

BOARD MEETING MINUTES November 9-10, 2011

Department of Consumer Affairs
1625 North Market Blvd.
First Floor Hearing Room
Sacramento, CA 95834

Wednesday, November 9th

Members Present

Christine Wietlisbach, Chair, Public Member
Patricia Lock-Dawson, Vice Chair, Public Member
Samara Ashley, Public Member
Harry Douglas, Public Member
Judy Johnson, LEP Member
Sarita Kohli, LMFT Member
Renee Lonner, LCSW Member
Karen Pines, LMFT 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
Christina Kitamura, Administrative Analyst
Michael Santiago, Legal Counsel

Members Absent

Guest List

On file

FULL BOARD OPEN SESSION

I. Introductions

Christine Wietlisbach, Board of Behavioral Sciences' (Board) Chair, opened the meeting at 8:15 a.m. The Board members, Board staff and meeting attendees introduced themselves. Christina Kitamura called roll. A quorum was established.

II. Approval of the August 17-18, 2011 Board Meeting Minutes

Amendments to the minutes:

- Page 5, correct "20011" and "1011" to 2011.
- Page 7, agenda item XIV., correct the committee name from Licensing and Examination Committee to Compliance and Enforcement Committee.
- Page 15, agenda item XV. e., correct "moved direct staff" to "moved to direct staff."
- Page 16, agenda item XVI., correct "those amendments do not the discussion at the BBS level" to "those amendments do not affect the discussion at the BBS level."

Judy Johnson moved to approve the August 17-18, 2011 Board meeting minutes as amended. Renee Lonner seconded. The Board voted unanimously (7-0) to pass the motion.

Patricia Lock-Dawson joined the meeting.

III. Approval of the March 24, 2011 Licensing and Examination Committee Meeting Minutes

Amendments to the minutes:

- Page 1, Members Present and agenda item II, correct “Christina Wietlisbach” to “Christine Wietlisbach.”

Renee Lonner moved to approve the March 24, 2011 Licensing and Examination Committee meeting minutes as amended. Sarita Kohli 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’s budget. She explained where the Board is a special fund agency, which means it is supported through the fees generated from renewals and applications. The Board does not receive any tax dollars from the general fund.

Although categorized as a special fund agency, the Board’s budget is incorporated into the Governor’s annual budget. Once the Governor’s budget is approved, the Board is then authorized to spend its funds. Any increase to the Board’s budget is sought through the Budget Change Proposal (BCP) process. The BCP process is a proposal to change the level of service or funding sources for activities authorized by the Legislature, or to propose new program activities not currently authorized. BCPs are typically proposed on an annual basis.

The Board’s overall budget has increased over 34% over the last four years. Specifically, the budget has increased from nearly \$6 million in the 2007/2008 fiscal year to nearly \$8 million in the 2011/2012 fiscal year.

The Board’s budget consists of both non-discretionary and discretionary funds. On average, 66% of the Board’s expenditures are non-discretionary and 34% are discretionary. Non-discretionary funds make up what is known as Personal Services, such as staff salaries benefits, departmental pro rata, and interagency services. Discretionary funds make up what is known as Operating Expenses and Equipment (OE&E) and include items such as overtime, travel, training, and general expenses.

The Board has seen approximately a 23% growth in its expenditures over the last four years; staffing as increased and revenue has also increased.

In response to California’s budget shortfalls, loans from special fund agencies to the General Fund have been part of the solution. Since 2002/2003, the Board has loaned the General Fund (GF) \$12.3 million.

The Board’s 2011/2012 budget is \$7,779,000. Expenditures as of September 30, 2011, total \$1,280,847. Revenues as of September 30, 2011, are over \$2 million.

In mid November the Legislative Analyst's Office will release its midyear fiscal outlook report. This report will provide an analysis of the state budget's current revenues and expenditures. In the event the report indicates that revenues will fall short of budget expectations, it is likely that additional cuts (triggers) contained in the budget act will occur. The first trigger will occur if revenues are forecasted to be \$1 billion below the budget level. This trigger includes reduction in funding to programs such as the University of California and California State University budget, In-Home Supportive Services, community colleges, and developmental services. The second trigger would occur if revenues are forecasted to be \$2 billion below the budget level. Some of the reductions in this second trigger include reductions to the public school system and community colleges.

