

## **BOARD MEETING MINUTES July 28, 2010**

State Capitol  
Room 127  
Sacramento, CA 95814

### **Members Present**

Renee Lonner, Chair, LCSW Member  
Jan Cone, LCSW Member  
Gordonna (Donna) DiGiorgio, Public Member  
Mona Foster, Public Member  
Judy Johnson, LEP Member  
Patricia Lock-Dawson, Public Member  
Michael Webb, MFT Member  
Christine Wietlisbach, Public Member

### **Staff Present**

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

### **Members Absent**

Samara Ashley, Public Member  
Harry Douglas, Public Member  
Elise Froistad, Vice Chair, MFT Member

### **Guest List**

On file

## **FULL BOARD OPEN SESSION**

### **I. Introductions**

Renee Lonner, Board Chair, called the meeting to order at 9:09 a.m.

Marsha Gove called roll, and a quorum was established.

### **II. Petition for Modification of Probation Terms**

(The Board moved ahead to the next open agenda item, #7 (VII), to allow an opportunity for the required court reporter to arrive. The Board returned to this agenda item and the petitions were presented beginning approximately 9:24 a.m.)

#### **a. William Clapham, MFC 22115**

**b. Dayle Conroy, LCS 19107**

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

**III. 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.

**IV. 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**

**V. Pursuant to Government Code Section 11126(c)(1) Regarding Possible Use of the National Board of Certified Counselors for Licensure in California**

**VI. Pursuant to Government Code Section 11126(c)(1) Regarding the Assessment of the Association of Social Work Boards Clinical Licensure Exam for Possible Use in California.**

The full board closed session ended at approximately 1:47 p.m.

**FULL BOARD OPEN SESSION**

Marsha Gove called roll, and a quorum was established.

**VII. Approval of the May 6-7, 2010 Board Meeting Minutes**

Kim Madsen, Executive Officer, noted a correction to page 1 of the May 6, 2010 minutes; specifically, the last name of Pepperdine University staff Kathleen Wenger was misspelled.

Dr. Tracy Montez, Applied Measurement Services, LLC, noted that on page 28, Ben Caldwell is more appropriately referred to as "Dr."

Tracy Rhine, Assistant Executive Officer, noted that on pages 23 and 25, tape/time references should be deleted.

**Christine Wietlisbach moved to approve the minutes with the noted corrections. Gordonna DiGiorgio seconded. The Board voted unanimously (8-0) to adopt the minutes as amended.**

**VIII. Approval of the June 28, 2010 Board Meeting Minutes**

**Judy Johnson moved to approve the minutes of the June 28, 2010 Board Meeting. Michael Webb seconded. The Board voted unanimously (8-0) to adopt the minutes.**

**IX. Chairperson's Report**

Ms. Lonner reported that both she and Elise Froistad, MFT Member, had recently been reappointed to the Board. Ms. Lonner also noted that the previous day had been a training day for the board members and executive officers from all boards within the Department of Consumer Affairs (DCA). Ms. Lonner described the DCA-sponsored training as pertaining to "board governance." She noted that of particular interest to her was the opportunity to meet and exchange information with individuals from other boards. Ms. Lonner indicated there would be monthly conference calls involving board chairs, executive officers, and some staff, of the healing arts boards. She expressed that the calls appeared to be an effort to provide resources and accessibility to the boards.

**X. Executive Officer's Report**

(Ms. Madsen noted that her report was being deferred until later on the agenda.)

**a. Budget Report**

Ms. Madsen provided an update regarding the Board's budget, noting areas in which the Board had been directed to achieve reductions despite being a self-funded agency. Despite those circumstances, she noted that the Board's budget for fiscal year 2009/2010 reflected an unexpended amount of \$56,000. Ms. Madsen also noted that the Mental Health Services Act (MHSA) budget also reflected an unexpended reserve of approximately \$37,000.

Ms. Madsen responded to questions from Board Members regarding the budget.

**b. Operations Report**

Ms. Madsen provided quarterly statistical information, as of June 30, 2010, pertaining to the Board's operations in the areas of cashiering, enforcement, licensing, examination, and customer satisfaction.

**c. Personnel Update**

Ms. Madsen noted that no new employees had been hired since the last Board Meeting. She reported that two staff had accepted positions outside

the Board. She indicated that the Board is currently recruiting to fill the two vacancies.

**d. Board Outreach Report**

Ms. Madsen reported on the outreach events conducted during fiscal year 2009/2010, as well as other meetings and conferences that provided the Board with an opportunity to discuss BBS regulatory issues and the trends for the MFT profession throughout the state.

**e. Mental Health Services Act Coordinator's Report**

Christy Berger, Mental Health Services Act (MHSA) Coordinator, provided an update of program activities for the period January through June, 2010. She also provided the MHSA 5-Year Workforce Education and Training Plan. A brief discussion ensued, with Ms. Berger responding to questions and Ms. Madsen providing comment.

**XI. Licensing and Examination Committee Report**

(Following completion of the Closed Session, the Board resumed its Open Session at approximately 1:47 p.m.)

**a. Discussion and Possible Action Regarding the Licensed Professional Clinical Counselor Gap Examination**

Ms. Rhine reported that the Licensed Professional Clinical Counselor (LPCC) statute provides for a grand-parenting period. During this time there are two avenues candidates can use to obtain LPCC licensure. One approach is specifically for individuals who are currently licensed by the Board as LCSWs or MFTs.

Ms. Rhine noted that part of the requirement in statute was for the Board to develop an examination for licensees if there was found to be a gap or differences between the practices of LPCC and MFT, and LPCC and LCSW. The issue was discussed at the May 2010 board meeting, with Dr. Tracy Montez, Applied Measurement Services, LLC, discussing the findings from her audit of the practices. The recommendation to the Board at that time was to not require an examination in that one was not necessary. This finding was based on the fact that the differences found between the professions were not significant. Subsequently, the Board was contacted by AAMFT – CA, requesting the Board to again review the statute that requires the Board to develop a grand-parenting exam.

Ms. Rhine referred meeting participants to the pertinent section of statute, cited in her report. She stated that when the issue of an LPCC grand-

parenting examination was discussed at the May 2010 Board Meeting, staff interpretation of the statute allowed the Board discretion in determining the need for an examination. Staff at that time was of the understanding that any differences between the professions had to be significant. Ms. Rhine stated that a “plain” reading of the statute seemed to indicate that there is not much discretion allowed. She noted that the statute indicated the Board “shall” develop an examination if any differences exist.

It was announced that Dr. Montez was at the meeting to discuss the differences she found between the LPCC and MFT and LCSW professions, and what led to the recommendation she made at that time regarding the need for a gap examination.

