

BOARD MEETING MINUTES May 18-19, 2011

Four Points by Sheraton Sacramento International Airport
4900 Duckhorn Drive
Sacramento, CA 95834

Wednesday, May 18

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Samara Ashley, Public Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Judy Johnson, LEP Member
Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
Rosanne Helms, Legislative Analyst
Marina Karzag, Policy & Statistical Analyst
Spencer Walker, Legal Counsel
Christina Kitamura, Administrative Analyst
Paula Gershon, Program Manager
Sandra Wright, Examination Program Analyst

Members Absent

Patricia Lock-Dawson, Public Member
Karen Pines, MFT Member

Guest List

On file

FULL BOARD OPEN SESSION

I. Introductions

Renee Lonner, Board Chair, called the Board of Behavioral Sciences (Board) meeting to order at 8:05 a.m. Christina Kitamura called roll. A quorum was not established.

New Board member, Christina Wong, was introduced. Board members, Board staff, and audience members introduced themselves.

Samara Ashley joined the meeting at 8:08 a.m. A quorum was established.

II. Approval of the February 23-24, 2011 Board Meeting Minutes

Ms. Lonner listed amendments to the minutes:

- Page 2, item IV, 2nd paragraph, 3rd sentence should read: The deficit is a direct result of a multi-year contract in which the final payment was made in this fiscal year *as well as a result of* a reduction of funding.
- Page 2, item IV, last paragraph, 1st sentence should read: The Board currently has 12 vacancies between the LPCC staff and *previously* existing positions.

- Page 4, item VI, 1st paragraph, 2nd and 3rd sentences should read: The law allows the Board to *administer* a national exam or *to accept* a national exam for LPCC applicants instead of a Board-administered exam.
- Page 4, item VI, 1st paragraph, 4th sentence should read: The Board contracted with Dr. Tracy Montez, AMS, to perform the analysis necessary to determine if any *of the* national examinations met the standards required by law.
- Page 4, item VI, 1st paragraph, 7th sentence should read: Her findings were that the national *exams* met the standards required by law; however, there were some issues.
- Page 6, item VII, 7th paragraph, 2nd sentence should read: Two other concerns that he is hearing *are* about public safety and quality of education.
- Page 6, item VII, 9th paragraph, 1st sentence: The last word of the sentence should be replaced with “orientation.”
- Page 6, item VII, 9th paragraph, 4th sentence should read: If you put in a requirement that promotes best service to fit the characteristics of the *consumer*, the system would probably need to make some changes to fit the current status quo, not the Board’s requirements.

Donna DiGiorgio moved to approved the February 23-24, 2011 Board meeting minutes as amended. Renee Lonner seconded. The Board voted (7 approved, 1 abstained, 0 opposed) to pass the motion.

III. Approval of the March 24, 2011 Board Meeting Minutes

Christine Wietlisbach noted an error on page 2, 3rd paragraph: “Christina” should be corrected to “Christine.” This correction should be made throughout the minutes where needed.

Renee Lonner moved to approved the March 24, 2011 Board meeting minutes as amended. Donna DiGiorgio seconded. The Board voted unanimously (8-0) to pass the motion.

IV. Executive Officer’s Report

a. Budget Report

Kim Madsen reported on the Board budget. As of March 31, 2011, Board budget reflected:

- \$5,253,293 total expenditures, which is 68% of the Board’s total budget;
- 23% spent on personnel services;
- 17% spent on Attorney General and Office of Administrative Hearing expenses;
- Remaining expenses are attributed to operating expenses, equipment, and examination development;
- \$5,312,643 in revenue was collected through March 31, 2011;
- Projected expenses through the end of the fiscal year reflect an unencumbered balance of \$157,661.

Ms. Madsen reported on the MHSA budget. As of March 31, 2011, the MHSA budget reflected:

- \$86,969 total expenditures, which is 71% of the total budget;
- 54% spent on personnel services;
- 17% spent on operating expenses and equipment.

At the February Board meeting, MHSA expenditure projections indicated a \$30,000 deficit due to the receipt of a bill for a contract that was in the previous fiscal year. There was an accounting error, and that has been corrected. Revised projections now indicate a \$25,274 unencumbered balance.

Ms. Madsen reported that the Board's current fund condition reflects an eight month reserve balance. Loans to the General Fund in 2002/2003 in the amount of \$6,000,000 and in 2008/2009 in the amount of \$3,000,000 remain outstanding. In 2011/2012, another loan in the amount of \$3.3 million will be taken from the reserve account, which will leave the Board with about a five month reserve.

Harry Douglas asked if there is a requirement regarding how much reserve the Board should maintain. Ms. Madsen responded that she does not recall the amount of reserve that the Board is required to maintain. Historically, a three-month reserve has been the minimum amount. Mr. Douglas suggested that the Board review its fee structure.

Judy Johnson joined the meeting at 8:20 a.m.

b. Operations Report

Ms. Madsen reported that Board staff is comprised of 44 positions which include five staff members for the Licensed Professional Clinical Counselor (LPCC) program. Currently, a total of nine vacancies exist.

Ms. Lonner asked if the money building up in the reserve account is a result of the vacancies. Ms. Madsen responded affirmatively, adding that the savings is also a result of the various spending restrictions such as the travel restrictions.

There are 12 positions in the Licensing and Examination Program, two of which are vacant: the fingerprint unit and Licensed Educational Psychology (LEP) desk. The Board has prioritized and reassigned a number of the duties associated with these vacancies to existing staff. The additional workload has impacted all licensing and examination programs.

Effective May 1, 2011 the Board filled the vacancy within the Marriage and Family Therapist (MFT) unit which evaluates all MFT applications for examination. The training on the MFT evaluator desk takes an average of 6 months to complete. The Board had one person to evaluate these applications. As a result, applicants for the MFT examination are experiencing significant delays.

In April, the Board filled the vacancy in the cashiering unit. Renewal applicants were experiencing a six week delay to renew their license or registration. Since filling this vacancy, the cashiering unit has reduced the delay by half.

The Enforcement Unit has two vacancies: the Consumer Complaint Intake desk and a Field Investigator position. The critical workload associated with these positions has been reassigned to existing staff.

Five positions are allocated to the LPCC program. All five positions are currently vacant and an exemption request from the hiring freeze order has been submitted. The request remains pending.

Construction to expand the Board's suite has been completed.

Due to the ongoing budget deficit, travel restrictions, and insufficient staffing, the Board is unable to participate in school presentations and other outreach events. Board staff feels that a continuing presence at these types of events is important. Staff is researching alternative methods to present the information at outreach events.

The impact of existing vacancies is directly reflected in the Customer Satisfaction Survey Report. In comparing the averages for the same time period one year ago, stakeholders overall satisfaction with the Board has decreased from 3.4 to 2.9. Successful service declined from 61.0 to 50.0. Accessibility to the Board decreased from 3.2 to 2.6. The courtesy rating of the Board remains unchanged at 3.9.

Governor Brown issued an Executive Order, which restricts all travel. The Board will continue to evaluate all travel for compliance with the Executive Order and its statutory mandates.

c. Personnel Update

Ms. Madsen provided the personnel update. Terri Jauregui joined the Board staff in March 2011 to fill an Office Technician position within the Licensing Unit as the LEP Evaluator. She has accepted a promotion to perform the functions of an MFT Evaluator.

Linda Nash transferred to the Board in April 2011. She is performing the duties as a cashier within the Licensing Unit.

Kimberly deLong accepted a promotional position as a Special Investigator with the California Medical Emergency Services effective March 2, 2011. Kimberly worked as an Investigative Analyst within the Enforcement Unit.

d. Mental Health Services Act Report

Ms. Madsen reported that the Governors' proposal to realign government services will impact MHSA funding to the Board. The proposal seeks to reduce state administrative support related to the implementation of the MHSA in order to direct more MHSA funding to county mental health programs. As a result, effective June 30, 2011, MHSA funding to the Board will end. The staff position that was funded through MHSA funds was transferred to the Board fund effective March 2011.

The Board convened for a short break at 8:33 a.m. and reconvened at 8:48 a.m.

V. Department of Consumer Affairs Update

Cindy Kanemoto from the Department of Consumer Affairs' (DCA) Executive Office provided an update on DCA activities. Ms. Kanemoto addressed the Governor's Executive Order regarding the hiring freeze and the hiring freeze exemption requests. Currently, the Board's exemption requests are still pending.

Ms. Kanemoto addressed the Governor's Executive Order regarding travel restrictions. No travel is permitted unless it meets the definition for "mission critical" under the Executive Order. The Board requested one out-of-state travel exemption, which is still pending approval.

Ms. Kanemoto addressed the Consumer Protection Enforcement Initiative (CPEI). DCA has posted its third set of performance measures to the DCA website. Board members are encouraged to review these measurements as this is information available to the public. These measures show how long it takes from the receipt of a complaint until disciplinary action is taken, and is very helpful to the Board in reviewing their enforcement program. Ms. Madsen

was commended on the performance measures and extensive enforcement data provided in the packet.

DCA encourages the Board to move forward with regulations for some of the recommendations of CPEI especially in light of the LPCC regulations.

DCA encourages the Board to move forward with regulations to implement SB 1441 Uniform Standards. The Substance Abuse Coordination Committee met and approved proposed amendments by the subcommittee to standard #4 regarding testing requirements, which reduces the number of tests required per year.

DCA thanked the Board for allowing staff to participate in the BreEZe project.

DCA has been working on an evaluation form for the Executive Officer Evaluation Study. A new form has been created and will be presented at the Director's Meeting on June 1st.

DCA has received several requests from boards asking to increase the salary for an executive officer (EO). These salary increases must be approved by the Department of Personnel Administration and the Governor's Office. DCA wanted to ensure that all boards' EO salaries were reviewed to determine if the position was at the appropriate salary. Therefore, DCA has entered into a contract to review all EO salaries and changes made in the last 10 years, and provide a document indicating appropriate salaries. This study is expected in August. Until the study is completed, DCA will not move forward with increasing EO salaries.

Ms. Kanemoto thanked the Board for posting the meeting materials online, which is great for the public as well as a step in saving money.

a. Update on the BreEZe project

Sean O'Connor, BreEZe Business Project Manager, provided an overview and update on the BreEZe project. He provided an overview of the project concept, conceptual design, benefits, transaction fee, key success factors, project leadership, recent activities and next steps, and tentative implementation schedule.

BreEZe is an integrated licensing and enforcement solution, which will be the system that will be used to track all applications, complaints and investigative activity. It will replace the outdated systems currently being used.

BreEZe will be a self-service and single point of entry for customers with electronic applications and renewals, electronic payments, and expedited processing. For staff, BreEZe will provide pre-screened applications and automated routing.

The initial payment to the vendor paid for software and detail design, which was about \$1.7 million. The blueprint and software is owned by DCA. The majority of this multi-million dollar contract does not get paid to the vendor until the system is implemented. Each board and bureau of DCA will pay for their "transaction fee" based on their license volume.

The BreEZe team released a Request for Proposal for "Solution Vendors." All proposals were received, and a compliant vendor has been awarded the contract. The BreEZe team is currently negotiating proposed costs with the vendor.

The first phase of implementation will include BBS and is scheduled for July 2012.

At the end of the presentation, the floor was opened to questions.

Carrie Lew, University of Southern California, asked if the Board will need to designate staff to deal with the technical issues. Mr. O'Connor responded that the Board will not need designate staff to handle the technical issues. Board staff will provide consultation at the conceptual level.

Janlee Wong, National Association of Social Workers (NASW), posed questions regarding accessibility for disabled people, enforcement tracking, and customer service. Mr. O'Connor responded that enforcement tracking will be very secure because the public cannot have access to complaint investigations. Regarding accessibility, as part of technical requirements this system must be accessible. For the population who cannot navigate the system, they may submit hardcopy applications to the Board for processing. The boards/bureaus will provide the customer service; however, DCA will provide customer service regarding the technical issues of the system.

