

## **BOARD MEETING MINUTES March 24, 2011**

**Department of Consumer Affairs  
El Dorado Room  
1625 North Market Blvd., Suite N220  
Sacramento, CA 95834**

### **Via Teleconference:**

Pioneer High School  
10800 E. Benavon St.  
Whittier, CA 90606

415 Karla Court  
Novato, CA 94949

### **Members Present**

Elise Froistad, Vice Chair, MFT Member  
Samara Ashley, Public Member  
Gordonna (Donna) DiGiorgio, Public Member  
Harry Douglas, Public Member  
Judy Johnson, LEP Member  
Patricia Lock Dawson, Public Member  
Christine Wietlisbach, Public Member

### **Staff Present**

Kim Madsen, Executive Officer  
Tracy Rhine, Assistant Executive Officer  
Michael Santiago, Legal Counsel  
Christina Kitamura, Administrative Analyst

### **Members Absent**

Renee Lonner, Chair, LCSW Member

### **Guest List**

On file

## **FULL BOARD OPEN SESSION**

### **I. Call to Order & Establishment of Quorum**

Elise Froistad, Acting Board Chair, called the meeting to order at 8:40 a.m. Christina Kitamura called roll, and a quorum was established.

The Board entered into closed session.

## **FULL BOARD CLOSED SESSION**

### **II. Pursuant to Government Code Section 11126(e)(1) the Board Will Confer With Legal Counsel to Discuss Writ of Mandate:**

*California Association of Marriage and Family Therapists, a California Non-Profit Mutual Benefit Corporation vs. Board of Behavioral Sciences, Case Number 34-2010-80000689*

Michael Santiago conferred with the Board in closed session.

## **FULL BOARD OPEN SESSION**

### **III. Discussion and Possible Action to comply with the Writ of Mandate Regarding the Gap Examination**

Ms. Froistad reopened the meeting to the public at 8:46 a.m. and explained that during closed session, the Board discussed the Writ of Mandate that was ordered by the Sacramento Superior Court (Court) on February 14, 2011. She outlined the Court's three findings:

1. The Board did not abuse its discretion in determining that "practice" and "profession" are essentially the same.
2. The Board abused its discretion in failing to consult with Office of Professional Examination Services (OPES) in determining whether the Gap Examination is necessary.
3. The Board did not abuse its discretion in determining the Gap Examination is required if the Board determines there are "any" differences between the professions.

Ms. Froistad reported that the Court also ordered the Board to set aside its prior decision requiring the Gap examination due to the Board's failure to "consult with" OPES as required in Business and Professions Code section 4999.54, subdivision (b).

***Christine Wietlisbach moved to set aside the decision the Board made on September 9, 2010 finding that a "Gap" examination is necessary to address the differences between the practice of professional clinical counseling, and the practice of marriage and family therapy, and between the practice of professional clinical counseling and the practice of clinical social work. Samara Ashley seconded.***

Ms. Froistad opened discussion to the Board. There was no Board discussion. Ms. Froistad opened the floor for public comment. There were no public comments.

With the motion on the floor, Ms. Froistad called for a vote, and a roll call vote was taken.

***The Board voted unanimously (7-0) to pass the motion.***

Ms. Froistad reported that during its meeting on February 23, 2011, the Board considered the question whether a "Gap Examination" was necessary. Consistent with the Court's mandate that the Board consult with the OPES, Board staff asked that OPES review the analysis and report prepared by Dr. Traci Montez on this question, and that OPES provide a written opinion on the necessity of a "Gap Examination." Ms. Froistad stated that the Board members received a copy of the written opinion prior to the February 23, 2011 meeting. Bob Holmgren, Supervising Personnel Consultant with OPES, was in attendance and available for any questions about OPES' opinion. Ms. Froistad stated that none of the Board members had any questions about OPES' opinion or recommendation.

Ms. Froistad reported that the Board then considered and adopted the following two decisions based on a review of the February 11, 2011 Memo from OPES and the April 29, 2010 report from Dr. Montez:

1. That after consulting with OPES on the differences between the practice of professional clinical counseling and marriage and family therapy, and between the practice of professional clinical counseling and the practice of clinical social work, the Board finds that a “Gap Examination” is necessary.
2. That staff will jointly develop the “Gap Examination” with OPES to address the differences between the practice of professional clinical counseling and the practice of marriage and family therapy, and between the practice of professional clinical counseling and the practice of clinical social work.

***Harry Douglas moved to ratify the Board’s prior two decisions, as previously stated, that were made at the February 23, 2011 Board Meeting in reference to the “Gap Examination.” Christine Wietlisbach seconded.***

Ms. Froistad opened discussion to the Board. There was no Board discussion. Ms. Froistad opened the floor for public comment.

Cathy Atkins, California Association of Marriage and Family Therapists (CAMFT), asked for clarification on the motion, specifically what was being ratified. Ms. Froistad responded that the decisions the Board made at the February 23, 2011 Board meeting, were being ratified: 1) that a “Gap Examination” was necessary, and 2) that staff will jointly develop the “Gap Examination” with OPES to address the differences between the practice of professional clinical counseling and the practice of marriage and family therapy, and between the practice of professional clinical counseling and the practice of clinical social work.

Janlee Wong, National Association of Social Workers (NASW), asked if this will impact the application deadline of those licensees that would like to be grandparented, and if the deadline will be moved to a sooner or later date. Ms. Froistad responded that this will not make a difference in the deadline.

Ms. Atkins expressed CAMFT’s concerns. She stated that there was a vote to take the exam off the table; then there was a vote to put the exam back on the agenda. The Board was working with OPES at the same time that these votes were going forward, so there was never a good faith effort to take the exam off of the table so that the Board can take a look at the materials. CAMFT feels that these steps were being done at the same time, not in the order that CAMFT feels the court ordered. CAMFT does not agree with the Board’s analysis on the second point of the court order. CAMFT’s interpretation of the second point in regards to failing to consult with OPES was a reason, not a finding.

With the motion on the floor, Ms. Froistad called for a vote, and a roll call vote was taken.

***The Board voted unanimously (7-0) to pass the motion.***

#### **IV. Public Comment for Items Not on the Agenda**

Mr. Wong, NASW, read a letter from a Board licensee regarding license renewals. The licensee suggested that Board staff process the renewals in order of license expiration date, not first come, first served. The licensee’s reason for the request is so that licensees are not unlicensed for a period of time while their renewals are being processed and so that there is not interruption of behavioral health services.

**V. Adjournment**

The meeting was adjourned the meeting at 8:57 a.m.