Dr. Montez reported that her analysis included review of numerous documents, interview of LPCCs practicing outside of California, interview of individuals licensed out-of-state as LPCCs but practicing as MFTs within California. Also evaluated were the examination plans based on the occupational analyses of the MFT and LCSW professions, and the national evaluation of the LPCC profession. Differences were found in terms of entry level expectations of various competencies, centering on career counseling, use of different types of testing and appraisal, and research methodologies. Dr. Montez indicated that in her evaluation recommendation to the Board, she stated that it was her determination and that of the subject matter experts that the differences did not appear to be concerned with public health and safety and therefore moving forward with a gap examination could possibly be viewed as an impediment to the grand-parenting process as well as the fiscal concerns associated with the development of the examination. The recommendation made for the grand-parenting group was that the differences were not significant and therefore an examination was not recommended.

Ms. Rhine noted that the Board is presently being asked to discuss the need for a gap exam for the grand-parenting population, taking into consideration the letter from American Association for Marriage and Family Therapy California Division (AAMFT-CA) and the current information provided by staff.

Patricia Lock-Dawson, Public Member, noted that the statutory language does not seem to give the Board a choice, but rather mandates that some type of examination be offered. James Maynard, Legal Counsel to the Board, agreed. Ms. Lock-Dawson asked how the Board would proceed if the consensus is that the gap examination is required. Ms. Rhine responded that if the Board decided to move forward with the examination, the motion would be to direct staff to begin working with the Office of Professional Examination Services (OPES) and Dr. Montez to develop the gap examination.

Mary Riemersma, California Association of Marriage and Family Therapists (CAMFT), stated that CAMFT had just learned of the Board’s intent, which

she noted appeared to be a foregone conclusion. She asked that the Board reconsider and take into account the input of stakeholders other than AAMFT – CA. Ms. Riemersma noted that none of the Board members present at the meeting that day were a part of the discussions that occurred when the bill for LPCCs was being negotiated the previous year. She indicated the previous executive officer, Paul Riches, carefully went through the scopes of practice for the MFT and LCSW disciplines, and for LPCCs. Ms. Riemersma indicated it was Mr. Riches' determination that the practices of the three professions, based upon the scopes of practice of each of the disciplines, was delivering the same service. She indicated that each profession has a different genesis, each is unique, each has its own theoretical underpinnings, each has its own philosophy, but ultimately what are delivered by each are mental health services. Ms. Riemersma commented that, at that time, it was clearly Mr. Riches' opinion that testing was not warranted because the services that are ultimately being delivered and what the public is receiving is the same service, just delivered in different ways.

Ms. Riemersma noted that when the Board meeting materials were received, she sent an e-mail to the Board's Executive Officer, Kim Madsen, and to Tracy Rhine, Assistant Executive Officer, about this issue. She read the e-mail to the Board, as follows:

"We just received the materials for the upcoming BBS meeting, and I am totally dismayed by the conclusions reached by Tracy with regard to a possible examination to grand-parent MFTs and Clinical Social Workers. We totally disagree with AAMFT-CA's request and Tracy's premature conclusion. The gap analysis was to look at the practice of the professions, not the education, not the philosophy, not the theoretical underpinnings, and not the experience. The services they deliver are the same service. That is the practice of the professions. There is nothing that LPCCs can do that MFTs and Clinical Social Workers cannot do, even though we may come about it from differing perspectives. And while looking at Dr. Montez' report it may have some flaws, her firm is also not the Office of Professional Examination Services, which the law does reference. We believe that her conclusion originally was the appropriate and correct conclusion. And we will be taking a very firm position in opposition to Tracy Rhine, that is Tracy Rhine's conclusion and recommendation."

Ms. Riemersma concluded by expressing that CAMFT feels very strongly that the only significant difference that one can point to is career counseling. She added that career counseling is not mental health counseling or therapy, but rather is a non-regulated activity. She stated that if the Board's job is to ensure public protection, there is clearly nothing there that can be tested that can assure public protection any more than the tests that have already been administered. Ms. Riemersma voiced CAMFT's request that the Board reconsider the position that it seems to be moving toward.

Ms. Madsen commented, with respect to the reference to OPES, that when the decision was made to conduct an analysis of the three professions, OPES was first contacted because the law required working with that office to do the analysis. At that time, OPES was unable to offer the assistance sought by the Board, due to workload and budget constraints. Dr. Montez was contacted at that time and her services engaged via contract to conduct the gap analysis. Ms. Madsen confirmed that at that time the direction was to look at significant differences, because the belief was that the significance of the dissimilarities was the important issue.

Michael Webb, MFT member, asked Ben Caldwell, AAMFT-CA, to speak about what AAMFT-CA perceived the differences to be between the practices of the LCSW, MFT, and LPCC professions. Dr. Caldwell responded that he could provide AAMFT's opinion about those differences, but noted that said opinion was less relevant than the recommendations the Board has already adopted and the findings that have come from Dr. Montez indicating there are differences in the professions. He stated the position that those findings seemed to match with the legislative intent language referenced in the AAMFT-CA correspondence. He commented that Ms. Riemersma had made reference to the negotiations surrounding the legislation. He noted that the section of the bill under discussion was probably the most difficult on which to reach agreement. He expressed AAMFT-CA's position that there are distinctive elements of practice, related to the "lens" referenced by Ms. Riemersma, in addition to the education and training referenced by Dr. Montez. The interested parties engaged in lengthy discussion because AAMFT-CA wanted to make absolutely certain that it was clear in the legislation that when speaking about the practices of LPCC and MFT, it is the opinion of AAMFT-CA they are not the same thing. Dr. Caldwell indicated AAMFT-CA wanted to ensure the legislation was clear in that regard. He noted that in addition to AAMFT-CA, there were lawmakers involved in the process who had said essentially that they would oppose the legislation unless there is a clear distinction present, because absent the presence of a distinction, there is no need for a new license.

Mr. Webb asked Dr. Caldwell to elaborate on the clear distinctions he mentioned. Dr. Caldwell responded that if you look at the lenses through which the professions are approached, clinical counseling was born from an educational and developmental type framework. The focus tends to be on providing individual services through that framework. MFTs originated through systemic services geared toward the severely mentally ill.

Dr. Montez commented that she wanted it to be clear that in her evaluation she did not look only at the training and education, but also the practice. She noted the occupational analysis and exam plans had been used. Dr. Montez asserted her report does acknowledge the professions as being individual and having their own identity and practice. She referred to the intent of the

contracted services, which she described as questioning whether the differences were significant enough to warrant a test to assess competencies for health and safety. Also considered were the questions of would that test potentially add an impediment to licensure to two existing groups of currently licensed and practicing clinicians in good standing, and what kind of fiscal impact would such an examination have on the Board. Dr. Montez expressed the belief that the Board recognized and respected the independence of the professions. However, in terms of grand-parenting, with respect to the intent rather than the exact language in the law, she requested AAMFT-CA to reconsider that dynamic. She noted that it was not in any way devaluing the profession, but rather looking at many variables pertaining to testing guidelines and how that impacts individuals who want to be grand-parented. Dr. Montez noted that if it was a larger scale she could understand the concerns expressed by AAMFT-CA. She emphasized the group in question was comprised of a very small population of individuals who are practicing in good standing.