Judy Johnson expressed concern regarding the population of licensees who are not "technologically savvy." Mr. O'Connor responded that the technology will not be forced upon the stakeholders; instead the technology is available to assist those who wish to use it. Stakeholders can still mail applications directly to the Board for manual processing; however, they will not be able to track the application electronically.

VI. Licensing and Examination Committee Report

a. Discussion and Possible Rulemaking Action Regarding Implementation of Assembly Bill 2699 (Bass), Chapter 270, Statutes of 2010

Marina Karzag presented AB 2699. As a result of AB 2699, beginning January 1, 2010, health care practitioners licensed or certified in good standing in another state may be temporarily exempted from California licensing requirements if:

- Care is to uninsured or underinsured persons;
- Care is on a short-term, voluntary basis not to exceed 10 calendar days per event;
- Care is in association with a sponsoring entity that registers with the applicable healing arts board and provides specified information to the county health department of the county in which the health care services will be provided;
- It is without charge to the recipient or to a third party on behalf of the recipient; and
- The health care practitioner obtains authorization from the Board to participate in the sponsored event by submitting a copy of his or her license and a request for authorization to practice without a license, and paying a fee established by the regulating board through regulation.

This law sunsets on January 1, 2014.

AB 2699 is a result of an eight-day health event in Los Angeles County conducted by the Remote Area Medical Volunteer Corps (RAM) in August 2009. RAM experienced a shortage of volunteer medical, dental, and vision providers because of restrictions in state laws which prohibit specific out-of-state licensed medical personnel volunteers from providing short-term services, and RAM was forced to turn thousands of residents away.

State laws did not allow RAM to utilize certain types of out-of-state licensees. However, under the Board's statutes, RAM, as a nonprofit charitable institution, would have been able to utilize any individual that is not licensed in the state of California to provide mental health services only if those individuals were under the sole supervision of RAM.

The laws established by AB 2699 specifically apply to out-of-state licensed practitioners. Under these statutes, a sponsoring entity would be able to utilize the services of an out-of-state licensee without providing sole supervision of the licensee by adhering to the specified requirements.

AB 2699 includes all healing arts boards under the DCA, therefore, the Board must establish regulations that implement the process in which out-of-state licensed health care practitioners apply for authorization from the Board to participate in free health care events.

Before this law can be implemented, regulations must be approved which specify the methods of its implementation. DCA drafted a model regulation package for each of its healing arts boards to use as a standardized framework.

The regulation package written by DCA does the following:

- Specifies Registration and Recordkeeping Requirements for the Sponsoring Entity;
- Defines the Application Process for an Out-of-State Practitioner to Participate in a Sponsored Event;
- Defines Grounds for Termination of Authorization to Participate.

The regulations package drafted by DCA leaves several decisions to each board's discretion. At its March 2011 meeting, the Licensing and Examination Committee reviewed the draft regulations and approved specific modifications as follows:

- A health care practitioner requesting authorization to practice would pay a \$25 application processing fee to the Board;
- The Board may deny the applicant's request for authorization to participate if the applicant's license type is not substantially equivalent to a license type regulated by the Board. The Board may determine equivalency on a case-by-case basis.

In addition to the Committee's recommendations, staff also recommended the following modifications to the proposed regulations:

- A health care practitioner requesting authorization to practice would pay a \$28 application processing fee instead of the initially recommended \$25 fee;
- The Board would require that the health care practitioner must submit with his/her application either a full set of fingerprints or a Live Scan inquiry in order to establish the identity of the applicant and to permit the Board to conduct a criminal history record check;
- Require the Board to deny a practitioner's request for authorization to practice if the Board does not receive the results of the criminal history check within a sufficient timeframe;
- Requires the Executive Officer (EO) to hold an informal conference, if requested by the practitioner due to termination of authorization to practice, within 90 days from receipt of the request for an informal conference instead of the 30 days.
- Include a question on the form that asks the applicant whether or not he/she has committed or been convicted of a crime that would constitute grounds for denial of licensure.

DCA's Legal Office is still reviewing technical changes to the regulations. At this time, staff recommends having a discussion regarding the suggested modifications. Any additional modifications from DCA's Legal Office will be discussed in future meetings.

Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA), referred to BPC Section 1820.2(c)(4)(A) and (B). He asked if the intent is to rule out anyone actively involved in those processes or ever been in those processes. The language is written to imply "ever been" charged. Ms. Rhine responded that the intent is as written, to imply "ever been charged."

Ms. Johnson stated that these health care events bring in a lot of people who have no insurance, are low income, or are homeless and need medical/dental care. Although the health care events are not catastrophic, other states such as Louisiana (New Orleans) that have held these events were able to quickly approve health care providers. It would be better to review the processes that other states follow in these situations than to create a complicated process.

Ms. Rhine responded that the regulations as written are governed by the statute. It is not the intent to make it more complicated at the Board level; the statute specifies the criteria that must be met.

Ms. Lonner asked if the language could be revised to include denial based on active disciplinary action pending in the licensee's current state or a criminal conviction relating to the practice and duties in the past five years. Ms. Rhine suggested that the Board decide what the policy should be and direct staff to work on the language. Staff will work with the Legal Office and propose language at the next meeting.

Elise Froistad suggested that staff develop language that allows the Board to retain discretion.

Discussion took place regarding the language of BPC Section 1820.2(c)(4)(A). A suggestion was made to add the term "unrestricted license." The Board expressed that it wanted to include language that would not exclude a rehabilitated licensee from another state who was charged with a crime a number of years ago.

Spencer Walker stated that the standards of various states may be different from California. Although underserved populations need health care, the Board is responsible for consumer protection. If a licensee from another state holds an "unrestricted license" but was convicted of child molestation, for example, years ago, the Board would not be able to deny approval. Folks in low income communities have very little funds, are more vulnerable, and are often victimized. Mr. Walker suggested changing "shall" to "may" under Section 1820.2(c). He also suggested changing the term "charged" to "convicted" under Section 1820.2(c)(4)(A).

Elise Froistad noted that a correction was needed for consistency to either the proposed language on Section 1820.1(a) "not later than 90 calendar days prior to the date" or the language on Registration of Sponsoring Entity under BPC Section 901 "at least 90 calendar days prior to the sponsored event."

Elise Froistad moved to direct staff to work on the language of BPC Section 1820.1(a), 1820.2(c), and 1820.2(c)(4)(A) and submit proposed language to the Board at its next meeting. Christine Wietlisbach seconded. The Board voted unanimously (8-0) to pass the motion.

The Board convened for a break at 10:04 a.m. and reconvened at 10:17 a.m.

b. Discussion and Possible Action Regarding the National Counselor Examination and the National Clinical Mental Health Counselor Examination

Tracy Rhine reported that SB 788 which established LPCCs in California, states that the Board must evaluate the national examinations available for LPCCs. The Board contracted with Applied Measurement Services, LLC (AMS) in 2010 to evaluate the national examinations. Initially, there were some issues with the examinations offered by the National Board for Certified Counselors (NBCC). During the July 2010 Board meeting, the Board directed staff to continue working with NBCC to address concerns with the national examination in an effort to continue moving forward toward California acceptance of the national exam for LPCC licensure. Over the last year, Board staff has continued working with NBCC.

At its March 2011 meeting, the Licensing and Examination Committee reviewed recommendations from Office of Professional Examination Services (OPES) and AMS regarding the use of the National Clinical Mental Health Counselor Examination (NCMHCE) for LPCC licensure in California. Both OPES and AMS recommended to the Committee that the Board consider the NCMHCE, along with a Board administered law and ethic examination for licensure, if all previously noted issues were addressed by NBCC.

Shawn O'Brien, NBCC Vice President, Center for Credentialing and Education, presented the basic framework of the examination, statistics, and samples of how the exam looks in the computer-based testing environment.

Renee Lonner moved to direct staff to enter into a contract with that National Board for Certified Counselors to use the National Clinical Mental Health Counselor Examination. Elise Froistad seconded. The Board voted unanimously (8-0) to pass the motion.

VII. Update on the Licensed Professional Clinical Counselor Gap Examination

William Donnoe, Ed.D., President of Donnoe & Associates, Inc., provided a progress report regarding the development of the Gap Examination. Mr. Donnoe reported that in December 2010, the Board contracted with Donnoe & Associates, Inc. to develop the Gap exam for current MFTs and LCSWs who would grandparent to the LPCC. The Gap Analysis provided by AMS defined the Gap exam. Donnoe & Associates worked with this document to gather information to develop the examination plan, which was completed and presented in a report to the Board in January 2011. From the examination plan, the examination and pass point methodology were developed. This was completed in January 2011, and a report was presented to the Board. The exam has been delivered to the OPES. The next step is to work with OPES and the Board to develop a study guide.

VIII. Discussion and Possible Legislative Action to amend Chapter 16 of Division 2 of the Business and Professions Code Relating to National Examination of Licensed Professional Clinical Counselors

Ms. Rhine reported that the Business and Professions Code sets forth requirements for licensure during a grandparenting period. There are two pathways to LPCC licensure during the grandparenting period: 1) one path applies to Board licensed MFTs and LCSWs and, 2) the second path applies to all other applicants not licensed by the Board. All applicants during the grandparenting period must meet education and experience requirements, and they must pass three exams: the National Counselor Examination for Licensure and Certification (NCE) or the

Certified Rehabilitation Counselor Examination, the National Clinical Mental Health Counselor Examination (NCMHCE), and California Law and Ethics Examination.

The law states that LPCCs that did not qualify for grandparenting licensure as an MFT or LCSW must renew their licenses annually for six years. After the sixth renewal, the licensee must pass an exam.

The intent of this section of law was to ensure that all licensees meet the same threshold for demonstrating the ability to competently practice in California by requiring grandparented licensees to take the same licensure exam as all other California LPCCs. If the Board required a board-administered standard written exam, all grandparented licensees that qualified for licensure by passing two national exams would have to take the board-administered exam, consistent with all other LPCCs, within a seven year period or the license would be cancelled as an operation of law. If a grandparented licensee subject to these conditions has already obtained a passing score on the licensure exam required by the Board after January 1, 2012, that licensee would not have to retake that exam, but only provide proof of successful completion to the Board to satisfy the requirement. The intent of this provision was to accommodate the Board adopting a national exam, in which case there would be no difference in the exam completed by grandparented licensees and all other licensees.

If the Board decides to concur with the recommendation of the Committee to adopt the NCMHCE as the licensure exam for LPCCs, all licensees except those grandparented LPCCs that qualified for licensure as an MFT or LCSW, will have to obtain a passing score on the same licensure examinations: the NCMHCE and a California Law and Ethics exam. Now that all licensees will be taking the same exam, the Board may want to consider the need to have one subset of grandparented licenses subject to both annual renewal and possible cancellation.

Another argument is that at some point in the future the Board may find the need to change from the national exams to a board-administered exam, and therefore the grandparented licensees should be subject to the standing provision to take the current exam. However, the intent of the law would not stand as there would be a licensee population, both grandparented and non-grandparented, that would have passed only the national exam. BPC Section 4999.56 only applies to grandparented licensees and would not require other LPCCs that took the national exam to take a subsequent exam.

The question is whether the Board wants to keep this section of law or repeal it.

Harry Douglas commented that it is inequitable to make an individual who is practicing for 6 years in California, assuming they have the competence to do the job, to pass an exam.

Dean Porter, California Association for Licensed Professional Clinical Counselors (CALPCC), urged the Board to repeal this section of law because it penalizes those who come through the grandparenting path. They have to pass three exams to be grandparented, whereas the regular path will just have two exams to pass. The law then requires them to renew annually, with perhaps another exam to pass. CALPCC originally agreed to include this language in bill to allow the Board time to review the national exams and to develop a California exam if that was the decision, but now it is not needed.

