the bill, which was amended after the last committee meeting, gives the Board the discretion to allow licensees to take the ASWB examination when it is determined that the exam meets California standards. She recommended that the Board take a support position on the bill, as amended since the April 9, 2010 Policy and Advocacy Committee meeting.

Discussion among board members continued.

Patricia Lock-Dawson asked about current examination requirements for California candidates. Ms. Rhine confirmed that applicants for licensure in California must currently pass state-constructed examinations. Ms. Lonner provided historical comment about the Board's previous use of the ASWB test.

Ms. Madsen clarified that at the time of the April 9 committee meeting the proposed amendments to the bill were discussed, but had not been officially integrated into the legislation. The committee could only take a position on the version of the legislation before them at that time; hence, the recommendation of oppose.

Rebecca Gonzales, NASW, spoke briefly about California LCSWs who expressed frustration at being unable to take advantage of the loan repayment program because of the many impediments faced in trying to take the national examination. She reported having worked closely with Dr. Montez and the Board in an effort to make the Board more comfortable with the legislation moving forward. She voiced the position that the legislation has been helpful in opening communication between the Board and ASWB in an effort to reach the goal of the bill, which is to participate in the national examination process.

Discussion continued. The issue was raised of how the legislation, as amended, would be of benefit to the Board. Ms. Rhine explained that the bill would give the Board authority to have the national and law and ethics examinations. Implementation of the national examination, when determined appropriate, would then involve the regulatory process as opposed to requiring new legislation.

Ben Caldwell, AAMFT, asked if it would be helpful to the Board to introduce new legislation, or amend AB 2167, to establish similar authority for the MFT examination. Ms. Rhine agreed that discussion of legislation would be helpful, if necessary. She noted that discussion about the restructuring of the Board's examination process was on the agenda for the next day's meeting. Ms. Rhine suggested that discussion of Dr. Caldwell's question be deferred until after presentation of the next day's agenda.

Patricia Lock-Dawson moved that the Board adopt a position of support on Assembly Bill 2167, as amended since the April 9, 2010 Policy and Advocacy Committee meeting. Judy Johnson seconded. The board voted unanimously (11-0) to pass the motion.

f. Recommendation #6 – Consider Assembly Bill 2229 (Brownley)

Ms. Rhine reported that the legislation would change the definition of a multidisciplinary personnel team. She explained that currently, multidisciplinary personnel teams are three or more individuals trained in the prevention, identification, and treatment of child abuse and neglect cases, and who are qualified to provide a broad range of services related to child abuse. Such teams may include Board licensees. AB 2229 would change the minimum number of individuals required to comprise a multidisciplinary personnel team from three to two. It also proposes to allow the disclosure and exchange of information by MDT members to occur telephonically or electronically.

Ms. Rhine noted that the Policy and Advocacy committee did not have sufficient time to review the latest amendments prior to its last meeting, and had not recommended a position on this bill.

Renee Lonner moved that the Board adopt a position of support on Assembly Bill 2229. Gordonna DiGiorgio seconded. Ten (10) votes were received in support of the motion, with two (2) abstentions. The motion passed.

g. Recommendation #7 – Support Assembly Bill 2339 (Smyth)

Ms. Rhine reported that the bill would allow a therapist in making a report of child suffering serious emotional damage to share information with an investigator and to also give information to the Department of Social Services. She explained that current child abuse reporting requirements are written in a way that mandate therapists to report known or reasonably suspected child abuse or neglect, but in cases involving serious emotional damage, the statute is permissive in that it allows but does not require that a report be made. Ms. Rhine stated that as a result, the disclosure of information in cases of emotional damage does not have the same immunities from liability. AB 2339 would provide mandated reporters with the same immunities when making a report of emotional abuse as when reporting child abuse.

Ms. Rhine noted that the legislation is sponsored by CAMFT. She made reference to a suggested amendment to the bill reflected in her analysis, but noted that the committee's recommendation was to support AB 2339.

Ms. Lock-Dawson asked if there have been cases where therapists have reported emotional abuse and have experienced negative repercussions as a result.

Ms. Thomas commented about cases she has known where the therapist was not careful in sharing such information. She added that licensees have been disciplined as a result of inappropriate disclosure of confidential information.

Ms. Riemersma provided background on the legislation. She indicated that the Child Abuse Neglect and Reporting Act had been amended significantly several years earlier. One amendment was to remove reference to emotional abuse. Subsequently, the statute was again amended and emotional damage was once more included in the statutes pertaining to child abuse, although in a different section of the law. She noted that the intent of AB 2339 was to ensure that therapists would know the same immunities when reporting emotional damage as when reporting any other type of child abuse or neglect.

Ms. Lonner commented about her experiences working with cases of child abuse. She stated that historically the law has been ambivalent about cases of emotional suffering as opposed to physical abuse. She expressed the belief that as a result therapists have been resistant to making reports of emotional abuse due to the lack of protection afforded by law. Ms. Riemersma agreed.