Dr. Caldwell commented that it appeared to AAMFT-CA that Dr. Montez was applying a different standard than that which was negotiated into the legislation.

Mr. Webb noted that he had spent considerable time thinking about the issue at hand. He commented that it appeared to him there is no disagreement that there are differences between the professions. He expressed the opinion that another area of focus should be practice, specifically clinical practice. Mr. Webb spoke about his scope of practice and scope of competency as a licensed MFT. He expressed the understanding that, given the original recommendation that there were differences between the professions, but those differences could be addressed through coursework, the intent or letter of the law would be carried out. He expressed his agreement with Ms. Riemersma that in terms of scope of practice, it would provide an undue burden on existing licensees, the Board, and other interested parties to require a grand-parenting examination.

Ms. Madsen commented that, from the staff perspective, taking on another examination would be difficult. Nonetheless, knowing that there will soon be a new profession in California and there are currently individuals licensed in another capacity who would like to be dually licensed, it would be staff's goal if directed by the Board to develop an examination that meets the legal mandates but does not serve as an impediment to licensure. She emphasized it was clearly not the intent of the law to present such an impediment. She added that historically it has not been the intent to have grand-parenting serve as a hurdle to licensure.

Ms. Riemersma commented the Board's efforts did not constitute grand-parenting, which she defined as a straight shot from one license type to

another. She expressed the position that the Board's actions are a modified version of grand-parenting, in that grand-parenting presumes there is no test to begin with. She took exception to a comment made by Dr. Caldwell that there were lawmakers involved in the negotiation of the legislation and shared the views of AAMFT-CA. Ms. Riemersma noted that there was only one legislator involved who she reported is a psychologist. She expressed the opinion that the lawmaker had something of an ulterior motive in the negotiation of the legislation. She emphasized that the exception between the professions is career counseling, a non-regulated activity.

Ms. Lonner commented that the issue for her was the wording in the statute, which indicates an examination shall be developed if any differences exist between the MFT and LPCC practices, and the LCSW and LPCC practices. She expressed the opinion that the law is clear and does not allow any flexibility in its interpretation.

Ms. Riemersma disagreed, indicating that practice is a key issue in the discussion. She emphasized the statute speaks about the need for a test if any differences exist between the practices of the professions. Ms. Wietlisbach noted that the occupational analyses showed there are differences in practice between the professions, and although those differences may not be significant, the law clearly says any differences. She commented that the Board does not have the authority to operate outside the letter of the law.

Mr. Webb commented that the challenge seems to be understanding what practice means. He spoke about clinical practice, and stated there are no real differences in the clinical practice between the MFT, LCSW, and LPCC professions. An individual responded that the law does not speak about clinical practice, but rather talks about any differences that exist in practice in general. Mr. Webb expressed the position that the license authorizes clinical practice. Discussion was then held about the purpose of an occupational analysis being to study the practice of a profession. It was noted that Dr. Montez conducted a study of the professions, the outcome of which was that there are differences in the practices of the professions. Mr. Webb again asked for an explanation of those differences.

Ms. Rhine stated that Dr. Montez could address the noted differences. She indicated that the process called for Dr. Montez to conduct her review and make recommendations to the Board. If the Board, based on the information provided, believes there are differences, then the law specifies what steps must be taken. If the determination is made that there are no differences between the professions, the law also specifies what must be done in that case. Ms. Rhine indicated that the discretion is not about whether the Board can do something, but rather about determining if there are differences in the practices. She voiced agreement with some of Ms. Riemersma's comments,

noting that there was a lot that was involved in the development of the statutory language. Ms. Rhine noted, however, that the way the law is worded very clearly states what has to be done if any differences, significant or not, are noted.

Ms. Lock-Dawson expressed the position that the Board is bound by the law. She asked Dr. Montez to outline the differences between the professions that she had noted in her report. She also asked what would be contained in an examination to assess competency. Dr. Montez responded that the three areas of difference were in career counseling; use of various appraisal methodologies and tests; and research methodologies, which she indicated was conducting research studies and the various competencies associated with that area of practice. She indicated that since her analysis showed those were not necessarily competencies associated with public health and safety, she would foresee an exam that would perhaps be more knowledge based, assessing general comprehension, have the individuals fulfill the requirements to be grand-parented, have an exam geared toward just those content areas. It would be something in line with a low-stakes type of testing. She explained that high-stakes is minimum competency, high consequences to public health and safety. This is more confirmatory. Did they do what they needed to do? Now give them the opportunity to demonstrate it. She noted there would be very different expectations with this exam than with the licensing exam. She explained that the gap exam has a very different purpose. It still meets the testing guidelines and protocols. There would still be an exam plan; involve subject matter experts, evaluate the exam, but the gap would have a different intent and purpose associated with it.

Ms. Lock-Dawson asked if the LPCC is a new license type in the state of California. Ms. Madsen confirmed that it is. She expressed the opinion that it would be prudent to err on the side of conservatism with respect to following the mandates of the law. She spoke to the board members about making sure their actions were in compliance with the law, while still making the experience as agreeable as possible for the applicants.

Janlee Wong, National Association of Social Workers (NASW), commented that the Board is given discretion in this regard by virtue of the fact that the provision is in the law. Any decision may be based on reports from attorneys and experts, as well as input from stakeholders, but the decision making authority lies with the Board.

Mr. Wong added that because of the provisions in statute that hold MFTs and LCSWs “harmless,” by definition means they can practice professional counseling. He noted this presents a conflict because on one hand the Board is requiring individuals to take a test because there are some differences in practice, but the individuals can practice anyway without having to obtain the license.

Mr. Wong expressed the position that usually for social workers the client's needs and wants are first. It is not a matter of turning it around and saying we're the practitioner, we're going to say what your needs are based on our profession. The client is going to be asked what their needs are based on the social worker's assessment and evaluation.

Mr. Wong voiced his understanding of the budgetary and associated constraints currently facing the state of California. He noted that the grand-parenting period is six-months. He encouraged the Board to take into consideration issues such as the length of time any gap exam would be needed, and if it is financially prudent to administer one, when determining if an exam should be required for grand-parenting candidates.