Judy Johnson moved to direct staff to submit legislative amendments to repeal BPC sections 4999.56 and 4999.101 and make conforming amendments to BPC Sections, 4999.102 and 4999.104. Harry Douglas seconded. The Board voted unanimously (8-0) to pass the motion.

IX. Discussion and Possible Action to Amend Business and Professions Code Section 4999.54 to Extend the Grandparenting Period for Licensed Professional Clinical Counselors

Ms. Rhine reported that the Board was required to accept applications during a grandparenting period from January 1, 2011 through June 30, 2011. The Board has been unable to accept applications for registration or licensure, and continue to be unable to implement the program, due to pending regulations that allow the Board to accept the fees associated with the LPCC program.

In order to allow a six-month period for individuals to apply under the grandparenting requirements, staff recommends proposed legislative amendments that would allow the Board to accept grandparenting applications through December 31, 2011.

Mr. Caldwell, AAMFT-CA, requested to change of the start date to July 1, 2011 for consistency to the original statute. Ms. Rhine responded that the idea is to keep it open to allow the Board to create and post the applications and begin accepting the applications. Although it is not anticipated that applications will be processed prior to July 1st; changing the date to July 1st takes away discretion to accept applications early.

Ms. Porter asked if the Board changed the language to July 1st, can the Board distribute the applications prior to July 1st and not accept them until July 1st. Ms. Rhine responded no because once the applications are made public, the applications will be submitted prior to July 1st.

Renee Lonner direct staff to submit draft language to the legislature for Board sponsored legislation to extend the grandparenting period in an urgency measure. Judy Johnson seconded. The Board voted unanimously (8-0) to pass the motion.

X. Discussion and Possible Legislative Action Regarding Hours of Experience Gained Under the Supervision of a Licensed Professional Clinical Counselors Pursuant to Business and Professions Code Section 4999.54

Ms. Rhine reported that experience requirements during the grandparenting period require “at least two years, full-time or the equivalent, of post-degree counseling experience, that includes at least 1,700 hours of experience in a clinical setting supervised by a licensed marriage and family therapist, a licensed clinical social worker, a licensed psychologist, a licensed physician and surgeon specializing in psychiatry or a master’s level counselor or therapist who is certified by a national certifying or registering organization, including, but not limited to, the National Board for Certified Counselors or the Commission on Rehabilitation Counselor Certification.”

This language excludes some LPCCs providing supervision in other states because the licensee does not meet the requirement of being certified by a national certifying or registering organization.

Ms. Rhine outlined questions for the Board to consider:

- Should LPCCs be included in this section allowing them to supervise grandparented individuals for 1,700 hours?
- If so, should the language be written to include LPCCs regardless if they are from another state or grandparented into California?
- Or, should LPCCs not be included?

Ms. Johnson expressed that she supports including LPCCs regardless of jurisdiction and does not see any issues regarding consumer protection.

Mr. Caldwell expressed that AAMFT-CA supports including LPCCs in this section but requests a minor change in the language: “a professional counselor licensed in another jurisdiction” changed to “a professional clinical counselor or equivalent licensed in another jurisdiction.” Mr. Caldwell recalled previous discussions at meetings where it was mentioned that “professional counselor” licensure varies in other states. Some states differentiate between a counselor and a clinical counselor.

Ms. Porter agreed that some states grant the LPC - Licensed Professional Counselor - during the supervision years. After passing the exam and complete supervision, the LPC becomes “licensed to provide independent practice.”

Ms. Johnson stated that for the proposed language is appropriate.

Renee Lonner moved to direct staff to submit legislative amendments for Board sponsored legislation to make a change to BPC Section 4999.54(a)(1)(c) to add “a professional clinical counselor or equivalent” in an urgency measure. Christine Wietlisbach seconded. The Board voted unanimously (8-0) to pass the motion.

The Board convened for lunch at 11:42 a.m. and reconvened at approximately 12:30 p.m.

XI. Discussion and Possible Action to Amend Senate Bill 704 to Include Licensed Professional Clinical Counselors and Intent Language Relating to Marriage and Family Therapists

Rosanne Helms reported that Board is currently sponsoring SB 704, which seeks to restructure the examination process for applicants seeking MFT and LCSW licensure on or after January 1, 2013.

If SB 704 is passed into law, applicants for MFT and LCSW licensure must pass two exams: a California law and ethics exam and a clinical exam. These new exams replace the standard written and the clinical vignette exams currently in place.

SB 704 would restructure the process of order in which the exams are taken. A new registrant with the Board would be required to take the law and ethics exam within the first year of registration. If the law and ethics exam is not passed within the first renewal period, the registrant must complete a 12 hour law and ethics course in order to be eligible to take the exam in the next renewal cycle. The exam must be re-taken in each renewal cycle until passed. In addition, in each year the exam is not passed, the 12 hour law and ethics course must be taken to establish examination eligibility. According to current law, a registration cannot be renewed after six years. If a registrant’s registration expires, he or she must pass the law and ethics exam in order to obtain a subsequent registration number.

Once a registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, he or she may take the clinical exam. This exam must be passed within seven years of an individual’s first attempt. If it is not passed within this timeframe, the individual’s eligibility to further attempt the exam is placed on hold. He or she must then pass the current version of the law and ethics exam before re-establishing eligibility to take the clinical exam.

As written, SB 704 does not seek to re-structure the examination process for applicants seeking an LPCC license. In order to maintain consistency and to afford LPCCs with the same

consumer protection measures as the Board's other licenses, staff recommends the Board consider adopting the proposed examination restructure for LPCC applicants as well.

SB 704 contains language stating that it is the intent of the Legislature for the Board to evaluate the national licensing exam used to license clinical social workers. If the Board finds that this examination meets the prevailing standards for validation and use of the licensing and certification tests in California, the Board may establish by regulation that this examination is to be used as the clinical examination.

Currently SB 704 contains no similar language for MFTs, although the Board intends to evaluate the national licensing exam for MFTs. Staff recommends that the Board consider adopting similar intent language for the national MFT examination.

Ms. Froistad expressed that she supports adding the language to allow the Board to evaluate the national licensing exam used to license MFTs and utilize this exam if the Board finds that it meets the prevailing standards in California.

Mr. Caldwell also expressed support.

Renee Lonner moved to direct staff to sponsor legislation to implement the proposed changes and to make any non-substantive changes to the draft language. Elise Froistad seconded. The Board voted unanimously (8-0) to pass the motion.

XII. Policy and Advocacy Committee Report

a. Recommendation #1 - Support Assembly Bill 40 (Yamada)

Ms. Karzag presented AB 40, Elder Abuse Reporting.

Ms. Karzag provided an overview of the existing law. Current law:

- Specifies that certain individuals, including MFTs, LCSWs, and LEPs, are mandated reporters of suspected instances of elder and dependent adult abuse and must report abuse that occurred in a long-term care facility, except as specified, by calling either the local ombudsman or the local law enforcement agency immediately, or as soon as possible.
- Requires a mandated reporter to submit a written report to the agency within two working days.
- Restricts local ombudsman programs from sharing reports of elder or adult abuse with local law enforcement agencies without the consent of the subject of the reported abuse or his or her legal representative.
- Requires a mandated reporter to report suspected financial abuse of an elder or dependent adult that occurred in a long-term care facility to either the local ombudsman or local law enforcement agency.

Ms. Karzag provided an overview of what AB 40 will do. This bill:

- Requires mandated reporters to report suspected instances of elder or dependent adult abuse and financial abuse that occurred in a long-term care facility to *both* the local ombudsman and local law enforcement agency.
- Allows non-mandated reporters to report suspected instances of elder or dependent adult financial abuse that occurred in a long-term care facility to either the local long-term care ombudsman program or the local law enforcement agency or both entities.

According to the author's office, the local ombudsman's limited ability to share information on reported abuses with local law enforcement may inhibit a thorough investigation, and ultimately, resolution of certain elder and dependent adult abuse reports. Requiring mandated reporters to report suspected abuse that occurred in a long-term care facility would ensure that law enforcement is aware of all reports of this type of criminal activity.

The author's office stated that there was an issue of trust in that mandated reporters may not report suspected instances of abuse to local law enforcement for fear of losing the trust of the client. However, there are statutes that ensure the confidentiality of the identity of the reporter, except as disclosed to specified agencies and under specified circumstances.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill.

Ms. Johnson expressed support for AB 40.

Mr. Caldwell, AAMFT-CA, expressed that AAMFT-CA does not have a formal position on AB 40 at this time. However, AAMFT-CA feels that this is an additional reporting burden, and that this is an information-sharing issue, not a matter of protecting the victim. It is not ideal to put the resolution of this matter on the mandated reporter rather than resolving it at the information-sharing issue between ombudsman and law enforcement.

Michael Brooks, Center for Clinical Social Work, shared the same concerns - that this is an issue with the ombudsman.

Rebecca Gonzales, National Association of Social Workers (NASW) California Chapter, expressed support for AB 40, stating that the additional reporting does not outweigh the benefits.

Renee Lonner moved to take a support position on AB 40. Elise Froistad seconded. The Board voted unanimously (8-0) to pass the motion.

b. Recommendation #2 - Support Assembly Bill 154 (Beall)

Ms. Helms presented AB 154, Mental Health and Substance Abuse Parity.

Ms. Helms provided an overview of the existing law. Current law:

- Requires health care service plan contracts and disability insurance policies that provide hospital, medical or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, regardless of age, and of serious emotional disturbances of a child.
- Defines "severe mental illness" and "serious emotional disturbances of a child."
- Requires the benefits provided to include outpatient services, inpatient hospital services, partial hospital services, and prescription drugs if the plan includes prescription drug coverage.
- Requires that maximum lifetime benefits, copayments, and individual and family deductibles that apply to these benefits have the same terms and conditions as they do for any other benefits under the plan contract.

Ms. Helms provided an overview of what AB 154 will do. This bill:

- Requires a health care services plan contract or health insurance policy that provides hospital, medical, or surgical coverage that is issued on or after January 1, 2012 to provide coverage for the diagnosis and medically necessary treatment of a mental illness of a person of any age under the same terms and conditions applied to other medical conditions. The benefits provided must include: 1) outpatient services, 2) inpatient hospital services, 3) partial hospital services, and 4) prescription drugs if the plan contract includes coverage for prescription drugs.
- Broadens the definition of “mental illness” as a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders IV (DSM IV).
- Requires a plan or insurer to provide mental health coverage in its entire service area and in emergency situations as required by law and regulation.

The intent of this bill is to end discrimination against patients with mental disorders and substance abuse issues by requiring treatment and coverage of those illnesses at a level equitable to the coverage provided for other medical illnesses. Many health plans do not provide coverage for mental disorders. The plans that do provide coverage for mental disorders impose much stricter limits on mental health care coverage than on other medical care.

Parity laws require insurance coverage for mental health to be equal to or better than insurance already provided for other medical and surgical benefits, including maximum lifetime benefits, co-payments, and deductibles. Ms. Helms provided an overview of current parity laws and what they do:

- The Federal Mental Health Parity Act banned differences in co-pays, deductibles, coinsurance, out of network coverage, out of pocket expenses and treatment limitations such as caps on visits, limits on days, and limits on duration of treatment for mental health or addiction therapy. However, this law does not apply to employers with fewer than 50 employees. The passage of the Act did not mandate mental health or substance use disorder benefit coverage but only stated that if mental health/substance use disorder benefits are offered through a health insurance plan, that those benefits must not be more restrictive or limiting than those offered for medical and surgical coverage under the plan.
- The 2010 Patient Protection and Affordable Care Act (PPACA, also known as national health care reform) requires private insurance plans to include certain mental health and substance use disorder treatment beginning in 2014. The mental health and substance use disorders covered are to be determined through rulemaking.
- California’s current mental health parity law, AB 88, was enacted in 2000. The bill requires health plans to provide coverage for mental health services that are equal to medical services. However, they are required to cover only certain diagnoses that are defined as a severe mental illness or a serious emotional disturbance of a child.