The Fund Condition and the Revenue Analysis were provided. Currently, the Board has about 1.7 months in reserve. This reflects the \$3.3 million loan to the General Fund.

Dr. Johnson acknowledged the shortage of staff and the current backlog issue, and asked if overtime would be considered since it appears there is an overtime allotment. Ms. Madsen stated that in response to the Executive Order to achieve a 5% reduction in personnel, the overtime allotment was reduced to achieve the reduction. Some overtime is offered in critical situations; but the use of overtime is minimized to prevent burn-out.

b. Operations Report

Ms. Madsen reported on the Board's operations. Quarterly Statistics and Enforcement Performance Measures reports were provided. There is currently an 18% vacancy rate. The Operational Spending Efficiency Plan has been approved, so some of the restrictions of the hiring freeze have been lifted. Two hiring freeze exemption requests were pending at the Department of Finance for the cashiering positions; those exemptions were approved. Three hiring freeze exemptions were submitted this week.

The third quarter statistics reflect a significant increase in registration applications, which is typical. Ms. Madsen also reviewed current application processing times reflected in the Operations Report as of September 30, 2011.

Karen Pines referred to the Customer Satisfaction Survey ratings, and acknowledged that the low ratings may be a result of not being able to get through to staff on the phones. She asked if there was a statement on the website that explains the staffing challenges.

Ms. Madsen confirmed that a statement is posted on the website indicating that there are staffing challenges and to allow additional time to process applications. Staff has reached out to the associations to communicate that information as well. Application processing times are also posted on the website.

Samara Ashley joined the meeting. All Board members were now present.

A total of 1809 examinations were administered in the third quarter.

Enforcement staff is meeting the established performance measures (PM) with the exception of PM 4, Formal Discipline. The Department of Consumer Affairs (DCA) set the performance target for PM 4 at 18 months. This performance target is dependent upon the staffing and workload of outside agencies, such as the Attorney General's Office (AG) and the Office of Administrative Hearings.

On September 22, 2011, the contract was executed to implement this new database. The Board is included in the first release schedule. Full implementation will be completed late

summer 2012. One of the features of this database includes the capability to renew registrations and licenses online, as well as the capability to submit applications online.

Ms. Madsen acknowledged that the Customer Satisfaction Survey ratings are dropping and is impacted by the existing vacancies.

c. Personnel Update

Ms. Madsen reported that two employees were hired. Flora Lopes accepted the Staff Services Analyst vacancy in the Enforcement Unit, and David Jones accepted the Office Assistant position within the Licensing Unit.

Karrmyenne Williams, former BBS cashier, transferred to the California Board of Accountancy effective September 1, 2011.

d. Licensed Professional Clinical Counselor Update

Ms. Madsen provided the update on the Licensed Professional Clinical Counselor (LPCC) program. As of October 31, 2011, the Board received 360 LPCC applications.

The Board is currently in the process of finalizing the contract with the National Board of Certified Counselors (NBCC) to use the National Clinical Mental Health Counseling Examination.

The Board has completed the database revisions to incorporate the LPCC program into the current database structure. Because the LPCC program was part of the existing database structure at the time bids went out for the BreEZe project, staff has to submit a request for change. This will cost the Board an additional \$60,000.

e. Sunset Review Update

The Sunset Review report was completed and submitted to the Senate Committee on Business, Professions, and Economic Development on November 1, 2011. This comprehensive report includes a history of the Board, statistical information, Board activity, and discussion related to current issues.

f. Financial Integrity and State Manager's Accountability Act of 1983

The Legislature enacted the Financial Integrity and State Manager's Accountability Act of 1983 (FISMA), recognizing the significance and importance of effective systems of internal control. These systems provide the foundation upon which a structure of public accountability is built, ensuring the safeguarding of assets and funds and the reliability of financial information.

The Legislature charged each state agency with the responsibility of maintaining effective systems of internal control as an integral part of its management practices. All levels of management at every state agency must be involved in assessing and strengthening these systems. The Legislature also mandated that the systems of internal control be evaluated on an ongoing basis.