Ms. Riemersma noted that when Dr. Montez discussed the areas where there may be differences in the professions, the area of testing was mentioned. Ms. Riemersma expressed concern that meeting participants remember it is a requirement for MFTs to have had education in testing. She further commented that it is also recognized that MFTs do and may do psychological testing with clients. She expressed the position that if that area is not adequately addressed in testing, it is not the profession's fault and the profession should not be compelled to take another test to address the issue. Ms. Riemersma again reiterated that career counseling is a non-regulated activity that "anyone" can do. She also touched on the area of research, and stated that almost every master's level program has a research course in it. She acknowledged not being familiar with the requirements for social work training, but expressed the belief that it was not substantially different from the MFT training. Ms. Riemersma asked the Board to exercise their discretion. She emphatically reiterated the position that the differences exist in the practices of the professions, in the manner of delivery of the services, not in what it takes to get to the delivery of said service.

Mr. Maynard commented to the Board about the issue of whether or not the Board has discretion within the language of the statute. He stated that this appears to be a situation where legal challenges could be faced by the Board regardless of the choice that is made. He noted from a legal argument standpoint, either position is defensible. He further noted that there is an element of discretion in the statute, despite the use of the word "shall."

Mr. Webb thanked Mr. Maynard for the input. He agreed that it is required for MFT students to learn appraisal in terms of psychological testing and research. He noted a continued uncertainty about the differences in the MFT and LPCC, and the LCSW and LPCC, professions. He stated that, if there are not clear differences between the professions, he questions the need for taking the time and resources and keep a small group of individuals from licensure as an LPCC. Mr. Webb indicated he was looking for clinical

practice differences, and stated that if none could be identified he felt the Board should remain with the original decision to not require a gap exam.

Jan Cone added that the discussion was about a group of individuals who are currently licensed to practice mental health. They are choosing to obtain a second license.

Dr. Montez clarified that she was talking about the depth of measurement of the use of the assessment devices and research. The LPCC examination is more heavily geared toward those areas. She voiced her recognition of the fact that MFTs and LCSWs do research and use assessment tools. The difference has to do with the depth of measurement, and the expectation. Mr. Webb again expressed the position that the issue was practice.

Dr. Caldwell spoke about the importance of returning to the language that is in the law. He indicated that Dr. Montez had identified specific differences in the professions. Those differences must be addressed in a test. Dr. Caldwell expressed that it appears to him that some individuals may be interested in renegotiating the law that has already been passed. He commented that in order to change a law one must go through the legislative process. He again noted that the language in the law was very carefully negotiated, purposeful language to ensure the differences between the professions would be tested.

Mr. Webb again revisited the issue of differences. He indicated that those issues that had been identified by Dr. Montez were topics on which MFT candidates were tested on some level and also could be addressed through the MFT training.

Mr. Maynard spoke with respect to the element of discretion. He noted that Dr. Montez' report identified differences between certain aspects of MFT, LPCC, and LCSW practice. He pointed out that it is not Dr. Montez' or OPES' decision as to whether those differences are sufficient to require an examination. He emphasized it is in making decisions about those differences that the Board's discretion lies. He noted that it would ultimately be the Board's decision, as a Board. The Board has obtained information from Dr. Montez to help making the decision, but ultimately it is the Board's choice to make.

Ms. Lock-Dawson asked if there is discretion in what the Board deems an exam, or is there a clear definition in statute. Mr. Maynard responded that he believes there is discretion in that area as well. Ms. Lock-Dawson noted that perhaps the law could be satisfied in a way that would not require developing a formal written exam.

Mr. Webb questioned the necessity of a test.

Ms. Lock-Dawson referred to Mr. Maynard's comment that the Board could take Dr. Montez' findings under advisement and either reject or accept those findings. She expressed concern that at a previous meeting the Board had accepted Dr. Montez findings and determined that no test was necessary.

Mr. Maynard responded that even if the Board had previously made the finding that there are differences, the findings could also be made that those differences, if just in the areas of career counseling and research methodologies, don't constitute a difference in practice, but do constitute a difference in possibly educational method and philosophy. He noted that whatever decision was made by the Board, a rationale will need to be included in the motion, so that when the decision is challenged via writ, the rationale would be available.

A meeting participant asked for clarification regarding the exam required of individuals being grand-parented, specifically are they required to take the national examination. Ms. Rhine responded that the population in question is all licensees. She explained there are two paths to grand-parenting, one being Board licensees, and one being individuals who are not licensed by the Board such as individuals from another state. Ms. Rhine noted that the individuals from out of state are required to take national examinations; the LCSWs and MFTs currently licensed in California who want to be grand-parented do not take a national examination. Ms. Madsen added that if the Board deemed it appropriate, the group currently licensed in California would have to take the gap exam.

**Judy Johnson moved to grant permission for staff to begin working with Applied Measurement Services and the Office of Professional Examination Services to develop an examination on the differences found between the professions. Renee Lonner seconded. The Board voted 5-3 (majority vote) to approve the motion.**

Mr. Webb again voiced his concern about the necessity for the examination. He expressed the opinion that such an examination would impose an undue burden on the Board and its resources.

At this time Ms. Lonner announced that because the morning agenda had taken longer than anticipated, certain non-action items on the balance of the agenda may be tabled.

- b. Discussion and Possible Action Regarding the Use of the National Counselor Examination and the National Clinical Mental Health Counselor Examination Professional Clinical Counselor National Examination National Board of Certified Counselors for Licensure in California – Presented by Dr. Tracy Montez**

Ms. Rhine reported that stated in the law there is legislative intent that the Board look at the national examination for those applying for licensure as a professional clinical counselor in California. The Board contracted with Dr. Montez, Applied Measurement Services, LLC, to review the national examinations for professional clinical counselors and determine if it meets the standards that the Board is required to adhere to for licensure examinations for Board licensees. Ms. Rhine then turned to Dr. Montez for a report of her findings.

Dr. Montez reported that she worked closely with the National Board for Certified Clinical Counselors (NBCC) and evaluated that agency's two national examinations. She followed the protocols set forth in the national testing standards. She noted that although the examinations demonstrate evidence supporting the validity and have taken steps similar to California to support its examinations, Dr. Montez found a significant number of weaknesses. She stated her recommendation to the Board is that at the present time it would be premature to adopt the NBCC examinations. Dr. Montez noted that many of the weaknesses she had found can be addressed and she would encourage the Board to have an ongoing dialogue with the NBCC to address those weak points. Dr. Montez stated that due to confidentiality parameters, those weaknesses cannot be detailed publicly.

Ms. Lonner confirmed that the only action required of the Board presently is to keep the process moving forward. Ms. Rhine added that another part would be to direct staff to begin working with OPES and Dr. Montez or another entity to develop a Board examination for LPCCs.

There was no discussion or public comment.