Discussion continued among meeting participants, and touched on various related issues such as the difference between mental abuse and severe emotional damage.

Patricia Lock-Dawson moved that the Board adopt a position of support on Assembly Bill 2339. Judy Johnson seconded. The board voted unanimously (11-0) to pass the motion.

h. Recommendation #8 – Support Assembly Bill 2380 (Lowenthal)

Ms. Rhine reported that the bill pertains to child abuse reporting. It would clarify the meaning of “reasonable suspicion” when used in the context of child abuse reporting. She referred board members to the bill analysis for the current legal definition of reasonable suspicion. AB 2380 would add more specificity to the definition when speaking of child abuse.

A discussion followed, with participants exchanging ideas about the appropriate venue for prospective therapists to learn about child abuse reporting requirements and the responsibilities of a mandated reporter.

Ms. Lock-Dawson asked how the Board disseminates information about legislative and regulatory updates that are pertinent to its licensees. Ms. Rhine responded that there is a law and ethics component in the educational programs leading to licensure by the Board, as well as a continuing education requirement for individuals who have not completed the required necessary coursework before becoming licensed. She added that the Board’s laws and regulations publication is updated annually and distributed to board members and other interested parties.

Discussion continued briefly.

Renee Lonner moved that the Board adopt a position of support on Assembly Bill 2380. Gordonna DiGiorgio seconded. The board voted unanimously (11-0) to pass the motion.

i. Recommendation #9 – Support Assembly Bill 2435 (Lowenthal) if amended

Ms. Rhine reported that this legislation would require licensees to have training in assessment and reporting of elder and dependent adult abuse and neglect. She commented that board licensees currently are required to complete coursework and training in the areas of long-term care and aging. Current licensing law does not contain a similar requirement pertaining to elder and dependent adult abuse. AB 2435 would require licensees to receive, as necessary, instruction in assessment and reporting of elder and dependent adult abuse and neglect.

Ms. Rhine noted that the amendment which was requested by the committee was to clarify when candidates for LPCC licensure would be required to complete coursework in assessment and reporting of elder and dependent adult abuse and neglect. She noted that AB 2435 contains a delayed implementation provision, as does the new LPCC statute. Ms. Rhine commented that the requested amendment is technical in nature and would serve to reduce confusion about the requirement for completion of the coursework and training.

Ben Caldwell, AAMFT, voiced the association’s support of the legislation, as well as the amendments proposed by the Board.

Gordonna DiGiorgio moved that the Board adopt a position of support on Assembly Bill 2435, if amended. Renee Lonner seconded. The board voted unanimously (11-0) to pass the motion.

The Board adjourned for a lunch break at 12:00 p.m., and reconvened at approximately 1:15 p.m.

j. Recommendation #10 – Oppose Senate Bill 389 (Negrete McLeod)

Ms. Rhine reported that the legislation pertains to submission of fingerprints. She provided a brief history of the bill for new board members. Ms. Rhine reported the Board had previously chosen to oppose the legislation unless amended to address various concerns expressed by the Board. She indicated that technical amendments had since been made to the bill, but those amendments did not speak to the Board's concerns.

Ms. Rhine reported that SB 389 would require all licensees who have not been previously fingerprinted by the Department of Justice (DOJ) to submit electronic fingerprints. SB 389 was written to address the fingerprint issues for all boards and bureaus within the Department of Consumer Affairs.

Ms. Rhine noted that the Board has taken steps to pass regulations specific to fingerprinting of its licensees, with those regulations becoming effective June 2009. She explained the Board began requiring submission of electronic fingerprints in approximately 1992, one benefit of the requirement being notification to the Board of any subsequent arrests involving licensees fingerprinted with DOJ. However, subsequent arrest information could not be obtained for individuals who had become licensed prior to that time. Ms. Rhine reported that since June 2009, the Board has been retroactively fingerprinting licensees who did not have electronic fingerprints on file with DOJ.

The concern with SB 389 is that it would negate the board's efforts to date with respect to fingerprinting. Ms. Rhine outlined the various ways the bill would adversely impact board licensees, prospective licensees, and staff. She expressed the understanding that retroactive fingerprinting of licensees would be completed in 2011, likely before SB 389 has completed the legislative process.

Ms. Rhine noted that the Board was requesting to be exempted from the provisions of the legislation. She reported working with the Senate Business and Professions Committee and the author's office on the bill, and indicated both are clear about the Board's concerns with the bill as written. She expressed the belief that the legislation would be amended, but asked the Board to reaffirm their previous position of opposing the bill unless amended.