Biennially, each state agency shall conduct an internal review in accordance with the guidance provided by the Department of Finance (DOF). The review will evaluate compliance with the requirements of the system(s) of internal control in place at the time of the review.

To ensure that all significant risks are identified, the DCA Executive Office has requested the Board's assistance to identify risks specific to the Board. After identifying these risks, the Board will explain the probability and impact of each risk and what steps have been taken to date to reduce or mitigate this risk. A final report will be submitted to DOF by December 31, 2011. The report will include the impact of SB 704 regarding the Examination Restructure and the database conversion, as well as staffing issues.

V. Discussion and Possible Action Regarding the Reorganization of the Board Committee Structure and the Creation of an Executive Committee

Ms. Wietlisbach tabled the discussion regarding creation of an executive committee.

Ms. Wietlisbach suggested consolidating the current committees (the Licensing and Examination Committee and the Compliance and Enforcement Committee) in order to cut costs in travel and staff's time in preparing for these committees. One Committee can absorb the work of these committees, the Policy and Advocacy Committee, and add an additional member to the Policy and Advocacy Committee.

Ms. Lock-Dawson agreed that this is a good idea. She suggested creating an Ad Hoc committee to address issues as needed.

Ms. Pines suggested that the Board add committees as the need arises.

Olivia Loewy, American Association for Marriage and Family Therapy California Division (AAMFT-CA), agreed with consolidating the committees.

Jill Epstein, California Association of Marriage and Family Therapists (CAMFT), agrees with Ms. Lock-Dawson's suggestion for creating an Ad Hoc committee to address complex issues as needed.

Ms. Lonner suggested keeping the current Policy and Advocacy Committee. With all of the complicated legislation, Board members need feedback from Board staff and stakeholders. She also expressed that it is a good idea to create Ad Hoc committees or task forces/workgroups.

Tracy Rhine commented that the jurisdiction of the committees is not a set structure; any issue can be addressed by one committee. The Policy and Advocacy Committee, as it is titled, covers everything.

Patricia Lock-Dawson moved to restructure the Board's committee structure by consolidating the current committees to one committee to be titled Policy and Advocacy Committee, to add a fourth member to the Policy and Advocacy Committee, and to create Ad Hoc committees as necessary. Samara Ashley seconded. The Board voted unanimously (9-0) to pass the motion.

The Board took a break at 9:32 a.m. and reconvened at 9:57 a.m.

VI. Discussion Regarding California Marriage and Family Therapy Occupational Analysis and Collaboration with the Association of Marriage and Family Therapy Regulatory Boards, Presented by Dr. Tracy Montez, Applied Measurement Services

Dr. Tracy Montez thanked the Board for the opportunity to contract with the Board again. Three meetings have taken place regarding this project. The first meeting involved representatives from the Board, the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB), and Dr. Montez. This meeting was to introduce the project to AMFTRB, which is to have Dr.

Montez conduct an assessment of the national exam, and to address any questions or concerns that may come up during the assessment and during their occupational analysis.

Shortly thereafter, the second meeting took place with Board staff, Office of Professional Examination Services (OPES), and Dr. Montez to discuss the project and introduce Dr. Montez's role as the liaison among the various entities.

The third meeting involved Board staff, AMFTRB, and Dr. Montez to follow up on the first meeting. Once the confidentiality agreement is signed, AMFTRB will turn over various documents and the assessment process will begin. This will take place in 2012 during the same time that AMFTRB will be conducting their occupational analysis.

The next meeting is scheduled for early December. The Board will be updated on the progress at future Board meetings.

VII. Discussion and Possible Rulemaking Action Regarding Implementation of Assembly Bill 2699, Chapter 270, Statutes of 2010

Marina Karzag presented the proposed regulations to establish exemptions for sponsored free health care events.

AB 2699, beginning January 1, 2011, allows health care practitioners licensed or certified in good standing in another state to be temporarily exempted from California licensing requirements if specific conditions are met.

In August 2009, the Remote Area Medical Volunteer Corps (RAM) conducted an eight-day health event in Los Angeles County. 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.

AB 2699 allows a nonprofit or community-based organization or a local government to sponsor an event where free health care is provided and utilize the services of health care practitioners licensed in another state in order to prevent the situation that occurred in Los Angeles County.