Although the PPACA requires health insurance plans to provide mental health and substance use disorder treatment beginning, the law does not yet define mental health and substance use treatments to be covered. Additionally, the law does not go into effect until 2014, leaving many uncovered until then.

This bill has been introduced several times. In 2007, 2008, and 2009, these bills were vetoed by Governor Schwarzenegger. The Board took a support position on all three bills. In 2010, the Board did not take a position on the bill, which was also vetoed by the Governor.

Insurance Code §10144.8(d) and Health and Safety Code §1374.74(g) are not consistent with each other. Staff suggested minor technical amendments to the author of the bill.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill.

Christine Wietlisbach moved to take a support position on AB 154. Harry Douglas seconded. The Board voted unanimously (8-0) to pass the motion.

c. Recommendation #3 - Support Assembly Bill 171 (Beall) if amended

Ms. Helms presented AB 171, Autism Spectrum Disorder.

Ms. Helms provided an overview of the existing law. Current law:

- Requires health care service plan contracts and disability insurance policies that provide hospital, medical or surgical coverage to provide coverage for the diagnosis and medically necessary treatment of severe mental illnesses, regardless of age, and of serious emotional disturbances of a child.
- Defines “severe mental illness” and “serious emotional disturbances of a child.” The definition of “severe mental illness” includes “pervasive developmental disorder or autism” as one criterion within its definition.
- Requires the benefits provided to include outpatient services, inpatient hospital services, partial hospital services, and prescription drugs if the plan includes prescription drug coverage.
- Requires that maximum lifetime benefits, copayments, and individual and family deductibles that apply to these benefits have the same terms and conditions as they do for any other benefits under the plan contract.

Due to loopholes in current law, those with autism spectrum disorders (ASD) are frequently denied coverage for their disorder. When they are denied coverage, those with ASD must go without treatment, pay for treatment privately, or spend time appealing health plan and insurer denials. Many with health insurance who are denied coverage for ASD seek treatment through Regional Centers, school districts, or counties, shifting the cost burden to the taxpayers. The goal of this bill is to end health care discrimination against those with ASD by specifically requiring health plans and insurers to cover screening, diagnosis, and all medically necessary treatment related to the disorder.

Ms. Helms provided an overview of what AB 171 will do. This bill:

- Requires every health care service plan contract or health insurance policy to provide coverage for the screening, diagnosis, and treatment of ASD.
- Defines “treatment for autism spectrum disorders” as: 1) behavioral health treatment, 2) pharmacy care, 3) psychiatric care, 4) psychological care, 5) therapeutic care, and 6) any other care for individuals with autism spectrum disorders that is demonstrated to be medically necessary.
- Prohibits a health care service plan from terminating coverage or refusing to deliver treatment because that person is diagnosed with or has received treatment for an ASD.
- Requires coverage to include all medically necessary services and prohibits any limitations based on age, number of visits, or dollar amounts.

- Contains provisions for lifetime maximums, deductibles, copayments, coinsurance or other terms and conditions for coverage of autism spectrum disorders must not be less favorable than the provisions that apply to general physical illnesses covered by the plan.
- Prohibits coverage for ASD from being denied on the basis that treatment is habilitative, nonrestorative, educational, academic, or custodial in nature.
- Requires a health care service plan and health insurer to establish and maintain an adequate network of qualified autism service providers.

Current law requires coverage for the diagnosis and medically necessary treatment of pervasive developmental disorder or autism. However, lack of detail as to the nature of this coverage provides loopholes for insurers to frequently deny coverage for treatments. This bill would make the law more explicit about what must be covered.

The bill specifically defines “diagnosis of autism spectrum disorders” and “treatment of autism spectrum disorders,” citing specific care that these entail. However, there is no definition of “screening of autism spectrum disorders.” As the purpose of this bill is to close loopholes allowing denial of medically necessary coverage, it is suggested that “screening of autism spectrum disorders” also be specifically defined.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill if the term “screening of autism spectrum disorders” is defined.

Donna DiGiorgio moved to take a support position on AB 171 if amended. Christina Wong seconded. The Board voted unanimously (8-0) to pass the motion.

d. Recommendation #4 - Support Assembly Bill 181 (Portantino)

Ms. Helms presented AB 181, Foster Youth: Mental Health Bill of Rights.

Ms. Helms provided an overview of the existing law. Current law:

- Establishes a list of rights for children in foster care, which includes the right “to receive medical, dental, vision, and mental health services.”
- Establishes the Office of the State Foster Care Ombudsperson for the purposes of providing foster children with a way to resolve issues related to their care, placement, or services.
- Requires the Office of the State Foster Care Ombudsperson to disseminate information on the rights of foster children.
- Creates a list of rights for children in foster care and transition-age foster youth relating to mental health services.

Ms. Helms provided a brief overview of what AB 181 will do. This bill requires the Office of the State Foster Care Ombudsperson to develop standardized information explaining the above rights in an age-appropriate manner and to distribute the information.

According to the author’s office, although mental health treatment is listed as one of the foster youth’s rights, barriers often prevent foster children from receiving the mental health care that they need. The goal of this bill is to provide additional rights to foster youth related to mental health services. According to research provided by the author’s office, children entering the foster care system are at risk for mental health issues for several reasons.

They cite research that shows that 50-60% of children in foster care have moderate to severe mental health problems. However, only 28% of these children receive mental health services during the year after their contact with the child welfare system.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill. The list of mental health rights has been amended since this time.

Ms. Froistad stated that in her experience working with children in foster care, she has seen the lack of care and support the children received. Therefore, she supports AB 181. Ms. Froistad added that although there are some implementation issues, there are too many children that are not receiving treatment.

Mr. Caldwell, AAMFT-CA, agreed with Ms. Froistad. He referred to the list of rights, specifically:

(e) To continue services with the same therapist for at least one year after a change in placement or a reunification.

(h) To be presented with all available mental health treatment services.

Mr. Caldwell asked if these listed items created new obligations on practitioners.

Mr. Caldwell also referred to subdivision (o) To be guaranteed privacy and confidentiality with mental health professional, unless a danger to self or others or if child abuse is suspected. He stated that there are more exceptions to privacy and confidentiality than suspected child abuse or danger to self or others. Mr. Caldwell asked if this is informational to children seeking services or does it create an obligation on practitioners.

Ms. Rhine's opinion is that it is informational, not that it creates a liability on practitioners. Mr. Walker agreed. Mr. Caldwell suggested adding clarifying language to subdivision (o).

Ms. Rhine explained that this list of rights for foster care children; it does not obligate or require the Board, or anyone else, to do anything because it is merely a "bill of rights."

Ms. Gonzales stated that NASW California Chapter supports for AB 181.

Donna DiGiorgio moved to take a support position on AB 181 if amended. Judy Johnson seconded. The Board voted unanimously (8-0) to pass the motion.

Ms. Rhine summarized the requested amendments: 1) strike subdivision (e), 2) add clarifying language to subdivision (h), and 3) add clarifying language to subdivision (o).

e. Recommendation #5 - Support Assembly Bill 367 (Smyth)

Ms. Helms presented AB 367, Elder Abuse Reporting, sponsored by California Association of Marriage and Family Therapists (CAMFT). AB 367 is a two-year bill.

Ms. Helms provided an overview of the existing law. Current law:

- Defines "mandated reporter" for purposes of reporting child abuse and neglect and for purposes of reporting elder or dependent adult abuse and neglect.
- States that a report of child abuse and neglect must be accepted by specified agencies even if the agency to which the report is being made lacks jurisdiction to investigate the reported case.

- Specifies the agencies a mandated reporter is required to report elder and dependent adult abuse and neglect, depending on where the abuse has occurred.

Ms. Helms provided a brief overview of what AB 367 will do. This bill:

- Requires an agency or a local law enforcement agency to accept a report by a mandated reporter, or any other person, of suspected elder or dependent adult abuse even if the agency lacks jurisdiction to investigate the report.
- Requires an agency or local law enforcement agency that lacks jurisdiction to immediately refer the report of suspected abuse by telephone, facsimile, or electronic transmission to a county adult protective services agency or a local law enforcement agency with proper jurisdiction.

Under current law, when a case of child abuse and neglect is reported to an agency, that agency must take the abuse report whether or not it has jurisdiction. The agency must then refer the matter to an agency with proper jurisdiction. However, similar provisions do not exist for the reporting of a case of elder and dependent adult abuse. As a result, mandated reporters trying to make a report of elder and dependent adult abuse may be sent from agency to agency, navigating local and county bureaucracies, until they find the proper department to take the report. The intent of this legislation is to eliminate the burden on the mandated reporter to find the authority that actually has jurisdiction of the case.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill.

Jill Epstein, CAMFT, thanked the Board for its support on AB 367.

Judy Johnson moved to take a support position on AB 367. Elise Froistad seconded. The Board voted unanimously (8-0) to pass the motion.

f. Recommendation #6 - Support Assembly Bill 671 (Portantino) if amended

Ms. Helms presented AB 671, Child Welfare Services: Education and Training Requirements, sponsored by the National Association of Social Workers California Chapter. AB 671 is a two-year bill.

Ms. Helms provided a brief overview of the existing law. Current law:

- Provides for a statewide system of child welfare services that must be available in each county of the state.
- Requires all counties to establish and maintain specialized entities within their county welfare department which are responsible for the child welfare services program.

Ms. Helms provided an overview of what AB 671 will do. This bill:

- Requires a social work supervisor working for a county child welfare services agency to have either a master's degree in specified areas of study from an accredited or state approved graduate school, and equivalent education and experience as determined by the State Department of Social Services.
- Requires that all newly hired social work supervisor working for a county child welfare services agency as of January 1, 2012 meet specific additional educational requirements.

- Allows someone who does not meet the requirements to apply for an exception with the State Department of Social Services.
- States that an employee hired before January 1, 2012 does not have to satisfy the new education and experience requirements in order to keep their job as a social work supervisor in a county child welfare services agency.

There are currently no educational requirements for supervisors in child welfare services. The goal of this bill is to enhance consumer protection with respect to child welfare services by ensuring that supervisors have appropriate training, experience and education.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support if amended position on this bill. Substantial amendments have been made since that time. Amendments that had been recommended by the Committee were:

- Clarification of work setting and place of employment.
- Clarification of acceptable employment before January 1, 2012 in order to be exempt from requirements.
- Narrow down acceptable degrees to those similar to what the Board would accept for licensure.

Issues that remain:

- The bill states that someone who has a master's degree in specified areas, or "equivalent education and experience, as determined by the department," is qualified to be a social work supervisor for a county child welfare services agency. This is a broad requirement that could result in the hiring of an individual without a master's level education, when the intent of the bill is to require a master's degree.
- This bill proposes to add a section to the Welfare and Institutions Code. The language appears out of context in the placement.

Mr. Caldwell stated that AAMFT-CA does not have a formal position on AB 671. However, he requested to amend the list of acceptable degrees to include the other MFT degree titles, such as marriage and family therapy and, if the omnibus bill passes, couples therapy.

Ms. Gonzales stated that NASW California Chapter will continue to work with stakeholders on the bill amendments. She added that they will take Mr. Caldwell's suggestion and the remaining issues outlined by Ms. Helms and work on those amendments.

Ms. Rhine summarized the requested amendments: 1) defining "equivalent education and experience" by adding all degree titles in the Board's licensing law, 2) clarification of possible exemptions and 3) adding MFT degree titles under acceptable degrees.

Donna DiGiorgio moved to take a support position on AB 671 if amended. Christine Weitlisbach seconded. The Board voted (7 approved, 1 abstained, 0 opposed) to pass the motion.

The Board convened for a break at 1:30 p.m. and reconvened at 1:45 p.m.

g. Recommendation #7 - Oppose Assembly Bill 675 (Hagman) unless amended

Ms. Helms presented AB 675, Continuing Education; Prohibition of Specified Courses. AB 675 is a two-year bill.