Gordonna DiGiorgio moved that the Board adopt a position of oppose on Senate Bill 389, unless amended to exempt the Board of Behavioral Sciences. Elise Froistad seconded. The board voted unanimously (11-0) to pass the motion.

k. Recommendation #11 – Consider Senate Bill 543 (Leno)

Ms. Rhine noted that the Board had previously discussed this legislation relating to a minor's ability to consent to mental health treatment, and taken a position of oppose at that time. She reported that although the bill has since been amended, those changes did not address the Board's earlier concerns.

Current law stipulates that a minor who is 12 years of age or older may consent to mental health services if the minor is mature enough to participate intelligently in the counseling services, and is either an alleged victim of incest or child abuse, or would present a danger to self or others if treatment was not received. Ms. Rhine explained that SB 389 would change the law to allow a minor 12 -17 years of age to participate in counseling without parental consent if, in the opinion of the attending professional person, the minor is mature enough to participate intelligently in that treatment. She summarized the impact of the bill as expanding the population of individuals who would be eligible for services without parental consent.

Ms. Rhine reported that previous board discussion regarding this issue centered mostly on parental rights and how those rights would be impacted by the bill. She indicated that, per the bill's author, the concern is that parental consent for mental health services can create a barrier to services for minors who may not be experiencing physical or mental harm, but who might resist seeking services due to the need for parental approval. Lesbian, gay, bisexual and transgender (LGBT) youth were identified as one such population, as were youth with a violent parent. Ms. Rhine noted that of previous concern to the Board was the bill's lack of specificity in that it allows any minor 12 – 17 years of age to consent for services.

Ms. Rhine closed by reiterating that the bill had been amended since it was discussed previously by the Board. Changes have been made which address the Board's concerns in part, but not completely.

The matter was opened for discussion. Ms. Johnson expressed concerns about the need for the legislation. She described in general terms the norm when a minor seeks counseling services in a school setting. She explained that others, including the student's parents, may ultimately be involved in addressing the minor's concerns, affording the minor a community of supporters. Ms. Johnson expressed concern about the effects of SB 543 upon both the minor and parental rights.

Ms. Riemersma noted that existing law, which would not be changed, encourages parental involvement unless determined inappropriate by the treating professional. She added that documentation is required in the client's record as to why parental involvement was deemed improper. Ms. Rhine confirmed that SB 543 retained that language.

Discussion continued, and included topics such as financial responsibility. Ms. Rhine responded that the legislation contains a provision that the parent is not liable for services that do not involve the parent. She clarified that this meant the parent was not financially responsible for the cost of services to which he or she did not consent.

Rebecca Gonzales, NASW, noted that one reason the bill has not moved forward is because the Appropriations Committee had been concerned about the issue of funding. She also commented that students may not feel comfortable availing themselves of treatment in a school setting, depending upon the reason for seeking counseling services.

Dr. Caldwell commented with respect to the issue of financial responsibility, citing the availability of a sliding scale at many of the clinics or agencies where youth might seek services. He also added AAMFT - CA to the list of supporters of SB 543.

Mr. Webb commented that when reviewed at committee level, concern was expressed as to the breadth of the legislation with respect to consumer protection, particularly parental rights. Mr. Webb stated his concerns about the law in terms of consumer protection for the minor, and noted his unease at the potential for the minor to be impacted inappropriately absent parental or family involvement.

Ms. Riemersma expressed the position, personally and on behalf of CAMFT, that there needs to be a way for children to seek services. She commented that there are professionals trained in family systems and that seeing a minor alone as a client does not serve to remove the youth from that system. She added that clinicians should have the training and resources available to know when a situation is outside his or her expertise and warrants referral or consultation. Ms. Riemersma noted that often services may be provided by interns or associates who are under the direction and supervision of fully licensed practitioners, all of whom can be expected to have the minor's best interest as the priority. She commented that those practitioners would know when it was appropriate to involve the parents or family in the minor's treatment. She expressed the position that although SB 543 may have flaws and opponents, it is helpful for the population in question.

Discussion continued. Dr. Caldwell echoed Ms. Riemersma's comments. Ms. Lonner, speaking as a committee member, restated that the group's concern with the breadth of the proposed legislation. Ms. Gonzales commented that the intent of the bill was to be able to assist the minor client before the situation becomes urgent. Mr. Webb also reiterated his concern with the range of the bill. Ms. Lock-Dawson asked for examples of how the legislation could be harmful to the minor. Mr. Webb responded with various sample scenarios. Ms. Lock-Dawson asked about provisions regarding parental involvement. Ms. Rhine responded that the assumption is that parental involvement will be part of the process unless deemed inappropriate by the health professional. She noted the legislation under review had previously been amended, and was improved. She commented that the previous version had assumed parents would not be involved at all; the version at hand assumes there will be parental involvement in treatment in most cases.

Discussion continued among meeting participants. Input was offered from the perspectives of educators, clinicians, and parents. The question was raised about the need for the legislation if the types of services being afforded by the bill are already available to minors through existing law.