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.

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:

- Section 1820.2(a): A health care practitioner requesting authorization to practice from the board would pay a \$25 application processing fee.
- Section 1820.2(c)(2): 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.

At the May Board meeting, staff recommended a modification to the proposed regulations to allow 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.

The Board approved these modifications at its May board meeting and also requested staff to make the following additional changes to the proposed regulations:

- Section 1820.2(c)(4): Add "unrestricted" to the applicant's license status requirement.
- Section 1820.2(c)(4)(A): Change the definition of "good standing" to a licensee that has not been "convicted" of an offense rather than "charged" of an offense.
- Section 1820.2(c)(4): Move this subsection to Section 1820.2(d) in order to give the Board discretion to deny an applicant without a current valid active license in good standing rather than requiring the Board to deny the application based on this criteria.

Staff also recommended to add a sunset date to the proposed regulations, but after consulting with legal counsel, it was determined that the language was not necessary because it is already in the statute.

Patricia Lock-Dawson moved to direct staff to submit the proposed regulations to the DCA Legal Division for review, to direct staff to make any non-substantive changes required by the Legal Division and initiate the rulemaking process. If the Legal Division has any substantive changes, staff is directed to make the changes and submit to the Board for review. Karen Pines seconded. The Board voted unanimously (9-0) to pass motion.

VIII. Discussion and Possible Action Regarding the Voluntary Surrender of a License or Registration to the Board

Ms. Wietlisbach tabled this item.

IX. Discussion and Possible Action to Require Law and Ethics Training as a Condition of Clinical Social Worker Licensure

Rosanne Helms presented the requirement for coursework in California law and ethics.

Applicants for licensure as a marriage and family therapist (LMFT) or LPCC are required to complete coursework in California law and professional ethics. Currently there is not an equivalent requirement in law for individuals seeking licensure as a clinical social worker (LCSW).

SB 704 re-structures the examination process for individuals seeking an LCSW license beginning January 1, 2013. After this date, an associate social worker (ASW) registrant must do the following:

- Take the California law and ethics exam within the first year of registration with the Board.
- 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 repeated 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.
- The law and ethics exam must be passed in order to obtain a license.

As each ASW will be required to take and pass a California law and ethics exam once the exam restructure becomes effective, staff suggests adding a requirement, similar to the ones in the LMFT and LPCC licensing laws, that an individual seeking ASW registration or LCSW licensure complete coursework in California law and ethics.

The proposed amendments for LCSW applicants would do the following:

- Require an applicant for registration to complete training or coursework in California law and ethics for clinical social workers that covers specified topic areas.
- For applicants with education and experience gained outside of California, require completion of an 18-hour course in California law and professional ethics that covers specified topic areas.
- Require that a clinical social worker applicant acquire the law and ethics training from specified educational institutions.

Rebecca Gonzales, National Association of Social Workers California Chapter (NASW-CA), expressed concern over the speed of this proposal going forward and how quickly the schools would have to get this requirement implemented.

Ms. Helms clarified that the course does not have to be part of a degree program.

Michael Brooks commented that there is no demonstrated need for this proposed mandate.

Ms. Rhine explained that staff noticed that out-of-state applicants do not have any training or coursework in California law and ethics.

Ms. Gonzales suggested addressing this issue concerning out-of-state applicants for now, and allow for more time to address this issue concerning social workers in California.

Mr. Brooks suggested not mandating a course, but instead, informing out-of-state applicants that they must pass the law and ethics exam. Then it is the applicant's responsibility to find training in order to pass the exam.

Karen Pines moved to direct staff to make any non-substantive amendments to the proposed language, and sponsor legislation and pursue a regulatory amendment to make the proposed changes. Renee Lonner seconded. The Board voted unanimously (9-0) to pass the motion.

X. Discussion and Possible Action Regarding Gaining Post-Degree Experience Prior to Registration with the Board

Ms. Helms presented the deletion of the 90-day rule for LMFTs and LPCCs. Under current law, an applicant for MFT intern or Professional Clinical Counselor (PCC) intern registration must apply for intern registration within 90 days of the granting of his or her qualifying degree in order to be able to count supervised experience hours gained toward licensure while he or she is waiting for the Board to grant registration as an intern. This is commonly referred to as "the 90-day rule."