Ms. Helms provided an overview of the existing law. Current law:

- Requires the DCA to prescribe components for mandatory continuing education (CE) programs.
- States that the purpose of the guidelines is to ensure that mandatory CE is used to create a more competent licensing population and to protect the public.
- Requires Board licensees to certify during each renewal period the completion of at least 36 hours of CE in or relevant to the field of their practice.
- Requires the CE to be obtained from an accredited school or a Board-approved CE provider.
- Requires the board to establish, by regulation, a procedure for approving providers of CE courses.
- Requires that training, education, and coursework by approved providers must incorporate: 1) aspects of the discipline that are fundamental to the understanding or practice of marriage and family therapy, social work, or professional clinical counseling, or 2) aspects of the discipline of marriage and family therapy, social work, or professional clinical counseling in which significant recent developments have occurred.
- Requires a provider to ensure the content of a course is relevant to the practice of marriage and family therapy or clinical social work. The content of a course must also be related to direct or indirect patient/client care.
- Allows the board to revoke its approval of a provider or deny a provider application for good cause.

The author sponsored this bill after it came to his attention that the California Nurses Association (CNA) was offering CE credits to registered nurses (RNs) as an incentive to attend political events. The CNA also offers CE credits to RNs attending classes focused on lobbying and political organizing. Although the law does not specifically prohibit this, it seemed to be contrary to the intent of the existing law.

Ms. Helms provided a brief overview of what AB 675 will do. This bill:

- Prohibits the following courses from being considered as having content relevant to the practice regulated by the board, and prohibits them being accepted for meeting CE requirements: 1) courses that advance or promote labor organizing on behalf of a union, 2) courses that advance or promote statutory or regulatory changes, political candidates, political advocacy, or political strategy.
- Prohibits an approved provider who offers a course that is described above as prohibited from being accepted as CE courses, must not represent that the course is acceptable for meeting the CE requirements. If a provider violates this requirement, then the board shall withdraw its approval of the provider.

Ms. Helms provided an overview of concerns with AB 675:

- It is important for the Board's licensees to know the law regarding their profession and be informed of recent statutory and regulatory changes that affect their profession. It is unclear whether CE courses that discuss the legislative process and any changes to statutes and regulations affecting the profession would constitute "courses that advance or promote statutory or regulatory changes." To avoid any confusion, staff recommends that language be added to clarify that courses

containing discussion of recent statutory and regulatory changes to the profession for which the CE is being offered is permitted.

- Another concern is that the Board's mandated continuing education course covering law and ethics may fall into one of the prohibited course categories. Staff recommends that the bill be amended to clarify that a course covering law and ethics is permitted.
- Another concern is the misplacement in the Business and Professions Code.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take an oppose position unless the bill is amended.

Mr. Brooks expressed appreciation to the suggested amendments.

Mr. Caldwell stated that if this bill in its current form creates concerns for AAMFT-CA. If AB 675 passes in its current form, then discussions relating to Board policies and proposed regulatory changes cannot be discussed in CE courses.

Ms. Gonzales agreed with Mr. Caldwell, stating that it is important for NASW California Chapter to inform its members of legislation that affect the profession and affect the clients. Furthermore, it is stated in NASW's Code of Ethics that social workers should be politically active and work towards advancing the profession and their clients' best interests. Ms. Gonzales expressed the importance of teaching about the legislative process and political advocacy as it relates to the profession and to the clients.

Mr. Douglas agreed, stating that it is "too prescriptive in the wrong direction."

After some discussion regarding how to amend the language, it was agreed that the bill is too difficult to amend and not "fixable."

Judy Johnson moved to take an oppose position on AB 675. Harry Douglas seconded. The Board voted unanimously (8-0) to pass the motion.

h. Recommendation #8 - Consider Assembly Bill 774 (Campos)

Ms. Rhine presented AB 774, Clinical Social Workers; Health Facilities; Licensure.

Ms. Rhine provided a brief overview of the existing law. Current law:

- Requires that licensure requirements for professional personnel in state and other government health facilities licensed by the State Department of Public Health (DPH) not be less than those for professional personnel in health facilities under private ownership.
- Allows the requirement for licensure in a government health facility licensed by DPH to be waived for individuals gaining experience to qualify for licensure as MFTs and LCSWs for up to four years.
- Allows DPH to extend the waiver from licensure requirements for those seeking licensure as an MFT and LCSW for an additional year based on extenuating circumstances.

The author of AB 774 stated that clinical social workers are working in many different California agencies and departments; however, an extension for the licensure waiver is only applied to those working in DPH licensed facilities. This bill would require DPH and the

Department of Mental Health to grant a waiver, and an extension of a waiver for extenuating circumstances, to a marriage and family therapist and a clinical social worker.

Staff presented a number of issues regarding the drafting of this bill at the April 2011 Policy and Advocacy Committee meeting. The bill has since been amended to address most of the issues identified by staff at that meeting; however, the recent amendments have also produced a new concern. Throughout the bill the entity required to issue waivers from licensure, and extensions of those waivers, is referred to as “the licensing department.” The bill does not define “licensing department.” There is a concern that a “licensing department” could be interpreted to mean the Board. This is not a regulatory jurisdiction of the Board.

Mr. Caldwell pointed out language that is already written in law that he considered “broad.” He also expressed that AAMFT-CA would not take a position on the bill.

Ms. Rhine explained that staff can work with the author’s office regarding the technical issues and inform them that the Board does not have jurisdiction.

The Board did not take a position on AB 774.

i. Recommendation #9 - Support Assembly Bill 956 (Hernandez, R.) if amended

Ms. Helms presented AB 956, Marriage and Family Therapy; Interns and Trainees: Advertisements, sponsored by CAMFT.

Ms. Helms provided an overview of the existing law. Current law:

- Allows the Board to adopt regulations that define services to be advertised by professions under its jurisdiction for the purpose of determining whether advertisements are false or misleading.
- Requires an unlicensed marriage and family therapist intern (MFT Intern) to inform each client or patient, prior to performing any professional services, that he or she is unlicensed and under the supervision of a: 1) licensed MFT, 2) LCSW, 3) licensed psychologist, or 4) licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.
- Requires an advertisement of services performed by a marriage and family therapist trainee (MFT trainee) to include: 1) the trainee’s name, 2) the supervisor’s license designation or abbreviation, and 3) the supervisor’s license number.
- Requires all persons regulated by the Board who advertise their services to include their license or registration number in the advertisement unless the advertisement contains the full name of the licensee and designation of the type of license or registration held.
- Specifies that an unlicensed MFT Intern may advertise if the advertisement complies with law stating that the patient is informed, prior to performance of any professional services, that he or she is unlicensed and under the supervision of a licensed MFT, LCSW, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

The intent of this bill is to clear up inconsistencies in current law about advertising requirements for MFT Interns and trainees. This bill would require MFT Interns and trainees to be clear in their advertising that they are not yet licensed, and are under supervision.

Ms. Helms provided a brief overview of what AB 956 will do. This bill:

- Requires unlicensed MFT Interns and trainees to inform each client or patient, prior to performing any professional services of the following:
 - That he or she is an unlicensed MFT Intern or unlicensed MFT trainee;
 - The name of his or her employer; and
 - Indicate whether he or she is under the supervision of a licensed MFT, LCSW, licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.
- Requires any advertisement by or on behalf of a MFT Intern and a MFT trainee must include, at a minimum, all of the following:
 - That he or she is an unlicensed MFT Intern or unlicensed MFT trainee;
 - The name of his or her employer; and
 - That he or she is supervised by a licensed person
- Prohibits the use of the abbreviation “MFTI” in an advertisement unless the title “marriage and family therapist registered intern’ was spelled out.

The Board approved the advertising regulations at its November 2008 meeting. As drafted, those approved regulations require that advertisements include a license or registration number.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position if this bill is amended to 1) require that advertisements include a license or registration number, and 2) require that MFT Interns provide each patient his or her registration number prior to performance of professional services.

Christina Wong moved to take a support position on AB 956 if amended. Elise Froistad seconded. The Board voted unanimously (8-0) to pass the motion.

j. Recommendation #10 - Oppose Assembly Bill 958 (Berryhill, B.)

Ms. Helms presented AB 958, Regulatory Boards: Limitations Periods. AB 958 is a two-year bill.

Ms. Helms provided an overview of the existing law. Current law:

- Requires that any accusation filed against a Board licensee or registrant must be filed within three years from the date the Board discovers the alleged act or omission or within seven years from the date the alleged act or omission occurred, whichever occurs first.
- Allows the above statute of limitations period be tolled during any period if material evidence necessary for prosecuting or determining if disciplinary action is appropriate is not available to the Board due to an ongoing criminal investigation.
- States that an accusation alleging the procurement of a license by fraud or misrepresentation is not subject to the statute of limitations.
- Allows the statute of limitations to be tolled for the length of time required to obtain compliance when a report required to be filed with the Board by the licensee or registrant is not filed in a timely fashion.
- Requires that if the alleged act or omission involves a minor, the statute of limitation is tolled until the minor reaches the age of majority.
- Requires, for a complaint received by the Board on or after January 1, 2002, an accusation filled against a licensee alleging sexual misconduct must be filed within

three years after the Board discovers the act or omission, or within ten years after the act or omission occurs, whichever is first.

Ms. Helms provided an overview of what AB 958 will do. This bill:

- Requires that an accusation filed against a licensee of a board under DCA must be filed within one year after the board discovers the alleged act or omission or within four years after the alleged act or omission occurs, whichever occurs first.
- States that if the alleged act or omission involves a minor, then the four year limitations period shall be tolled until the minor reaches the age of majority.
- States that if a licensee intentionally conceals evidence of wrongdoing, then the four year limitations period shall be tolled during the period of concealment.

The intent of this bill is to delete the statute of limitations period for specified DCA boards and bureaus, and replaces them with a standard, shorter limitations period that applies to all boards within DCA. The author's office argues that a shorter statute of limitations reinforces the right to a speedy trial, and lessens the likelihood of prosecution based on improper or arbitrary motives.

Ms. Helms provided an overview of concerns with AB 958:

- The intent of this bill to shorten the statute of limitations period is contrary to the Board's mandate to protect the public.
- This bill repeals current law that states an accusation alleging the procurement of a license by fraud or misrepresentation is not subject to the statute of limitations.
- This bill does not contain a similar provision, potentially leaving the Board unable to investigate an instance of obtaining a license by fraudulent means if the statute of limitations has passed. If this were to happen, then an unqualified individual who is not competent to safely practice would be allowed to continue unlicensed practice, jeopardizing consumer safety.
- The language proposed by this bill leaves out several features specified in current law. It does not allow tolling of the statute of limitations due to an ongoing criminal investigation, and contains no special extension of the statute of limitations for acts of sexual misconduct.

In 2008, SB 797 amended the unprofessional conduct codes of the Board's licenses to add new grounds for refusal, suspension, or revocation of a license based upon engaging in specified sexual acts with a minor regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board. This bill addressed an enforcement complaint received by the Board. This complaint alleged that a licensee had repeatedly sexually abused a minor prior to the person being licensed with the Board. However, the Board had no authority to consider the case because the alleged conduct had taken place prior to the issuance of a license, and the statute of limitations had expired.

The Board's enforcement unit typically needs between six to twelve months to investigate an accusation upon discovery. After the Board's investigation, a case may also need to be reviewed by an expert consultant, which can take approximately two additional months. If unprofessional conduct is found, the case would then proceed to the Attorney General's office. A one-year statute of limitations would inhibit the Board's ability to conduct a complete investigation, and would therefore jeopardize consumer protection.

No Board discussion. No public comments.

Christine Wietlisbach moved to take an oppose position to AB 958. Judy Johnson seconded. The Board voted unanimously (8-0) to pass the motion.

k. Recommendation #11 - Oppose Assembly Bill 993 (Wagner) unless amended

Ms. Helms presented AB 993, Mediation and Counseling Services: Discipline and Immunity. This is a two-year bill.