In response to comment from Mr. Douglas, Ms. Rhine stated that the Board was not required to take a formal position on the legislation. She noted that although the Board had previously taken a position of oppose, the decision had not been

unanimous. She acknowledged the contentious quality of the issues raised by the legislation. Further discussion ensued.

Patricia Lock-Dawson moved that the Board not take a position on Senate Bill 543. Harry Douglas seconded. Seven (7) votes were received in support of the motion; two (2) votes in opposition; and three (3) abstentions. The motion passed.

I. Recommendation #12 – Consider Senate Bill 1282 (Steinberg)

Ms. Rhine reported that the bill creates the California Behavioral Certification Organization (CBCO), a nonprofit organization for the sole purpose of certifying individuals who provide applied behavioral analysis (ABA). She noted a point of interest about the legislation is that it creates a framework for certification of the practice of ABA, but does not serve to regulate that practice. Ms. Rhine summarized SB 1282 as affording certification allowing qualified individuals to refer to themselves as a Behavior Analysis Professional and engage in the practice of applied behavioral analysis. She emphasized that the legislation prohibits uncertified individuals from using the title Behavior Analysis Professional, but does not prohibit uncertified individuals from engaging in such practice.

Ms. Rhine stated there is currently a national non-profit agency that provides certification for individuals who provide ABA services.

Ms. Rhine reported that upon review of the bill by the committee, no position was taken on the legislation. She commented that the impact of the legislation on Board licensees is negligible. She stated that a concern with the bill was the potential for confusion to the consumer by allowing an individual to advertise themselves as being “California-certified” when the certifying entity is not a state-government agency. She stated there is generally a certain level of expectation for consumers when a profession is regulated by the government. Ms. Rhine noted that although the legislation would establish disciplinary provisions for the CBCO for its certificate holders, the State would have no control or responsibility for such discipline. She added that since the committee’s review of the bill, amendments have been made which include a provision prohibiting an individual from indicating they are “state-certified.” Ms. Rhine was unclear as to whether the change was sufficient to ensure consumer protection.

Ms. DiGiorgio commented that upon review by the committee, the need for the bill was questioned. Ms. Rhine restated that the legislation would only serve to afford title protection to the individuals in California who obtain certification as a provider of ABA. Discussion continued briefly. Ms. Riemersma shared her organization’s concerns with the legislation. She reported concerns with the bill had been communicated to the author, and a meeting was scheduled with stakeholders in an attempt to address those issues.

A marriage and family therapist in the audience provided input regarding her experiences obtaining ABA services as the parent of a child with severe Autism. She provided a brief history of the treatment of her son by unlicensed providers of ABA, and of the progress her son has experienced since being under the care of a

licensed professional. She expressed strong opposition to SB 1282 and to the concept of allowing unregulated individuals to provide ABA. A second audience member also provided input as a parent, sharing her concerns with the legislation and echoing many of the sentiments expressed by the previous speaker.

Ms. Lonner expressed appreciation to the two speakers for the assistance provided to the Board through their presentations.

Patricia Lock-Dawson moved that the Board adopt a position of oppose on Senate Bill 1282. Jan Cone seconded. The board voted unanimously (11-0) to pass the motion.

m. Recommendation #13 – Sponsor Amendments to Assembly Bill 2191 (Emmerson)

Ms. Rhine reported that the bill pertains to retired license status for Board licensees. She described the intent of the legislation, and provided a brief recap of the bill's background. Ms. Rhine delineated the proposed amendments to AB 2191 presented for Board consideration. She confirmed that the amendments reflected input received from the Board at a previous meeting, as well as subsequent discussions between Ms. Rhine and the Legislature to address other issues pertinent to the bill. An audience member asked if individuals who re-entered the workforce after retiring their license would be required to practice under supervision. Ms. Rhine responded that no supervision would be required. She indicated that AB 2191 had been drafted to be consistent with the requirements pertaining to inactive licenses and the steps that must be taken when moving a license from inactive to active status, including compliance with the continuing education (CE) requirement.

Ms. Madsen added that the bill was in response to requests from licensees who are not practicing and but want to retain the license. Board licensees retiring from practice previously have only had the option of putting the license in an inactive status. Ms. Madsen noted that the issue of a retired license came up recently when the Board began the retroactive fingerprinting of licensees. Many licensees holding an inactive license questioned the need for submission of the fingerprints since the individuals had no intention of returning to practice. Ms. Madsen described the maintenance of the license as a source of professional pride for licensees. She stated it was in response to those concerns that the legislation was pursued.

Upon request, Ms. Rhine explained that the CE requirement is thirty-six (36) hours per renewal period. She clarified that individuals moving from inactive to active status are currently required to complete a total of 36 hours of CE. She also confirmed that current law requires completion of CE coursework in law and ethics for each renewal cycle.

Ms. Rhine also provided clarification regarding the amendments that were being recommended to the Board, and how those changes were reflected in the legislation. James Maynard, the Board's legal counsel, provided additional clarification regarding the manner of presenting amendments in legislation as it moves through the process.