**Christine Wietlisbach moved to direct staff to begin working with OPES and Dr. Montez or another entity to develop a Board examination for LPCCs. Judy Johnson seconded. The Board voted unanimously (8-0) to adopt the motion.**

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

Ms. Rhine reported that the proposed restructure of the Board's examination process has been a point of discussion for several months. The Examination Review Committee in December 2009 made a recommendation to the Board to move forward on trying to restructure the current examination process. Some of the ideas have been worked on through committee and board meetings. Ms. Rhine noted that at the present time the general proposal is to change the process from the current standard written and clinical vignette examinations. The new process would involve having a registrant take a law and ethics examination during the registration period. Upon successful

completion of the law and ethics exam, and after earning the requisite hours of experience, the candidate would be found eligible for testing and would be required to complete a new standard written examination.

Ms. Rhine noted that a topic of discussion on several occasions, and a consistent sticking point in the discussions, has been the proposed requirement that the law and ethics examination be successfully completed during a three-year period. Registrants would be allowed to take the test up to three times during the first year of registration. If the test is not passed during the first year, a candidate must take a course in law and ethics in order to qualify to take the examination during the second year of registration. The registrant would be required to complete the examination to renew the registration. The same process would be applicable to the third year of registration as well, if needed. If a candidate does not pass the law and ethics by the end of the third year of registration, the registration is cancelled and the individual would no longer be allowed to earn hours of experience. An individual would be allowed to obtain a new registration once the law and ethics examination is passed.

Ms. Rhine reported that at the last committee meeting, the group discussed the proposed changes. Both committee members and audience questioned if the three-year period was sufficient and fair to candidates. Although the registrant would be afforded several opportunities to pass the law and ethics examination during the three years, those who are unsuccessful would not be allowed to continue to gain hours, thus impeding their progress toward licensure. Ms. Rhine stated that the committee requested that staff research how many registrants become licensed within a three-year period, or how long does it generally take to complete the hours of experience and become licensed. The concern was that if the Board was proposing to stop an individual from gaining hours of experience after three years, was it realistic to believe that all hours could be gained during that time. Ms. Rhine referred board members to a chart that had been prepared with information about the average time individuals who had graduated in 2002, 2003, and 2004 took from graduation to license and from registration application submission to license. She noted that a point brought up at the last committee meeting had been the possibility of making it a six-year time frame, consistent with the current duration of a registration. She explained that currently a registration can be renewed five (5) times for a total duration of six years. An individual currently cannot renew the registration after the fifth renewal. Ms. Rhine noted that this is one policy issue before the Board at the day's meeting.

A second policy issue is in response to correspondence received from NASW, which speaks about the 18-hour law and ethics remediation course required of registrants who do not pass the law and ethics examination. Ms. Rhine noted that NASW's concern is that an 18-hour course is too long and costly, and could result in the requirement that the individuals complete a

three-day course. She provided a history of the requirement, noting that currently out-of-state applicants are required to complete an 18-hour course in preparation for licensure. Ms. Rhine reported that beginning January 1, 2010, the requirement changed and out-of-state applicants are no longer required to complete a specific number of hours in law and ethics, but only a course in law and ethics from an approved provider. She also noted that currently a six-hour course in law and ethics is required for each renewal cycle.

Ms. Rhine summarized her presentation by stating that the two issues before the Board that day were: 1) how long can an individual continue to take the law and ethics examination before the registration is cancelled; and 2) what is an appropriate and suitable length for the law and ethics course to be.

Donna DiGiorgio, Public Member, commented that in her experience the length of the law and ethics course does not seem to matter. She added the opinion that individuals are either going to adhere to the law, or not. She reported having no concern with changing the length of the required law and ethics course from 18 hours to 12 hours. Ms. DiGiorgio also commented about the question of the duration of an intern registration, stating she would have no concerns with changing the duration of the registration to three years, or leaving it at six years.

Ms. Riemersma urged the Board to not disrupt the existing six-year period of time during which a registration can be valid. She expressed that anyone who is in that situation is employed and has a supervisor who can scrutinize the registrant's performance. She added that the group in question was largely individuals who are working in exempt work settings. She noted that individuals employed in exempt settings can continue to work in those settings regardless whether registered or not, even though absent a valid registration no hours of experience toward licensure could be gained. Ms. Riemersma encouraged the Board to keep the six year window that an individual can be a registered intern to allow for completion of the examinations. She made note of the many statutes that would have to be amended to accomplish the change to three years and expressed the position that much more work would be involved in making those changes than in allowing the intern registration to continue with a duration of six years. In closing, Ms. Riemersma stated that other than the issue of changing the registration from a six year duration to a three year duration, the requirements of coursework, taking the law and ethics test repeatedly until successfully completed, and not being allowed to move forward to the new standard examination until completion of the law and ethics examination makes sense. She expressed the position that the public would be adequately protected with those restrictions in place.

Ms. Rhine clarified that the 18-hour course requirement for out-of-state candidates sunsets January 1, 2013, not 2010 as listed in the report.

Mr. Wong expressed his agreement with Ms. Riemersma regarding reducing the length of time during which a registrant is allowed to gain hours of experience from six years to three. He commented that the process can take longer for some than others.

Mr. Wong noted that part of the agenda for the BBS for several years has been to help individuals become licensed and help increase the supply of licensees in California to deliver much needed mental health services. He noted that individuals employed by the county may be hired in an unlicensed, but registered, status, and allowed up to four years to become licensed. A three-year cut off would be premature for those county employees. Mr. Wong closed by indicating that keeping the duration of the registration at six years, or at a minimum four years such as with the county, would seem to be the smoother route.

Mr. Wong also spoke about the request to make the required remedial law and ethics course 12 hours instead of 18 hours in length. He expressed the need to be clear that in a continuing education-type law and ethics course, the participant is not in law school, but rather is focused on the laws that pertain to them in their practice and consumer protection. Mr. Wong touched on what is usually involved in a law and ethics course, and alluded to the position that the pertinent information could be presented in a 12-hour course.

Mr. Caldwell expressed his agreement with Ms. DiGiorgio's thought that the length of a law and ethics course did not determine who would comply with the statutes and who would not. He added, with respect to the codes of ethics, that the codes may not be cumbersome to commit to memory, but learning how to apply the codes of ethics can be a complicated task that often requires more than 12 or 18 hours to learn.

Mr. Caldwell stated that the issue of changing the duration of a registration from six years to three years is more difficult to decide, due to competing public protection interests. He referred to Mr. Wong's comments about the movements that the Board has made toward helping people to become licensed to deliver mental health services. He indicated that as a licensee he would be uncomfortable with allowing an intern, whether or not under supervision, to continue in practice if that individual has repeatedly failed the law and ethics examination.