Ms. Helms provided an overview of the existing law. Current law:

- Specifies that in the case of a court petition, application, or other pleading to obtain or modify child custody or visitation that is being contested, the court shall set the contested issues for mediation.
- Allows a court to require parents or any other party involved in a custody or visitation dispute, and the minor child, to participate in outpatient counseling with a licensed mental health professional.
- States that a court-connected or private child custody evaluator must be a licensed MFT, clinical social worker, or other specified licensed professional or certified evaluator.
- States that a court-connected or private child custody evaluator licensed by the Board is subject to disciplinary action by the Board for unprofessional conduct.

According to the author, California family courts regularly appoint lawyers, social workers, MFTs, and psychiatrists to perform mediation, custody evaluations, co-parenting counseling, or parenting coordinator duties. When appointed by the court, their role is for providing fact finding, not for providing psychological services. However, these professionals are licensed by different government entities, and are governed by different laws and standards for discipline.

Because these professionals are often involved in custody disputes, they are often subject to attack. Because they are working under a code of conduct as a court appointee that may be different from the code of conduct of their licensed profession, they risk facing duplicative but potentially inconsistent disciplinary proceedings. Additionally, because these professionals are licensed by different agencies, one type of professional may not be held to the exact same code of conduct as another professional, even if they are performing identical duties for the court. As a result of this situation, many qualified professionals are no longer willing to take appointments by family courts.

Ms. Helms provided an overview of what AB 958 will do. This bill:

- Specifies that a mediator and a licensed mental health professional are not liable for damages for an act or omission constituting ordinary negligence if the act or omission is within the scope of his or her duties and occurs while providing mediation services in cases involving custody and visitation of children required by a court in a child custody or visitation dispute or while providing outpatient counseling required by a court to parties involved in a custody or visitation dispute.
- Requires a complaint made by any person against a mediator or licensed mental health professional regarding an act or omission must be made to the court that set the matter for mediation or required the outpatient counseling services be provided. This type of complaint may not be made to a board that issued a license to a mediator or licensed mental health professional.

- Requires the court to consider the complaint and determine whether it establishes unprofessional conduct that would subject the mediator or licensed mental health professional to disciplinary action by the board that issued his or her license to practice. If the court makes such a finding, it must refer the matter to that board for disciplinary action.

Ms. Helms provided an overview of concerns with AB 993:

- As written, this bill states that either a mediator or a licensed mental health professional is not liable for damages for an act or omission constituting ordinary negligence if it is within the scope of duties and occurs while providing services required by the court in a custody or visitation dispute. However, a licensed mental health professional that is not acting in a mediator role, would be acting as a licensed mental health professional, which would fall under the jurisdiction of the Board. Therefore, staff recommends an amendment to include only mediators within the scope of this bill.
- This bill specifies absence of liability for “ordinary negligence,” but does not define what constitutes ordinary negligence.
- Family Code §3195.2(c) states that if the court makes a finding that unprofessional conduct has occurred, then “the court shall refer the matter to that board for disciplinary action against the mediator or licensed mental health professional.” This language removes the discretion of the licensing entity to judge, using its particular set of laws, whether their licensee should be subject to disciplinary action. It simply mandates that the Board make disciplinary action based on the findings of the court, which may not be familiar with that particular Board’s standards of conduct. Staff recommends that the language be revised to state that if the court makes a finding that unprofessional conduct has occurred, then “the court shall refer the matter to that board for review and possible disciplinary action against the mediator or licensed mental health professional.”

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take an oppose position unless amended.

Ms. Lonner stated that the courts are not set up to handle mental health disciplinary cases. She asked what percentage of complaints is regarding custody evaluations.

Ms. Madsen responded that about 15% of complaints are custody evaluation complaints. Some of the complainants do not receive resolution at the court level, and come to the Board to take back to the court in order to invalidate the court’s decision.

Donna DiGiorgio moved to take an oppose position to AB 993. Judy Johnson seconded. The Board voted unanimously (8-0) to pass the motion.

The Board convened for a break at 3:05 p.m. and reconvened at 3:20 p.m.

I. Recommendation #12 - Consider Assembly Bill 1205 (Berryhill, B.)

Ms. Helms presented AB 1205, Licensed Behavior Analysts. AB 1205 is a two-year bill.

Current law defines several types of professionals used in regional centers for functions related to behavioral analysis for persons with developmental disabilities, which are: 1) Behavior Analysts, 2) Behavior Management Consultants, 3) Associate Behavior Analysts, and 4) Behavior Management Assistants.

The intent of AB 1205 is an attempt to apply standards, criteria, and state recognition via licensure, to the profession of Applied Behavioral Analysis (ABA). ABA is commonly used to treat autism spectrum disorders. There has been an increase in the practice of this profession in California. However, the California Business and Professions Code does not apply any requirements to the practice of ABA.

Because there is no licensure of ABAs, it is difficult for consumers to make an informed decision when choosing an applied behavior analyst. In some cases, ABA programs may be designed, supervised, and/or implemented by someone who lacks training and experience in ABA.

Ms. Helms provided an overview of what AB 1205 will do. This bill:

- Requires that no person may hold him or herself out to be a behavior analyst or an assistant behavior analyst, unless the person is licensed by the Board, and specifies the types of services that may be provided.
- Requires the Board to issue a behavior analyst license to an applicant who meets all of the following requirements:
 - Possess a bachelor's and master's degree relevant to the field of behavior analysis, as determined by the Board, from an accredited school:
 - Completes at least 225 classroom hours of graduate instruction.
 - Completes at least 1,500 hours of supervised independent fieldwork under supervision of a licensed behavior analyst. Of this amount, 75 hours must be direct supervisor contact.
 - Pass an exam administered by either the Board, Behavior Analyst Certification Board, or another similar entity approved by the Board.
 - Be certified by the Behavior Analyst Certification Board or another similar entity approved by the Board.
- Requires that hours of supervised experience gained toward licensure must be accrued no more than six years prior to applying for a license.
- Requires the Board to issue an assistant behavior analyst license to an applicant who meets all of the following requirements:
 - Possess at least a bachelor's degree from an accredited school.
 - Complete at least 135 classroom hours of related instruction.
 - Complete at least 1,000 of supervised independent fieldwork under supervision of a licensed behavior analyst. Of this amount, at least 50 hours must be direct supervisor contact.
 - Be certified by the Behavior Analyst Certification Board or another similar entity approved by the Board Pass an exam administered by the Board, the Behavior Analyst Certification Board, or another similar entity approved by the Board.
- States that licensing of behavior analysts and assistant behavior analysts will begin on January 1, 2015.

The Behavior Analyst Certification Board (BACB), a nonprofit corporation, provides the Board Certified Behavior Analyst (BCBA) and the Board Certified Assistant Behavior Analyst (BCaBA) certifications.

Ms. Helms provided an overview of concerns with AB 1205:

- This bill currently does not contain a definition of a qualifying degree program for licensure for assistant behavior analysts. Instead, it states that an applicant must have a bachelor's degree. Staff suggests an amendment which narrows acceptable degrees to those relevant to the field of behavior analysis.
- Under the Board's proposed examination restructure, all current Board licensees will be required to pass a law and ethics examination. This bill does not currently require a law and ethics examination.
- Staff has major concerns about the implementation of an additional license. The Board has currently been unable to obtain the resources it needs to implement the LPCC licensing program. Additionally, due to budget constraints and the hiring freeze, the Board has been unable to fill vacancies that serve its current licensees.
- This bill establishes a title act, which prohibits the use of certain professional titles if a license is not held. A practice act would prohibit engagement in the practice of behavior analysis unless a license is held. A practice act offers public protection, while a title act offers professionalization of the practitioners.
- This bill does not require a license in order to practice behavior analysis. Additionally, this bill would still permit a licensed behavior analyst or assistant behavior analyst to oversee the implementation of behavior analysis programs by others.
- As written, this bill states that the practice of applied behavior analysis excludes long-term counseling. Staff recommends that a definition of "long term counseling" and "short term counseling" be provided.
- There are several additional topics that staff suggests to address in this bill, including examination eligibility, limit on number of years an examination score is valid, supervision standards, establishment of fees, reciprocity and grandparenting requirements, continuing education requirements, unprofessional conduct guidelines, and retired license and inactive license guidelines.

At its meeting in April 2011, the Policy and Advocacy Committee did not recommend a position to the Board on this bill, but instead requested that the Board further discuss the policy implications of this legislation.

Ms. Porter stated that the California Association for Licensed Professional Clinical Counselors (CALPCC) voted to take a position of oppose to AB 1205.

Ms. Johnson expressed that ABA is a therapeutic technique, or a treatment modality, used with students with autism spectrum disorders and with children with other symptoms. Ms. Johnson expressed concern regarding the licensure of a treatment modality.

Ms. Lonner stated that this is a treatment modality for a single diagnosis.

Ms. DiGiorgio expressed concern regarding an additional new license program put upon the Board and opposes AB 1205.

Brief discussion took place regarding certification versus licensure, and whether the Board or the Department of Education is the appropriate entity to provide a pathway for ABA certification.

Brianna Lierman Hintze, California Association for Behavior Analysis (CalABA), agreed that there are many technical issues with AB 1205, which is why this is a two-year bill. CalABA

wants this to be a complete practice act; it is not intended to be a title act. She added that these professionals may receive certification; however, it does not mean that health plans will pay for coverage. Health plans deny coverage on the basis that the provider is not licensed or that it is not clearly stated in the scope of practice. CalABA acknowledges the costs it would take the Board to implement this licensing program, which is one reason why the implementation date is proposed for 2015.

Ms. Madsen asked how many behavior analysts are anticipated. Ms. Lierman Hintze responded about 1,500 behavior analysts and assistant behavior analysts in the first year are anticipated.

Ms. Madsen asked for an estimate on the fiscal analysis. Ms. Lierman Hintze responded \$875,000 to start up the program and \$200,000 for ongoing costs.

Ms. Lierman Hintze stated that behavior analysis is the recognized treatment modality for early intervention. She added that the bill allows other licensed mental health professionals to provide these services.

The Board did not take a position on AB 1205.

m. Recommendation #13 - Support Senate Bill 146 (Wyland)

Ms. Helms presented SB 146, Healing Arts: Professional Clinical Counselors. SB 146 is a clean-up bill sponsored by CALPCC.

Existing law provides for the licensure of professional clinical counselors (LPCCs) by the Board.

The purpose of this bill is to add LPCCs to statutory code sections where Marriage and Family Therapists (MFTs) are already included. Adding LPCCs to other codes where other Board licensees are already included will allow LPCCs to be more effectively utilized in California.

This bill makes many technical amendments. It also includes several key amendments:

- Includes LPCCs in existing law requiring certain licensees to complete training in human sexuality;
- Includes the Board's amendment adding fees for various to the list of LPCC fees;
- Includes LPCCs and registered clinical counselor interns and trainees in the law providing a cause of action against a psychotherapist for injury caused by sexual contact with the psychotherapist;
- Extends the patient-psychotherapist privilege to confidential communications made between a patient and his or her LPCC, registered clinical counselor intern or trainee, or LPCC corporation;
- Includes LPCCs, clinical counselor interns, and clinical counselor trainees in the list of mandated reporters.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill.

No Board discussion. No public comments.

Christine Wietlisbach moved to take a support position to SB 146. Christina Wong seconded. The Board voted unanimously (8-0) to pass the motion.

n. Recommendation #14 - Support Senate Bill 718 (Vargas)

Ms. Karzag presented SB 718, Elder Abuse: Mandated Reporting.

Existing law requires mandated reporters of elder or adult physical abuse to report suspected instances of abuse, including financial abuse, by telephone immediately or as soon as possible and submit a written report within two working days.