Renee Lonner moved that the Board direct staff to make the proposed amendments to Assembly Bill 2191. Gordonna DiGiorgio seconded. The board voted unanimously (11-0) to pass the motion.

The meeting was adjourned for a break at approximately 2:30 p.m. and reconvened at approximately 2:45 p.m.

n. Recommendation #14 – Initiate Rulemaking for Implementation of Senate Bill 788 (Wyland) Establishing Licensed Professional Clinical Counselors

Ms. Rhine opened by clarifying that the information before the Board is actually two concurrent rulemaking packages that were combined; she provided a brief explanation of the need to join the two. Ms. Rhine indicated that the information currently before the Board includes the proposed LPCC regulations and the proposed LEP regulations pertaining to continuing education (CE).

Ms. Rhine outlined the changes to the proposed LEP CE regulations, and the matter was opened for discussion. Ms. Johnson voiced her support of the CE requirement, speaking as a licensee. Mr. Webb asked about the LEP scope of practice. Ms. Johnson spoke about the scope of the LEP license, and included examples of presenting problems that would be within or outside that scope of practice. Discussion ensued.

Ms. Rhine then spoke about the LPCC regulations. She noted that the Policy and Advocacy Committee had reviewed the original rulemaking package at its April 9, 2010 meeting. She referred board members to her report for a list changes that had been made to the rulemaking proposal since it was discussed by the committee. Ms. Rhine reviewed each change for the Board and provided an explanation of the basis for the changes.

Ms. Rhine referred to questions in her report requiring policy discussion by the full Board.

The first question concerned LPCC eligibility to supervise registrants pursuing other BBS-regulated mental health licenses (Title 16, CCR Sections 1833.1 and 1874). Ms. Rhine noted that current law allows an MFT to supervise an associate clinical social worker (ASW), or an LCSW to supervise an MFT intern. She reported that the LPCC regulatory language was written to include LPCCs as acceptable supervisors for interns and associates. She opened the topic for discussion.

Ms. Froistad asked about any limitations that might be imposed as to the number of hours of supervision an individual could obtain from an LPCC. Ms. Rhine responded that it appeared such limitations could be restrictive to candidates seeking supervision; therefore, no restrictions were included in the proposed regulations. She clarified that the proposed language also addressed the issue of supervision of LPCC candidates by MFTs or LCSWs.

Mr. Douglas asked about special education or training required of supervisors. Ms. Rhine noted that the proposed language is consistent with existing regulations pertaining to other professions regulated by the Board.

Ms. Rhine moved to the next question regarding the appropriateness of requiring an LPCC intern to complete a supervisory plan (Title 16, CCR Section 1822). She explained that current law requires submission of a plan by ASWs. No such requirement is made of MFT interns. She noted that the requirement was supported by board evaluators who review applications for licensure.

Dr. Caldwell asked about reference to Section 4999.12 of the Business and Professions Code included in the proposed regulations; specifically, does the section of law apply to MFTs. Ms Rhine confirmed that the cited statute does pertain to MFTs when supervising LPCC candidates. Discussion followed regarding revisions to the proposed regulations regarding submission of the supervisory plan. Ms. Riemersma asked about the section of law that authorizes the Board to require a supervisory plan. Mr. Maynard responded with the general section of statute allowing the Board to implement provisions of the law by regulation. The question was raised regarding the need for the requirement of a supervisory plan for LPCCs if no such requirement was made of MFTs. Ms. Riemersma provided historical input. Lengthy discussion continued regarding the benefit of requiring submission of a supervisory plan by LPCC candidates.

Ms. Rhine commented that in order to have the LPCC regulations in place by the January 1, 2011 deadline, it was critical that Board approval of the proposal be obtained that day. She provided a summary description of the rulemaking process, including the public comment period. Following the public comment period, changes can be made to the text of the regulations, before final submission to the Office of Administrative Law. Ms. Rhine stated she would make note of the various concerns raised by the Board, and would include those issues for more in-depth discussion by the Policy and Advocacy Committee.

Ms. Riemersma asked if there might be an audience member who has served in the capacity of supervisor, who could possibly provide input regarding the value of the supervisory plan. One individual spoke about her experiences as a supervisor and expressed uncertainty about the need for the plan. Ms. Madsen offered to research the history of the requirement and provide information, as available, to the Board. Another individual commented about keeping the requirements the same for all license types.

Next, Ms. Rhine raised the issue of the definition of “community mental health setting” (Title 16, CCR Section 1820). She referred to language staff had developed in an attempt to define the term. The issue was opened for discussion.