Ms. Rhine summarized that the decisions before the Board at that time pertained to the period of time an intern registration would be valid if the registrant did not pass the law and ethics examination; and the length, in hours, of the law and ethics course a registrant would be required to complete

if the individual did not pass the law and ethics examination. She noted that both Mr. Caldwell and Ms. Riemersma had raised good points. Ms. Rhine expressed the belief that part of the information that should be considered is the data about how long it takes individuals to gain the hours of experience. She reminded the board members that reducing the duration of the registration could serve to impair the registrant's ability to move forward in the process. Ms. Rhine commented that in addition to those two decisions, the Board should direct staff to draft proposed language to bring before the committee for discussion.

Ms. DiGiorgio noted that if the length of time a registration is valid is made six years versus three years, it does not mean all candidates are going to purposely take the full six years. A brief exchange ensued among board members. Ms. Rhine clarified that a registrant would still be required to complete the law and ethics examination once a year until passing, and if not successful in passing the examination would be required to complete coursework in law and ethics.

**Ms. Lonner moved to allow six years for completion of the law and ethics examination, and that the length of the required law and ethics course be twelve (12) hours. Donna DiGiorgio seconded. The Board voted unanimously (8-0) to adopt the motion.**

(The meeting then moved to Agenda Item #XII.)

**d. Discussion and Possible Action on Accepting Degrees in Couples and Family Therapy Under Business and Professions Code Section 4980.36 and 4980.37**

Rosanne Helms, Regulations/Legislative Analyst for the Board, reported that Alliant International University has asked the Board to consider seeking legislation that changes the Business and Professions (B&P) Code to allow degrees in Couple and Family Therapy as acceptable for licensure as a Marriage and Family Therapist in California. Ms. Helms noted that current statute requires candidates for licensure to hold one of a specified list of degrees. She cited a list of programs nationwide that award degrees titled "Couple and Family Therapy" or have programs named "Couple and Family Therapy" or "Couples and Family Therapy."

Ms. Helms indicated that at its June 14, 2010 meeting, the Licensing and Examination Committee had considered this action. At that time they approved a motion to recommend that the Board direct staff to draft language to add the degree title "Couple and Family Therapy" to the list of approved degree titles in B&P Code sections 4980.36(b) and 4980.37(b).

Ms. Rhine clarified that staff recommendation to the Board was to add the degree title “Couple and Family Therapy” to existing statute.

Donna DiGiorgio, Board Member, commented that the recommended change did not seem to have any drawbacks. She agreed with Ms. Rhine that the recommended degree title more accurately reflects the increasing occurrence of relationships that do not involve marriage.

It was noted that no negative feedback or dissention has been received by staff regarding the proposed change. Ms. Rhine confirmed that there does not appear to be any issues surrounding the addition of the degree title to statute.

**Patricia Lock-Dawson moved to approve the Licensing and Examination Committee’s recommendation that the Board direct staff to draft language to add the “Couple and Family Therapy” degree title to the list of approved degree titles in B&P Code sections 4980.36(b) and 4980.37(b). Jan Cone seconded. The Board voted unanimously (8-0) to adopt the recommendation.**

(At this time, approximately 9:24 a.m., the Board heard Agenda Item II, Petition for Modification of Probation Terms.)

**XII. Discussion and Possible Action Regarding the Possible Use of the Association of Social Work Boards Clinical Licensure Exam in California**

Ms. Rhine provided the background of this issue. She noted that in the past the Board has been a member of the Association of Social Work Boards (ASWB). Several years ago the Board of Behavioral Sciences began administering a state-board-developed written examination. Ms. Rhine noted that in the last two years the Board contracted with Dr. Tracy Montez and Applied Measurement Services, LLC to again review the ASWB examination. In 2008, Dr. Montez presented some issues and findings regarding the exam. The Board subsequently contacted ASWB and relayed concerns with the exam as well as changes the Board would need to see in order to use the examination for licensure. Ms. Rhine stated that since that time there has not been much progress by the Board until the beginning of 2010 when NASW introduced legislation that would have required the Board to administer the ASWB or allow applicants for licensure as an LCSW to take that examination.

Ms. Rhine indicated that through discussions with the bill’s sponsor, NASW, and the office of Assemblymember Nava, language was developed that was suitable for both the Board and the sponsors of the bill. The language requires the Board to allow the ASWB examination if the Board determined that said exam met the prevailing standards for licensure examinations in California. Conversation ensued between ASWB, the Board, and Dr. Montez to discuss past issues that

the Board has had with the ASWB examination, and what changes have been made to address those concerns.

At that time Ms. Rhine turned the presentation over the Dr. Montez, AMS.

Dr. Montez noted that in the initial assessment there were both minor and major concerns delineated. Since that time, ASWB has addressed a majority of those points. Dr. Montez touched on the various steps taken, including review of various publications and removal of discrepancies in information; expansion of the subject matter expert pool to draw in more entry-level practitioners; and negotiations with a testing vendor who is very aware of test administration security protocols to administer the examination.

With respect to the major points, Dr. Montez reported ASWB has assured the Board that they will share confidential information as long as it does not impact the integrity of the examination process. She clarified that the sharing will be done on a case-by-case basis to hopefully achieve a mutually satisfactory resolution. Dr. Montez noted that ASWB is willing to provide the Board with data necessary to evaluate the examination process.

Dr. Montez also spoke about the two exam plans. She reminded the Board that there had been comparison involving licensed clinical social workers, specifically, the national clinical exam plan versus the state examination. She noted what she qualified as extreme discrepancies in measurement of competencies. Dr. Montez reported that since that time a new job or practice analysis has been completed. California practitioners were surveyed, subject matter experts from California were involved in the process, and the examination plan was restructured. Dr. Montez also noted a reduction in some of the areas which had been of concern to California in terms of being what California deemed as not critical to entry-level practice. Dr. Montez added that ASWB had also agreed to release more of the examination plan. She noted that in 2008, only a very brief content outline was made public by ASWB. One of California's recommendations at that time was that more information be released.

Dr. Montez stated that overall ASWB appears to have addressed many of the concerns that California had in the past, and added to the body of evidence supporting the validity of the previous examination decisions. She expressed the position that the changes ASWB has made serve to bring the examination up to California's standards and expectations, and B&P Code Section 139. Dr. Montez commented that there remain differences, for example, in terms of how the questions are written and areas that are addressed more significantly on the California state examination. However, she expressed the confidence that the changes in the examination met the standards for California.

The matter was opened for public discussion.

Mr. Wong, NASW, thanked the Board for considering the possibility of a national examination. He also expressed his appreciation to Ms. Rhine for working closely with NASW and the bill's author to make the proposed change work for all involved parties. Mr. Wong also commented that use or potential use of the national examination brings California closer to the other 49 states which use the ASWB examination. He indicated that such change would mean that clinical social workers across the country would have more portability nationwide. He stated that the second benefit of the national examination to California LCSWs is that it would allow California to participate in the national loan repayment program. Mr. Wong indicated that currently California social workers are disqualified from participating in the program as a result of not taking the national examination for licensure. He commented about the high expenses associated with higher level education.