There is no 90-day rule for applicants for ASW registration. They may not gain supervised experience hours until registered as an ASW.

Historically, the rule has assisted recent graduates in obtaining some of their supervised experience hours during the time they are waiting for their intern registration number. Some

degree programs take 3 to 6 months to post a graduate's degree on his or her official transcript. In addition, it typically takes the Board approximately 60 days to process MFT intern applications and issue an intern registration number. Therefore, there can be a several month wait between the time an applicant graduates, and when he or she actually obtains an intern registration number. The 90-day rule allows the applicant to use this time to start gaining some of his or her supervised experience required for licensure, provided he or she submits an application to the Board within 90 days of the degree being granted.

One reason applicants for MFT intern registration have previously been allowed the 90 day rule is because they have already been gaining some supervised experience hours toward licensure while a student in their Master's or Doctoral degree program. LMFT licensing law allows a student to gain up to 1,300 hours of supervised experience prior to completion of their qualifying Master's or Doctoral degree. The original intent of the 90-day rule may have been to allow a trainee, once graduated, the opportunity to continue working in a setting after graduation, benefitting the graduate because he or she is still gaining credit for hours worked, and benefitting the patient by providing continuity of care.

The law does not allow applicants for LPCC or LCSW licensure to gain hours toward licensure while a student. This makes the law inconsistent.

Given the similar structure for gaining experience hours the Board requires of each type of applicant, a consistent policy across license types for counting experience hours may increase clarity for applicants, schools, and ultimately consumers.

An applicant gaining hours under the 90-day rule while waiting for his or her MFT or PCC intern registration may only obtain supervised experience in an exempt setting. An exempt setting may be a governmental entity, a school, college, or university, or an institution that is non-profit and charitable. However, due to liability issues and billing requirements, even many exempt settings require an intern registration number prior to hiring.

Enforcement staff has raised a concern that the 90-day rule can be used to allow an applicant to practice while temporarily bypassing the enforcement process. Under the rule, an applicant who has a previous conviction can submit their application for intern registration within 90 days of their degree being granted. They then have up to one year to submit their conviction records to the Board for review. During this time period, because they have followed the 90-day rule, they may then gain supervised experience without any restrictions the Board might place on them due to their prior conviction. Enforcement staff notes that while this is not a common occurrence, it does happen occasionally.

Ms. Epstein stated that CAMFT is opposed to deleting the 90-day rule. The continuity of care is disrupted, and this is a concern regarding the consumers. MFT trainees are working in very important roles in non-profit organizations; they will have to end that employment while waiting for their registrations. Ms. Epstein added that inconsistencies already exist across the licensing laws; some inconsistencies are necessary. If there is a concern about MFT trainees having the 90-day rule, she suggested allowing social workers to count hours during this period as well.

Ms. Wietlisbach asked if the applicant is working under supervision during the 90-day period. Ms. Helms confirmed that the applicant works under supervision during this period.

Ms. Loewy also expressed concern regarding continuity of care. She asked if the registration process can begin prior to graduation. Ms. Rhine stated that allowing registration prior to degree conferral would create programmatic issues.

Sarita Kohli also expressed concern regarding disruption of continuity of care, and suggested considering a 30-day period instead of the 90-day period.

Ms. Gonzales stated that if the Board decides to keep the 90-day rule for MFT trainees and PCC interns, it would be logical to allow for the 90-day rule to apply to social workers since their situation is similar to the PCC interns.

Ms. Rhine outlined the Board's options:

- Make no change,
- Eliminate the 90-day rule,
- Change the 90-day rule pertaining to PCC interns, allowing them to count the hours, or
- Allow the 90-day rule to apply to ASWs.

Renee Lonner moved to eliminate the 90-day rule, direct staff to make any non-substantive changes to the attached amendments, and submit legislation to make the change. Patricia Lock-Dawson seconded. The Board voted unanimously (9-0) to pass the motion.

Ms. Epstein asked if there will be a delayed implementation date. Ms. Rhine responded that her suggestion would be to delay implementation by one year.