Dean Porter, CCCL, provided history. She noted that at the request of the California Psychiatric Association, LPCCs will be required to gain 150 hours of clinical experience in a hospital or community health setting as part of the required internship. She explained that the desire was for LPCC candidates to work with psychopharmacology patients and to see the effects of medication, when necessary. Ms. Rhine asked Ms. Porter’s opinion about the drafted language. Ms. Riemersma suggested including language recognizing licensed health facilities. Discussion followed.

Ms. Rhine then asked if meeting participants had noted any other areas of concern not previously discussed.

Dr. Caldwell raised the question of whether interns and trainees would be allowed to count hours of experience toward multiple licenses at the same time. Ms. Rhine responded that the issue had been discussed at the staff level. She encouraged discussion of the topic at the committee level. Ms. Rhine explained that unless the Board intends to impose limitations, no language is required in the regulations.

Ms. Riemersma noted that with respect to the dual-track MFT/LCSW candidate, historically no attempts have been made to limit hours insofar as they crossed over. Dr. Caldwell encouraged further discussion of the issue. Ms. Rhine confirmed the plan to include this subject as an agenda item for discussion at the June 7 Policy and Advocacy Committee meeting.

Dr. Caldwell also expressed concern about the Board's agenda for the following day, specifically, the Board's apparent intent to review in closed session and possibly take action on a report by psychometrician Tracy Montez. Dr. Caldwell's concerns, voiced on behalf of AAMFT, were that action would be taken with no opportunity for public comment. Ms. Madsen explained that the closed session was scheduled to allow Dr. Montez opportunity to share information with the Board that could not be publicly disclosed based on an agreement between Dr. Montez and the national licensing agency for LPCCs. Ms. Madsen emphasized that no decisions would be made during closed session. Any decisions made regarding the LPCC gap analysis would be reached in a public forum and with input from the public. Dr. Caldwell expressed his appreciation for the clarification.

Jan Cone moved that the Board direct staff to take all steps necessary to initiate the formal rulemaking process, authorize the Executive Officer to make any non-substantive changes to the rulemaking package, and set the proposed regulations for hearing. Michael Webb seconded. The board voted unanimously (11-0) to pass the motion.

o. Recommendation #15 – Sponsor Amendments to Assembly Bill 1489 (Committee on Business, Professions, and Economic Development)

Ms. Rhine reported that AB 1489, the Board's Omnibus bill, is progressing. She noted that most of the amendments before the Board at that time had been discussed by the committee at its April meeting. Ms. Rhine reviewed each item individually. No input was received from meeting participants on any of the amendments except as pertain to the Marriage and Family Therapist Practicum Requirement.

Ms. Rhine reported that in 2009, legislation was passed (SB 33) resulting in significant changes to the educational requirements for MFT licensure. One of the changes would require a student who is in an educational program after 2012 to be involved in a practicum course while counseling clients. Ms. Rhine reviewed concerns with this provision that had been brought to the Board's attention. She referred board members to three suggested options for resolution of the concerns.

Dr. Caldwell expressed various concerns with the options. He noted that two of the options failed to address the issue of breaks between semesters. Dr. Caldwell expressed additional concerns, and offered suggested amendments to the language to address all of the noted concerns. Discussion followed among meeting participants.

Ms. Riemersma asked for background on the need for a change of statute, stating she was unaware of problems with the previous law. She supported the idea of identifying any problem that may have existed with the previous statute, and correcting that problem. Absent any such problems, she advocated keeping the law as it was previously. She expressed concern with the repercussions that could be felt if restrictions were imposed on a trainee's ability to provide counseling services.

Ms. Rhine clarified that staff was attempting to correct a discrepancy in current law. She explained that the practicum requirement to counsel clients is in existing statute, and the issue at hand was an attempt to correct the problem. She expressed her understanding of the issues raised by Ms. Riemersma. She also explained that when working on the overall restructuring of the MFT educational requirements, the original thought was to increase the number of hours of practicum. After much discussion, the result was to require individuals to continue being in practicum versus increasing the required number of units to be completed.

Ms. Rhine stated that the intent of the proposed amendments before the Board is to resolve the implementation issues with the current law, as identified in her report, and ensure continuity of client care during periods when school is not in session.

Discussion regarding the various options continued. Ms. Riemersma and Dr. Caldwell continued to express concern, with Dr. Caldwell encouraging the Board to make needed regulatory or statutory changes to address the issue.

The group discussed the three options, and reached consensus that Option 1, with some modification, would be most appropriate. Meeting participants then discussed the possible changes to Option 1, specifically the length of time a student would be allowed to provide client care absent concurrent enrollment in a practicum course.

Renee Lonner moved that the Board direct staff to make all recommended amendments to AB 1489 except as pertain to MFT practicum. Victor Perez seconded. The board voted unanimously (11-0) to pass the motion.

Renee Lonner moved to direct staff to draft language using Option 1 from Ms. Rhine's report to allow for breaks of forty-five (45) calendar days or less. Elise Froistad seconded. The board voted unanimously (11-0) to pass the motion.

p. Rulemaking Update

Ms. Rhine noted that the information presented to the Board was for information and reference. No discussion was held or action taken.