Ms. Riemersma, CAMFT, asked Dr. Montez if she had the current pass rates for the national examination. Dr. Montez responded that with respect to the examination that was reported to her, the pass rate for the latest round was 74%.

Ms. Lonner stated her understanding that ASWB has made significant efforts to improve the national examination to meet a higher standard, but there remains work to be completed. Ms. Rhine commented that the decision before the Board is whether ASWB's actions to address the Board's issues are sufficient to take the next step and begin discussing the negotiating points that Dr. Montez had identified. If so, direct staff to contact ASWB, Office of Professional Examination Services (OPES), and Dr. Montez/AMS to begin those discussions.

**Renee Lonner moved to direct staff to contact ASWB, Office of Professional Examination Services (OPES), and Dr. Montez/AMS to begin discussion of the negotiating points identified by Dr. Montez. Donna DiGiorgio seconded. The Board voted unanimously (8-0) to adopt the motion.**

A break was taken at 3:15 p.m. The meeting reconvened at 3:25 p.m.

### **XIII. Policy and Advocacy Committee Report**

#### **a. Discussion of Survey Results Related to Professional Clinical Counselor Education Requirements**

Ms. Lonner announced that item XIII(a) was being tabled for later discussion, time permitting. The next item discussed was XIII(b). The Board later returned to item XIII(a).

Ms. Helms reported that the Board had asked schools throughout California to complete a survey listing courses offered that would satisfy the Board's requirements for licensure as a Licensed Professional Clinical Counselor.

Thirteen “Core Content Areas” and eight “Additional Coursework Requirements” were addressed in the survey. Ms. Helms noted that input had been requested from a total of 104 schools, including 86 MFT programs and 18 LCSW programs. She indicated that a total of 43 responses had been received. Ms. Helms provided a summary of the types of degrees offered by programs which responded to the survey. She commented that the responses will be posted to the Board’s website so that the information is available to students when planning their course schedule. Additionally, the survey template will be posted on line so that additional schools may respond.

Ms. Helms reported that of the 43 responses received, there was one “Core Content Area” in which approximately half of the programs offered no course content. She specified that 23 programs indicated they currently offer no course content in #3, “Career development theories and techniques, including career development decision-making models and interrelationships among and between work, family, and other life roles and factors, including the role of multicultural issues in career development.” None of the other “Core Content Areas” had a significant number of programs offering no courses.

Ms. Helms noted that in the category of “Additional Coursework Requirements,” five programs reported offering no courses pertaining to Item #8, “A minimum of 15 contact hours of instruction in crisis or trauma counseling, including multidisciplinary responses to crises, emergencies, or disasters, and brief, intermediate, and long-term approaches.” She indicated that this is a new course requirement; all other “Additional Coursework Requirements” are currently required of BBS licensees.

In closing, Ms. Helms reported that to date, staff had surveyed only MFT and LCSW programs. She indicated that in June, a survey was sent to LPCC programs, with a requested response date of July 30, 2010.

#### **b. Discussion and Possible Action on Marriage and Family Therapist Practicum**

Ms. Rhine reported that the implementation of SB 33 in 2009 resulted in changes to the requirements for MFT licensure, particularly in the areas of curriculum and experience. One part of the legislation is the requirement that a student be enrolled in a practicum course while counseling clients. She explained that a trainee is a student who is enrolled in an MFT program and has completed twelve semester or eighteen quarter units of education in the program. Ms. Rhine reported that this new requirement appears to conflict with existing statute which states that trainees may gain hours of experience outside the required practicum.

Ms. Rhine stated that part of the problem is the existence of two different sets of requirements. The education and curriculum requirements for MFTs will

change beginning August 1, 2012. According to current statute, students enrolled in a graduate program before that time can gain hours outside of the required practicum. However, students who begin graduate study after August 1, 2012 must be enrolled in a practicum course to counsel clients. Ms. Rhine reported that some programs are choosing to implement the new requirements early, resulting in a conflict for some students currently enrolled in the program.

Ms. Rhine indicated that another issue pertains to the periods of time when a student is not able to be enrolled in a practicum course, such as during the summer or inter-session breaks, but wants to continue gaining hours of experience. Ms. Rhine noted that the issue has been discussed previously on several occasions, and has been sent back for further discussion by the Committee. She reported that at the May 2010 Board Meeting she had presented options to the Board for resolution of the conflict. At that time, the Board decided to continue with the law requiring trainees to be enrolled in practicum to counsel clients. She noted that the Board had also directed staff to develop language to allow for an exemption period, which is forty-five (45) days. She indicated that the Committee and Board discussed allowing a trainee to continue to counsel clients during a period when not enrolled in practicum if that period of time is no more than 45 days.

Ms. Rhine stated that before the Board at present was proposed language that would allow a trainee to continue to counsel clients during a period when not enrolled in practicum if that period of time is no more than 45 days. She referenced two letters from CAMFT regarding the practicum requirement. She indicated that CAMFT has voiced the position that a student is not necessarily a trainee. In a letter to the Board dated June 2, 2010, CAMFT indicated that the statute states that students must be enrolled in a practicum while counseling clients. The statute does not say that trainees must be enrolled in a practicum while counseling clients. The assertion is that since a student does not become a trainee until he or she has completed 12 semester units or 18 quarter units of coursework, there is no conflict. Another argument put forth by CAMFT is that the changes were made inadvertently; the issue is not that the language indicating that a trainee may gain hours of experience outside of practicum was not deleted from statute, but rather that the language that a student must be enrolled in practicum while counseling clients was inserted unintentionally. The contention by CAMFT is that the actual intent of the language is that trainees can continue to gain experience outside of practicum.

Ms. Rhine reminded the Board that it had previously rendered a decision on this matter at the May board meeting, that decision being that a trainee should be enrolled in practicum to counsel clients. She indicated that while the Board could revisit that decision, the recommendation before them at present was not whether to require trainees to be enrolled in practicum. The

consideration before the Board is the revised language that would allow trainees an exempt period of time wherein the trainee could continue working and gaining hours of experience while still complying with the statutory requirements.

Ms. Riemersma restated CAMFT's position that there is not a proven need to require trainees to be enrolled in practicum to counsel clients.

Discussion ensued, with comment received from Dr. Caldwell; Merrill Simon, CSU Northridge; and Ms. Riemersma.