XI. Policy and Advocacy Committee Report

a. Legislative Clean-Up Business and Professions Code Sections 4980.34, 4980.43, 4980.78, 4980.80, 4980.397, 4980.398, 4980.399, 4984.4, 4989.42, 4992.05, 4992.07, 4992.09, 4996.6, 4996.9, 4999.22, 4999.32, 4999.45, 4999.46, 4999.57, 4999.58, 4999.59, 4999.90, 4999.106 and 4999.120

Ms. Helms presented the omnibus bill:

1. Amend BPC Section 4980.34 – Addition of LPCCs. This section states the intent of the Legislature that the Board license LMFTs, LCSWs, and educational psychologists (LEPs). It does not currently include licensure of LPCCs.

The recommendation is to add LPCCs to Section 4980.34.

2. Amend BPC Section 4980.43 – Supervised Experience. This section specifies the type of supervision that is required for credited experience. As written, this law implies that direct supervision is required for all experienced gained. However, staff believes that there are certain types of experience for which direct supervision is not appropriate.

The recommendation is to amend this section to exempt experience gained through professional enrichment activities as defined in law from direct supervision.

3. Amend BPC Sections 4999.32, 4999.57, 4999.58, and 4999.59 – Reference to California Law and Professional Ethics Course. Various LPCC code sections each discuss examination eligibility requirements for various types of out of state applicants or licensees. These sections erroneously imply that the applicant must complete an 18-hour California law and professional ethics course, in addition to the 18-hour ethics course that is already required. Staff does not believe it is the intent of the law to require an applicant to complete two 18-hour California law and professional ethics courses.

In addition, Section 4999.32 states that the 18-hour California law and ethics course must be taken, but it does not specify any of the course content that such a course should contain.

The recommendation is to delete the 18-hour California law and ethics course requirement in Sections 4999.57, 4999.58, and 4999.59, as these sections already specify that the applicant must meet the requirements of subdivision (e) of Section 4999.32, which requires the same course.

It is also recommended to amend paragraph (6) of subdivision (e) of Section 4999.32 to specify that the course content of the California law and ethics course must contain the elements that were previously listed in Sections 4999.57, 4999.58, and 4999.59.

Minor amendments were made to the language in sections 4999.57, 4999.58, and 4999.59 since the language was approved at the October 2011 Policy and Advocacy Committee meeting. The amendments were made in response to a request for further clarification of the need for the 18-hour California law and ethics course for out of state applicants in addition to the regular law and ethics course required as part of the degree program. Minor amendments were also made to Section 4999.32. It was requested that a reference to required instruction covering the Health Insurance Portability and Accountability Act (HIPAA) be changed to a reference requiring instruction in "state and federal laws related to confidentiality of patient health information," in case the HIPAA is ever changed.

4. Amend BPC Section 4980.78 – California Law and Professional Ethics. This section discusses substantially equivalent education requirements for out of state applicants for licensure or registration applying after January 1, 2014. Under current law, such an applicant is required to take an 18-hour course in California law and professional ethics. The new law effective January 1, 2014 also requires a course in California law and professional ethics, however there is no specification on the length of the course. It is recommended to amend this section to require the course in California law and professional ethics be 18 hours in length.
5. Amend BPC Sections 4980.397 and 4992.05 – Acceptance of Valid Passing Exam Scores. These sections were added by SB 704, which restructures the examination process for the Board's LMFT, LCSW, and LPCC licensees beginning in 2013. Under the restructure, all applicants would be required to take and pass a California law and ethics examination and a clinical examination.

For LPCCs, SB 704 specified that a valid passing score on the clinical examination must have been obtained less than seven years prior to the application date. This was based on current law for LMFTs and LCSWs that require a passing score on the standard written exam be no more than seven years old in order to be eligible to participate in the clinical vignette exam. LPCC law gave the Board the discretion to choose whether to offer its own clinical examination or to use the National Clinical Mental Health Examination (NCMHCE). The Board chose to use the NCMHCE. Therefore, the law requires that a passing score on the NCMHCE must be obtained less than seven years from the date of the application, and within seven years of the first attempt.

The Board has also accepted the Association of Social Work Boards (ASWB) Clinical Level Examination as the acceptable examination for LCSW licensure. ASWB has committed to making the changes required by the Board. If the changes are made in

time, the Board hopes to be able to begin offering the ASWB exam as the clinical exam when the exam-restructure takes effect on January 1, 2013.