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

Ms. Rhine reported on two pieces of legislation that were not previously under the purview of the Board, and had therefore not been reviewed by the Policy and Advocacy committee at its April 2010 meeting. Both bills have been amended since that time, and now fall within the jurisdiction of the Board.

AB 2699 (Bass) – Roseanne Helms, Board Legislative Analyst, reported the bill would allow healing arts licensees licensed in another state to practice in California under very specific circumstances. Ms. Helms outlined those circumstances, and provided background to AB 2699. She cited staff concerns about the legislation, most significantly the intent of the bill, which is to provide medical, dental, and vision services to individuals lacking necessary insurance. Given that board licensees do not provide those basic services, it was suggested that the scope of the bill be narrowed to include only medical, dental, and vision providers.

Ms. Riemersma commented that existing laws allow unlicensed individuals or individuals licensed in another state to provide services in California in a non-profit or exempt setting, with no licensure or regulation.

Victor Perez moved that the Board adopt a position of oppose on Assembly Bill 2699, unless amended. Samara Ashley seconded. The board voted unanimously (11-0) to pass the motion.

SB 1172 (Negrete McLeod) – Ms. Rhine reported that the bill would implement some of the standards in the DCA Uniform Standard Guidelines relating to substance abuse by licensees. The legislation, as relates to the Board, would mandate that a licensee be ordered to cease practice if a licensee tests positive for any substance as prohibited under the terms of his or her probation. The bill would also authorize the Board to promulgate regulations allowing the Board to order a licensee to cease practice for any major violation of probation, or if the licensee has been ordered by the Board to undergo clinical diagnostic evaluation.

Ms. Rhine noted that the bill had been amended shortly before the meeting. She expressed that the policy question before the Board that day pertained to the requirement that licensees be ordered to cease practice based upon a positive drug test. She again noted that the requirement was consistent with the DCA Uniform Standard Guidelines, which Ms. Kirchmeyer confirmed. Discussion followed pertaining to the probationer's right to appeal the order, and due process rights in general.

Jan Cone moved that the Board adopt a position of support on Senate Bill 1172. Victor Perez seconded. The board voted unanimously (11-0) to pass the motion.

X. Public Comment for Items Not on the Agenda

No public comment was offered.

XI. Suggestions for Future Agenda Items

Discussion of possible legislation to limit the use of Applied Behavioral Analysis to properly trained individuals.

The meeting adjourned at approximately 5:00 p.m.

May 7, 2010

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Samara Ashley, Public Member
Jan Cone, LCSW Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Mona Foster, Public Member
Judy Johnson, LEP Member
Patricia Lock-Dawson, Public Member
Victor Perez, Public Member
Michael Webb, MFT Member
Christina Wietlisbach, Public Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
James Maynard, Legal Counsel
Marsha Gove, Examination Analyst
Roseanne Helms, Legislative Analyst

Members Absent

None

Guest List

On file

FULL BOARD CLOSED SESSION – Call to Order and Establishment of Quorum

XII. Pursuant to Government Code Section 11126(c)(1) Regarding Possible Development and Administration of a Licensing Examination on the Differences Between the Practice of Licensed Marriage and Family Therapists and Licensed Professional Clinical Counselors and the Practice of Licensed Clinical Social Workers and Licensed Professional Clinical Counselors

XIII. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

The Board discussed and took action on disciplinary matters.

The full board closed session ended at approximately 10:30 a.m.

FULL BOARD OPEN SESSION

Marsha Gove called roll, and a quorum was established.

XIV. Licensing and Examination Committee Report

Ms. Froistad reported that the Licensing and Examination Committee was formerly called the Examination Program Review Committee. The group was charged with reviewing the current examination plan. Meetings were held to hear stakeholder concerns. Additionally, Dr. Montez educated the Board in the development and review of licensing examinations.

a. Progress Report on the Licensed Professional Clinical Counselor Gap Analysis Project – Presented by Dr. Tracy Montez

Dr. Montez reported that the first phase of the study was to review the Licensed Professional Clinical Counselor profession as compared to the Licensed Clinical Social Worker and Marriage and Family Therapy professions. The analysis would determine if sufficient differences exist between the professions to warrant an additional examination for those MFTs and LCSWs wanting to be grand parented into the LPCC license.

Dr. Montez summarized her actions in conducting the review of the professions. As a result of the study, it was Dr. Montez' recommendation that the Board not adopt an examination requirement for LCSWs and MFTs who want to obtain licensure as an LPCC as long as the education and training requirements are met and the counselors adhere to their scope of practice as outlined in the Board's statutes.

Dr. Caldwell asked Dr. Montez why she referred to the national LPCC examination as a certification examination as opposed to a licensure examination. Dr. Montez responded that the NEC examination is referred to as a certification examination. She explained that there are national standards that should be met to be a counselor. A wide range of competencies has been identified for testing. Each state then makes the determination if the examination meets the state's specific needs for a licensure test.