**Renee Lonner moved to redirect the issue to the Policy and Advocacy Committee for further discussion. Patricia Lock-Dawson seconded. The Board voted unanimously (8-0) to adopt the motion.**

**c. Discussion and Possible Action Regarding Title 16, CCR Sections 1800–1888, Relating to Licensed Professional Clinical Counselors and Licensed Educational Psychologists Continuing Education Requirement**

Ms. Rhine provided background on the Board's authority to adopt rules and regulations as necessary to administer and enforce the provisions of the Business and Professions Code (BPC) for which it is responsible, in this instance as applied to the practice and regulation of Licensed Professional Clinical Counselors (LPCC). She indicated that the purpose of the rulemaking before the Board is to revise existing regulations to incorporate LPCC requirements and fees referenced in various sections of the BPC; to modify the Board's Disciplinary Guidelines; and correct various erroneous authority citations and references in existing regulations, update references to new forms and revisions to previously incorporated forms, correct the title of the Bureau of Private Postsecondary Education, and correct two references to the Education Code.

Ms. Rhine noted that at its June 7, 2010 meeting, the Policy and Advocacy Committee discussed the proposed language 16 CCR Section 1820, specifically, the definition of Community Mental Health Setting as used in subparagraph (d). After discussion by the Committee and receipt of public comment, the Committee directed staff to make minor changes to the language to add clarity to the setting requirements. Ms. Rhine referred Board members to the proposed regulatory language. She also noted two technical and clarifying changes that needed to be made to the rulemaking text, pertaining to examination applications, and fees.

**Donna DiGiorgio moved to direct staff to take all steps necessary to finalize the rulemaking process, including modifying text as approved, and authorize the Executive Officer to make any non-substantive changes to the rulemaking package and submit the package to OAL if**

**no comments are received during the 15-day public comment period. Renee Lonner seconded. The Board voted unanimously (8-0) to adopt the motion.**

**XIV. Discussion and Possible Action on Senate Bill 294 (Negrete McLeod) and Any Other Legislation Not Previously Discussed that Has Been Recently Amended to Affect the Board**

Ms. Helms provided background on the Sunset Review process, which calls for the periodic review of the need for licensing and regulation of a profession and the effectiveness of the administration of the law by the licensing board. She reported that the Joint Committee on Boards, Commissions, and Consumer Protection (Joint Committee) is charged with performing the necessary reviews. Ms. Helms noted that since 2006 the Joint Committee has not been staffed, therefore boards have not been audited. She reported that the legislature has introduced several measures to revise the sunset review process; however no changes have yet been signed into law. As a result, boards scheduled to sunset over the last several years have been allowed to continue operating absent a formal review.

Ms. Helms noted that despite the unsuccessful attempts to revise the sunset process, the Joint Committee intends to review all boards and bureaus within the Department of Consumer Affairs (DCA) over the next four years. To implement this plan, SB 294 was amended to change the sunset date of all DCA boards to correspond to a sunset review date within the next four years. She noted that the Board's sunset date was extended from January 1, 2011 to January 1, 2013. Ms. Helms recommended to the Board a position of support for this legislation.

**Renee Lonner moved that the Board adopt a position of support for SB 294. Patricia Lock-Dawson seconded. The Board voted unanimously (8-0) to adopt the motion.**

**SB 686 – Alcohol and Other Drug Counselor Licensing and Certification**

Ms. Helms provided a summary of existing law and regulations pertaining to alcohol and drug counselors. She indicated that the legislation at hand pertains to creation of the Alcohol and Other Drug Counselor Licensing and Certification Act as part of the Health and Safety Code. Ms. Helms provided information about the proposed legislation, including that it creates and defines the scope of practice for the Certified Alcohol and Other Drug Counselor (CAODC), Licensed Alcohol and Other Drug Counselor (LAODC), and the Registrant (RAODC) as pertains to the profession.

She indicated that similar legislation had been introduced previously, with the Board voting unanimously to take no action. Ms. Helms noted that the current legislation provides for certification or licensure of three levels of practitioner. It

also requires that applicants register with a Counselor Preparation and Testing Organization (CPTO).

Ms. Helms noted various concerns with the legislation. She indicated there is question whether the education and training for an LAODC is sufficient for the work performed. Other concerns included the creation of a license that can treat only one diagnosis; continuity of care issues in situations where a client might have diagnoses that fall outside the LAODC scope of practice; unlike MFTs and LCSWs, the LPCC is not exempted from the provisions of the bill; the CTPO would not be accountable like a government regulatory agency would be; and issues pertaining to discipline.

**Patricia Lock-Dawson moved that the Board take no position on the legislation, but stress to the bill's author the Board's various concerns with the legislation. Renee Lonner seconded. The Board voted 7-0 to adopt the motion, with 1 member abstaining.**

#### **XV. Legislative Update**

Ms. Helms provided an update regarding Board-sponsored legislation. She made special note of two bills pertaining to child abuse reporting, AB 2339 and AB 2380, both of which she reported had been chaptered.

#### **XVI. Rulemaking Update**

Ms. Helms provided an update of various pending regulatory proposals, for the Board's information.

#### **XVII. Compliance and Enforcement Committee Report**

Ms. Madsen reported that the Compliance and Enforcement Committee met on June 25, 2010. An overview of the Board's Probation Program was presented to the members, including statistical information and the process involved in monitoring an individual on probation. The Committee was also provided an update on the retroactive fingerprint requirement. Ms. Madsen noted that as of June 10, 2010, more than 17,000 licensees and registrants had been notified of the need to submit fingerprints. More than 1,000 individuals who failed to submit fingerprints were referred to the Board's enforcement unit for further review and possible citation and fine. A large number of the individuals complied with the requirement after contact by enforcement unit staff. Those remaining non-compliant were issued a citation and fine.

Other issues presented to the Committee included enforcement statistics for fiscal year 2009/2010. Ms. Madsen noted that despite increased workload and no additional resources, progress has been made in some categories to meet or exceed the 12 to 18 month goal as noted in the Consumer Protection

Enforcement Initiative. She anticipated staff would be able to meet the goals in all categories once all process improvements are implemented and approved staffing resources are received. Board staff also discussed ongoing efforts to streamline internal processes to maximize efficiency.

The Committee also received information about the legal options available to the Board to remove a licensee or registrant from practice if that individual presents a threat to public safety. The options include the use of an Interim Suspension Order or Penal Code Section 23, both of which temporarily suspend a licensee or registrant from practice.

#### **XVIII. Public Comments for Items Not on the Agenda**

Dr. Caldwell thanked the Board for its action pertaining to inclusion of a new degree title for licensure as a Marriage and Family Therapist.

Ms. Riemersma commented about examination statistics, indicating she would like those statistics to be provided again on a regular basis.

#### **XIX. Suggestions for Future Agenda Items**

No public comment.

The meeting adjourned at approximately 4:45 p.m.