Ms. Karzag provided an overview of what SB 718 will do. This bill:

- Allows a mandated reporter of elder or adult physical abuse to report suspected instances of abuse, including financial abuse, by telephone or by a confidential Internet reporting tool immediately or as soon as practicably possible, and if reported by telephone, then submit a written report or Internet report within two working days.
- Allows the written abuse report to be submitted through a confidential Internet reporting tool, if the county or long-term care ombudsman program chooses to implement such a system.
- Requires a county or long-term care ombudsman program that chooses to implement the system, to report to the appropriate legislative committees one year after implementing the system.

According to the author's office, the County of San Diego Adult Protective Services currently receives reports of suspected elder and adult abuse from mandated reports and the public on the same phone line. Due to recent budget cuts, which led to decreased staffing, and a high volume of calls, wait time has increased by 50 percent. As of November 2010, 27 percent of calls were abandoned.

This bill would have a minimal impact on reporting requirements for mandated reporters and may benefit licensees by simplifying the reporting process.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill.

Christine Wietlisbach moved to take a support position to SB 718. Donna DiGiorgio seconded. The Board voted unanimously (8-0) to pass the motion.

o. Recommendation #15 - Support Senate Bill 747 (Kehoe) if Amended

Ms. Helms presented SB 747, Continuing Education: Lesbian, Gay, Bisexual and Transgender Patients.

Ms. Helms provided an overview of the existing law. Current law:

- Requires DCA to establish guidelines to prescribe components for mandatory continuing education programs administered by any board within the department in order to enhance public protection.
- Requires licensees of the Board, upon renewal of their license, to certify to the Board that he or she has completed at least 36 hours of approved continuing education (CE) in or relevant to their field of practice. The CE shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

Ms. Helms provided an overview of what SB 747 will do. This bill:

- Requires the Board's MFTs and LCSWs to take at least one CE course, between two and five hours in length, that provides instruction on cultural competency, sensitivity, and best practices for providing adequate care to lesbian, gay, bisexual, and transgender persons.
- Requires the content of the course be similar to the content described in the publication of the Gay and Lesbian Medical Association titled "Guidelines for Care of Lesbian, Gay, Bisexual and Transgender Patients."

According to the author's office, research, studies and human experiences have demonstrated that members of the lesbian, gay, bisexual and transgender (LGBT) community receive sub-par quality medical and mental health care when compared with the health care quality provided to the general population.

The Board does have several one-time continuing educational requirements that must be completed by all MFT, LCSW, and LPCC licensees. These additional courses must be completed prior to licensure or at the first renewal, depending on when the applicant began graduate study. These courses are:

- Spousal/partner abuse (7 hours);
- Human Sexuality (10 hours);
- Child Abuse (7 hours);
- Substance Abuse (15 hours);
- Aging/long term care (3 hours); and
- HIV/AIDS (7 hours, currently MFTs and LCSWs only).

All licensees must take a six-hour law and ethics course every renewal period. In total, a licensee must complete 36 hours of continuing education every renewal period.

The Board does have a requirement that may offer its licensees some exposure to LGBT issues. Applicants seeking an MFT or LPCC license who begin graduate study after August 1, 2012 or complete graduate study after December 31, 2018, must have a degree that includes instruction in "multicultural development and cross-cultural interaction.

If a school does offer educational coursework covering LGBT issues, this bill does not allow that coursework to be used to fulfill the proposed CE requirement. Staff recommends language to allow coursework to satisfy the requirement.

LPCCs and LEPs were not included in this bill; both professions are likely to work with LGBT patients.

At its meeting in April 2011, the Policy and Advocacy Committee recommended the Board take a support position on this bill, if the bill was amended to allow previous educational coursework covering LGBT issues to fulfill the requirement, and pending Board discussion on inclusion of LPCCs and LEPs in the CE requirements.

Ms. Johnson stated that LEPs receive coursework in LGBT issues.

Ms. Froistad asked why and how to decide which CE courses to require when there are significant populations that call for specific training for adequate care.

Mr. Douglas stated that practitioners need to make self assessments and determine what training they need. Ms. Rhine responded that this is the Continuing Competency model. DCA is looking into adopting this model, which is the national trend right now.

Ms. Rhine stated that some of the required CE courses have been integrated into curriculum. Staff could look into those courses that are now required in curriculum and could be changed in regulation.

Mr. Caldwell stated that AAMFT-CA supports SB 747 if amended to allow the Board discretion to recognize coursework already taken and to change the limit on hours.

Ms. Kanemoto stated that DCA administration opposed SB 747.

Ms. Gonzales stated that NASW California Chapter supports SB 747.

Ms. Wong stated that it is important to have a basic level of knowledge with this population and to make a referral if that is necessary.

The Board did not take a position on SB 747.

p. Legislative Update

Ms. Helms reported briefly from the legislative update that was provided.

SB 274, Healing Arts bill, makes conforming changes to licensing law for the professions regulated by the Board. It will be used as a vehicle if the Board chooses to extend the grandparenting period for LPCCs Staff will also request this bill be made an urgency measure. This bill has been referred to the Senate Appropriations Committee.

SB 363, MFT Experience and Supervision bill, covers areas for the MFT practicum requirements, client centered advocacy, and supervision of MFT Interns. The bill has now been amended to allow an MFT trainee to continue to counsel clients while not enrolled in practicum if that lapse of enrollment is less than 90 calendar days (instead of 45 days), and if that period is immediately preceded and immediately followed by enrollment in a practicum course. This bill has been referred to the Assembly.

SB 704, Examination Re-Structure bill. This bill is on the third read in the Senate.

SB 943, Omnibus bill, has been referred to the Senate Appropriations Committee.

q. Rulemaking Update

Ms. Helms reported briefly from the rulemaking update that was provided.

LPCC, Exceptions to Continuing Education – The rulemaking package was approved by the State and Consumer Services Agency and the Department of Finance. It is currently under review at the Office of Administrative Law.

Revision of Advertising Regulations - The Board approved the proposed text at its meeting in November 2008. Staff will address this rulemaking proposal in 2011 after the current pending regulatory proposal is approved.

HIV/AIDS Continuing Education Requirement for LPCCs - The Board approved the proposed text at its February 2011 meeting and directed staff to submit a regulation

package to make the proposed change. Staff will address this rulemaking proposal after the current pending regulatory proposal is approved.

XIII. Discussion and Possible Action on Senate Bill 541 and Senate Bill 544

Ms. Helms presented SB 541, Regulatory Boards: Expert Consultants.

Ms. Helms provided a brief overview of the existing law. Current law:

- Allows personal services contracting to achieve cost savings when the services contracted are not available within civil service and requires a state agency to secure at least three competitive bids or proposals for each contract.
- Requires various approvals based on dollar amount of the contract.
- States that no officer or employee in state civil service shall contract on his or her own individual behalf as an independent contractor with a state agency.

In November 2010, DCA issued a memorandum to all boards and bureaus under its jurisdiction stating that all expert consultants utilized by the department must enter into a formal consulting services contract and follow all guidelines, procedures, and rules governed by the State Contracting Manual and the California Public Contract Code (PCC). This action by DCA is in response to ambiguity as to whether current law, as written in the Public Contract Code, applies to DCA's subject matter experts.

Ms. Helms provided an overview of what SB 541 will do. This bill:

- Allows a board to contract with an expert consultant, without being subject to the provisions of the State Contract Act, if the expert consulting is providing any of the following services:
 - Providing an expert opinion on enforcement-related matters, including providing testimony at an administrative hearing.
 - Assisting the board as a subject matter expert (SME) in exam development, exam validation, or occupational analysis.
 - Evaluating the mental or physical health of a licensee or applicant for licensure.
- Exempts the Board from the provisions in the PCC, therefore allowing the Board to enter into an agreement with an SME who is employed by a state agency.

A formal consulting services contract is a lengthy process which may greatly inhibit the ability of DCA boards and bureaus to utilize SMEs. DCA uses approximately 1,700 expert consultants annually. If SMEs may not be utilized, this could have a devastating impact on the timelines for enforcement and exam development.

The Board utilizes the services of approximately 375 expert consultants per year for development of its licensing exams, evaluation of school curriculum content, and expert opinions concerning enforcement matters. The new DCA policy would require the following of all SME consulting contracts:

- DCA Human Resources approval;
- Detailed performance criteria and schedule for performance, for all contracts \$1,000 or more;
- A detailed analysis of the costs of performing the contract;
- A complete resume for each contract participant with a major role for contracts of \$5,000 or more;

- For a contract of \$5,000 or more, an agency must request a copy of any negative performance evaluations from the Department of General Services.

Under this new policy, SMEs would be prohibited from beginning work until the contract is approved. DCA estimates a 60-day lead time will be needed for the contracting process before the SME can actually begin work. A 60 day lead time would significantly inhibit the Board's ability to develop exams, evaluate school programs. It would also create a significant backlog of enforcement investigations, placing consumers at risk.

Ms. Kanemoto commented that DCA is taking 10 days to complete a contract through its current process. This bill is only allowing up to 60 days. This bill has been reviewed by DCA and it will still require a contract. Instructions were sent to all boards and bureaus regarding procedures if this bill were to pass.

No Board discussion. No public comment.

Renee Lonner moved to take a support position to SB 541. Christine Wietlisbach seconded. The Board voted unanimously (8-0) to pass the motion.

Ms. Helms presented SB 544, Professions and Vocations: Regulatory Boards. This is a 2-year bill.

Over the past three years, there have been several efforts to streamline the enforcement processes for healing arts boards within DCA. Currently, many boards take an average of three years to investigate and prosecute violations of the law, leaving consumers unprotected against potentially dangerous practitioners during this timeframe. The intent of this bill is to improve efficiency and increase accountability for boards within DCA, by providing these boards with additional regulatory tools and authority for investigating and prosecuting violations of law. With these new authorities, it is expected that healing arts boards will be able to reduce the average timeframe for an enforcement investigation to 12 to 18 months.

Ms. Helms provided a brief overview of the existing law. Current law:

- States that any act of sexual abuse, misconduct, or relations with a patient, client, or customer by a board licensee is unprofessional conduct and subject to disciplinary action.
- Requires a physician and surgeon, osteopathic physician and surgeon, and doctor of podiatric medicine to report the following to their licensing entity within 30 days of the indictment: 1) the indictment or information charging them with a felony, or 2) conviction of the licensee of any felony or misdemeanor.
- Requires that the clerk of the court rendering a judgment to report within 10 days that a licensee of a specified board, has committed a crime or is liable for any death or injury resulting in a judgment of more than \$30,000 due to negligence, error, or unauthorized professional services.
- Allows a licensing agency to take one of the following actions if it determines a licensee is unable to practice safely due to mental or physical illness: 1) revoke the license; 2) suspend the right to practice; 3) place the licensee on probation; or 4) take another action the agency deems proper.
- Requires the Board to revoke a license or registration for a marriage and family therapist or clinical social worker if it finds that person had sexual contact with a patient or former patient.