A discussion continued between Dr. Caldwell and Dr. Montez. Dr. Caldwell asked why the recommendation was made not to adopt a separate test for use during the grand parenting period, if the professions were found to be unique. Dr. Montez explained her findings and the factors she took into consideration in reaching those conclusions. Discussion continued involving various meeting participants.

Victor Perez moved that the Board accept Dr. Tracy Montez' recommendation that the Board not offer an examination to cover the Gap for candidates who apply for LPCC licensure under the grand parenting clause. Elise Froistad seconded. The board voted unanimously (11-0) to pass the motion.

b. Discussion and Possible Action Regarding Revising the Board's Examination Program

Ms. Rhine referenced the committee meetings previously discussed by Ms. Froistad. She indicated that one outcome of the meetings was to direct staff to draft a proposal to restructure all of the exam processes under the Board's jurisdiction. The initial

discussion of the proposal occurred at the January 23, 2010 Board meeting with staff subsequently reworking the proposal based on input obtained at that meeting. The amended proposal was reviewed again by the committee at its December 2009 meeting, and the recommendation was made that the Board direct staff to draft language and initiate Board-sponsored legislation.

Ms. Rhine reviewed the modified proposal, which included previously identified concerns and proposed solutions to those concerns. In summary, registrants would be required to complete an examination in law and ethics during the first year of registration in order to renew the registration. If the individual is not successful in passing the test, a remedial course in law and ethics would be required in order to be eligible to retake the examination. Ms. Rhine emphasized that renewal of the registration would not be contingent upon passing the law and ethics examination, but rather completion of the test. If the individual does not pass the test by the end of the third year of registration, the registration would be cancelled and the individual would be required to pass the examination in order to obtain a new registration number.

Ms. Rhine reported that the restructuring proposal also includes a new Standard Written Examination. She explained that currently, candidates are required to take and pass a standard written examination in order to be eligible to sit for a clinical vignette examination. With the new proposal, individuals who do not pass the law and ethics examination would nonetheless be allowed to complete the standard written examination. Ms. Rhine outlined the requirements pertaining to passage of the law and ethics test.

Ms. Rhine also spoke about calculation of the “six year rule” pertaining to examination eligibility. She reviewed the new proposal as pertains to this requirement. She also provided a breakdown of how the change would impact the various populations involved in qualifying for or completing the examination.

The discussion that followed touched on various issues including the proposal to offer non-sequential examinations. Dr. Montez suggested that the Board maintain the sequential nature of the current examination program. Ms. Riemersma suggested the matter again be discussed by the committee in an effort to address and resolve the various points of concern. Ms. Lonner asked about any pending timelines that would impact the Board’s ability to refer the matter back for additional committee discussion. Ms. Rhine and Ms. Madsen confirmed no such due dates were involved. A brief discussion followed.

Renee Lonner moved that the restructuring proposal be referred back to the committee for further discussion and consideration of the points of concern. Michael Webb seconded. The board voted unanimously (11-0) to pass the motion.

XV. Discussion and Possible Action Regarding Modifications of Rulemaking Package Related to Continuing Education Requirements: Licensed Educational Psychologists, Exceptions and Providers

This item was discussed in the previous day’s proceedings.

XVI. Review and Possible Action of Strategic Plan

Ms. Madsen provided an update of the strategic plan. She noted events that have impacted the plan since it was approved in 2007. Ms. Madsen presented proposed revisions to the Strategic Plan necessitated by those events, and also made note of goals that had been reached and other significant accomplishments to date. A brief discussion followed regarding the history of some of the goals in the plan. The Board's role in the achievement of those goals was also discussed.

Judy Johnson moved to accept the strategic plan with amendments to sections 3.2 and 3.3 extending the date of completion for both sections to July 1, 2013. Christine Wietlisbach seconded. The board voted unanimously (11-0) to pass the motion.

XVII. Election of Board Officers for 2010-2011

Gordonna DiGiorgio moved to nominate Renee Lonner as Chair of the Board. Patricia Lock-Dawson seconded. The board voted unanimously (11-0) to pass the motion.

Renee Lonner moved to nominate Elise Froistad as Vice-Chair of the Board. Judy Johnson seconded. The board voted unanimously (11-0) to pass the motion.

XVIII. Public Comments for Items Not on the Agenda

Mary Riemersma, CAMFT, made note of a promotional brochure from the Board of Psychology that is used by DCA. She encouraged the Board, upon implementation of the new LPCC program, to create a similar brochure for use as a handout by the Department of Consumer Affairs.

XIX. Suggestions for Future Agenda Items

Ms. Lock-Dawson requested an update on the Board's outreach efforts.

The meeting adjourned at approximately 11:45 a.m.