Ms. Helms provided an overview of what SB 544 will do. This bill:

- Requires a state agency, upon written request from a healing arts board, to immediately release all records about a licensee who is in the custody of a state agency.
- Requires any of the following agencies to provide a board with records, upon request, including medical records, confidential records, and records related to closed or open investigations.
- Prohibits a licensee of a board from including either of the following in a settlement agreement to a civil litigation action, and makes the violation unprofessional conduct:
 - A provision prohibiting another party to the dispute from contacting or cooperating with the board.
 - A provision prohibiting another party to the dispute from filing a complaint with the board or withdrawing a complaint already filed.
- Requires each healing arts board to annually report various information to DCA and the Legislature regarding number of complaints, accusations filed, citations issued, disciplinary actions taken, and various other enforcement related actions.
- States that conviction for any act of sexual abuse, misconduct, or conviction of a felony requiring registration as a sex offender is considered a crime substantially related to the qualifications, functions, or duties of a licensee of a healing arts board.
- States that a conviction or violation of a federal or state statute or regulation regulating dangerous drugs or controlled substances is unprofessional conduct, and that discipline may be ordered against a licensee or a license denied once time for appeal has elapsed.
- Expands unprofessional conduct of a licensee of a healing arts board to include:
 - Failure to provide information in a timely manner to the board or its investigators upon request.
 - Failure to cooperate and participate in an investigation or disciplinary proceeding against the licensee.
- Requires a licensee of any healing arts board to report the following to their licensing entity:
 - The indictment or information charging them with a felony.
 - Conviction of the licensee of any felony or misdemeanor.
 - Any disciplinary action taken by another licensing entity or authority of this state, another state, or the federal government.
- Requires the office of the Attorney General to:
 - Serve an accusation, or submit to a healing arts board for service, within 60 calendar days of receipt from the Board;
 - Serve a default decision, or submit to a healing arts board for service, within 5 days after the time period allowed for filing a notice of defense;
 - Set a hearing date within three days of receiving a notice of defense or set a hearing date within three days of receiving a notice of defense.
- Requires a healing arts board to query the federal National Practitioner Data Bank prior to:
 - Granting a license to an applicant who lives in another state;

- Granting a license to an applicant who is currently or has ever been licensed as a health care practitioner in this state or another state;
- Granting a petition for reinstatement of a revoked or surrendered license.
- Requires the Board to revoke a license for a MFT or clinical social worker if it finds that person has committed a sex offense.
- Allows the board to enter into a settlement agreement with a licensee or applicant. Settlement agreements against a licensee are considered public record and must be posted on the Board's website.
- Requires a license be automatically suspended while a licensee is incarcerated after conviction of a felony, even if the conviction is being appealed. Upon notification of the conviction, the Board must determine the duration of the suspension and notify the licensee in writing of the suspension.
- States that a conviction or charge regulating dangerous drugs or controlled substances, or a conviction of Penal Code sections 187, 261, 262, or 288 (which outline crimes of murder, rape, or lewd or lascivious acts) are substantially related to the qualifications, functions, or duties of a licensee and no hearing is needed to decide this issue. However, a board may decline or set aside the suspension when it appears to be in the interest of justice, or to maintain the integrity or confidence in the regulated practice.
- Sets penalties for a licensee or health care facility that fails or refuses to comply with a request for a patient's certified medical records, with patient's authorization, at \$1,000 per day up to \$10,000.
- Requires a licensee's employer to report a suspension or termination for cause or resignation in lieu of suspension or termination for cause to the board, and makes failure to report subject to a fine of up to \$100,000 if it is a willful failure to report, or \$50,000 if it is not a willful failure.
- Requires the Board to post on its website for each licensee, along with disclaimers and explanations of the information being disclosed and an explanation of the types of information not disclosed:
 - The status of the license
 - Whether the licensee has been subject to discipline;
 - Any felony convictions;
 - All current accusations filed by the Attorney General;
 - All malpractice judgments or arbitration awards;
 - A hospital disciplinary action resulting in termination;
 - A misdemeanor conviction resulting in disciplinary action.
- Requires the board to automatically suspend a license if the licensee has a license in another state or with the federal government and that license is suspended or revoked.

Previously SB 1111 was introduced as part of DCA's Consumer Protection Enforcement Initiative (CPEI). SB 1111 failed passage in the Senate Business, Professions and Economic Development Committee.

Ms. Helms provided an overview of the issues with SB 544:

- This bill requires the Attorney General's office to submit a default decision within five days of the time period allowed to file a notice of defense, and to set a hearing date within three days of receiving notice of defense. Currently these processes are

taking approximately two to three months, and three to four months, respectively. Staff recommends a more feasible time frame, such as thirty days, be considered.

- This bill requires the Board to query the federal National Practitioner Data Bank prior to the licensure of certain applicants, and states the Board may query this databank prior to issuing any license. It also allows the Board to charge a fee to cover the cost of the query.

This would require a significant amount of staff time, as well as impose significant costs on the Board to run the queries. Although the statute allows the Board to charge a fee to cover the costs, a statute or regulatory change would be needed in order to be able to charge a fee.

- This bill adds a new section of law stating that notwithstanding any other provision of law, a licensee who supervises the practice of a healing art by any person who does not hold a current and valid license to practice that healing art is guilty of a crime.

Licenses of the Board routinely supervise registrants or trainees who are gaining experience toward licensure. An amendment is needed to remove “notwithstanding” so that provisions allowing supervision of registrants or trainees remain valid or to insert language exempting a qualified supervisor who is supervising a trainee or registrant from this provision.

- This bill would require the Board to revoke a license for an MFT or clinical social worker if it finds that person has committed a sex offense. Current Board statute already requires the Board to revoke a license or registration upon finding that they engaged in sexual contact with a patient or former patient. Staff suggests the language this bill is adding in a new section instead be added to section 4990.40, in order to expand the scope of that section to include committing a sex offense, as well as to define the term “sex offense.”
- This bill writes language into code specifically requiring the license of an MFT or LCSW be revoked if a sex offense has been committed. If the suggested language above is added to general Board statute, it would cover all four of the Board’s licenses and adding language to each licensing statute would no longer be necessary.
- This bill requires the Board to suspend a license under certain conditions, such as having a suspended or revoked license in another state or being incarcerated after conviction of a felony. However, provisions are needed in order to establish procedures for expiration, renewal, and reinstatement of a license that has been suspended under these conditions.
- This bill requires the Board to post certain disciplinary information about its licensees on its website for each licensee, along with disclaimers and explanations of the information being disclosed, and an explanation of the types of information not disclosed. The bill requires these explanations be adopted by regulation. Staff requests that the provision requiring explanations be adopted by regulation be deleted from the bill, as it is not necessary that standard explanations be placed in regulation.
- There are two sections in this bill which place language in statute for this Board that relates specifically to another board. These sections are not relevant to this Board and should be deleted.

Mr. Caldwell stated that AAMFT-CA does not have a formal position on SB 544 yet; however, AAMFT-CA has issues with privacy concerns specifically the requirement of disclosure of private information that may not be directly related to an investigation.

Ms. Gonzales asked how this bill differs from SB 1111. Ms. Helms responded that there were issues, such as due process, in SB 1111 that were removed in SB 544.

Bruce Ebert stated that SB 544 did not eliminate all of the issues regarding due process. He declined to specify those issues.

Renee Lonner moved to take a support position to SB 544 if amended as outlined in the analysis. Judy Johnson seconded. The Board voted unanimously (8-0) to pass the motion.

XIV. Compliance and Enforcement Committee Report

Ms. Madsen provided the Compliance and Enforcement Committee (Committee) report. At its meeting in March 2011, the Committee reviewed the Board's enforcement performance measures and information related to process improvements and the Board's participation in the DCA drug testing contract. The Board's participation in this contract had improved the monitoring of probationers with drug testing requirements.

A representative from DCA's training office presented an overview of the DCA Enforcement Training Academy.

The Committee's next meeting is scheduled on June 16, 2011 in Sacramento; however, this meeting may be cancelled due to travel restrictions.

Mr. Douglas commented that based on the presentation and the feedback from staff, the Enforcement Training Academy is an outstanding training program.

a. Update on Senate Bill 1441 Substance Abuse Coordination Committee

Ms. Madsen reported on SB 1441. In April 2011, the Substance Abuse Coordination Committee (SACC) met to consider the proposed revisions to the Uniform Standards regarding substance abusing licensees. The SACC accepted proposed revisions to Uniform Standard #4, #5, and #7.

Uniform Standard #4 establishes a two-tier testing level. Year one testing frequency ranges from 52 times to 104 times per year. Year two and beyond, testing frequency ranges from 36 times to 104 times per year. The standard provides exceptions to the testing frequency schedule.

Uniform Standard #5 revises the requirement a meeting facilitator shall not have a financial relationship, personal relationship, or business relationship with the licensee within one year.

Uniform Standard #7 adds that a worksite monitor may be a person in a position of authority who is capable of monitoring the licensee at work.

b. Update on Retroactive Fingerprinting Project

Ms. Karzag provided an update on the retroactive fingerprinting project. As of April 2011, approximately 29,000 of the 34,665 individuals have been fingerprinted. Licensees or registrants with their first expiration date occurring on September 30, 2011, are the last group of individuals that must comply under the new regulation.

Ms. Rhine stated that one staff person has been handling this entire project. This particular staff person is a limited-term employee and will be leaving in a week unless an exemption is approved.

XV. Election of Board Officers for 2011-2012

Spencer Walker suggested tabling this item until the end of the meeting on Thursday, May 19th. Electing a new Chair and Vice Chair today would mean that they would have to preside over the meeting on Thursday.

Renee Lonner tabled agenda item XV until Thursday, May 19th.

XVI. Suggestions for Future Agenda Items

Mr. Ebert made a suggestion for the Board to examine the overlap with HIPPA and compliance with HIPPA regulations, and to determine whether the Release of Information form is compliant with HIPPA.

Mr. Ebert made a suggestion to the Board to review its policies and procedures relating to the American with Disabilities Act, and determine if changes are needed.

XVII. Public Comment for Items Not on the Agenda

There were no public comments.

The meeting was adjourned at 5:14 p.m.

Thursday, May 19

Four Points by Sheraton Sacramento International Airport
Natomas Room
4900 Duckhorn Drive
Sacramento, CA 95834

Participating via Teleconference:
925 Harbor Plaza
Long Beach, CA 90802

Members Present

Renee Lonner, Chair, LCSW Member
Elise Froistad, Vice Chair, MFT Member
Samara Ashley, Public Member
Gordonna (Donna) DiGiorgio, Public Member
Harry Douglas, Public Member
Judy Johnson, LEP Member
Christine Wietlisbach, Public Member
Christina Wong, LCSW Member

Staff Present

Kim Madsen, Executive Officer
Tracy Rhine, Assistant Executive Officer
Rosanne Helms, Legislative Analyst
Marina Karzag, Policy & Statistical Analyst
Spencer Walker, Legal Counsel
Christina Kitamura, Administrative Analyst

Members Absent

Patricia Lock-Dawson, Public Member
Karen Pines, MFT Member

Guest List

On file

FULL BOARD OPEN SESSION

XVI. Introductions

Renee Lonner, Board of Behavioral Sciences' (Board) Chair, called the meeting to order at 8:08 a.m. Christina Kitamura called roll and a quorum was established.

XVII. Petition for Modification of Probation Terms, Dana Lynn Thomas, MFC 35710

Administrative Law Judge (ALJ) Linda Cabatic opened the hearing for petition for modification of probation terms at 8:09 a.m. Dana Lynn Thomas, petitioner, was present and represented herself. Deputy Attorney General (DAG) Turner represented the State of California.

DAG Turner presented the petition for modification of probation terms and background of events that lead to the petitioner's disciplinary actions taken by the Board.

Ms. Thomas presented her case to the Board.

Board members asked questions to Ms. Thomas.

ALJ Cabatic closed the hearing at 8:47 a.m. The Board convened for a break and reconvened in closed session.

FULL BOARD CLOSED SESSION

XVIII. 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 Board convened for a break at 9:42 a.m. and reconvened in open session.

FULL BOARD OPEN SESSION

The Board revisited agenda item XV, which was tabled on Wednesday, May 18th.

Donna DiGiorgio moved to nominate Christine Wietlisbach as Board Chair. Elise Froistad seconded. Ms. Wietlisbach accepted the nomination. The Board voted unanimously (8-0) to pass the motion.

Judy Johnson moved to nominate Patricia Lock-Dawson as Board Vice Chair. Christine Wietlisbach seconded. The Board voted unanimously (8-0) to pass the motion.

Ms. Lonner presented a letter from Ms. Lock-Dawson stating that if Ms. Lock-Dawson were to be nominated for Vice Chair, she would accept the nomination.

XIX. Public Comments for Items Not on the Agenda

There were no public comments.

XX. Suggestions for Future Agenda Items

There were no suggestions for future agenda items.

XXI. Adjournment

The meeting was adjourned at approximately 9:45 a.m.