The Board is beginning discussions with the AMFTRB to see if its national exam would be suitable for future use as the clinical exam used for LMFT licensure in California. In the meantime, the Board will administer the clinical exam required for LMFT licensure.

SB 704 did not place a limit on when a passing score on the clinical exam must have been obtained for LMFT and LCSW candidates, as long as it is passed within seven years of the initial attempt. It does not cover candidates who passed the exam several years ago.

The recommendation is to discuss and determine whether these sections should be amended to limit when the valid passing clinical exam scores of LMFT and LCSW applicants must have been obtained prior to the application date.

6. Amend BPC Sections 4980.398, 4980.399, 4992.07, and 4992.09 – Examination Restructure Transition. These sections outline scenarios for LMFT and LCSW applicants who have already taken or obtained eligibility for previous examinations once the examination restructure becomes effective.

The recommendation is to make technical amendments to clarify that if an applicant has previously passed the standard written exam but not the clinical vignette exam, then under the examination re-structure, he or she would need to pass the new clinical exam. However, he or she would not need to take the new California law and ethics exam, because the previously passed standard written exam had already fulfilled this requirement.

7. Amend BPC Sections 4984.4, 4989.42, 4996.6, and 4999.106 – Fingerprinting. These sections outline requirements for a licensee whose license was not renewed within three years after its expiration, to obtain a new license.

California Code of Regulations (CCR) Title 16, Section 1815, requires all licensees and registrants to submit fingerprints and complete a state and federal level criminal offender record information search through the Department of Justice. In addition, Section 4999.51 of the LPCC code requires LPCC applicants for licensure or intern registration to do this as well. However, this requirement is not currently referenced in these sections.

The recommendation is to amend Sections 4984.4 (LMFTs), 4989.42 (LEPs) and 4996.6 (LCSWs) to reference the fingerprinting requirement in regulations, and to amend Section 4999.106 (LPCCs) to reference the similar requirements in LPCC code.

8. Amend BPC Sections 4980.04, 4999.22 – Licensed Marriage and Family Therapist Act. Section 4980.04 should reference the Licensed Marriage and Family Therapist Act. Section 4999.22 should reference the Licensed Marriage and Family Therapist Act, instead of the marriage and family therapy licensing laws.

The recommendation is to make amendments to Sections 4980.04 and 4999.22 to reference the Licensed Marriage and Family Therapist Act.

9. Amend BPC Section 4999.45 – 90-Day Rule for PCC Interns. This section states that a PCC intern must not perform any duties, except as a clinical counselor trainee, until he or she is registered as an intern. This is in conflict with Section 4999.46(d), which allows post degree hours of experience to be gained as long as the applicant applies for intern registration within 90 days of degree conferral.

This may be thrown out depending on the legislative outcome resulting from agenda item X regarding the 90-day rule. The recommendation is to amend 4999.45(a) to clarify and make consistent in law that a PCC intern may perform duties as an intern provided that he or she applies for intern registration within 90 days of the granting of his or her degree, and that he or she is registered as an intern by the Board.

10. Amend BPC Section 4999.45 – Annual Renewal for PCC Interns. This section states that a PCC intern must file for renewal annually. This implies that a PCC intern may continue to practice as long as they fill out a renewal form and send it to the Board. However, the Board must review the application and determine that the intern meets certain criteria in order to renew the application.

The recommendation is to amend this section to clarify that a PCC intern must renew annually in order to retain their intern status.

11. Amend BPC Section 4999.45 – Limitation on PCC Intern Employment. Section 4999.45(e) states that a PCC intern must cease employment after six years unless he or she obtains a new intern registration. This is repetitive, as subsections (d) and (f) already cover this requirement.

The recommendation is to delete Section 4999.45(e).

12. Amend BPC Section 4999.46 – Exam Eligibility. This section lists the supervised experience requirements a PCC intern must meet in order to qualify for licensure. However, a PCC intern must also meet these requirements in order to qualify for examination eligibility.

The recommendation is to amend this section to state that an applicant must meet the listed supervised experience requirements to qualify for licensure or examination eligibility.

13. Amend BPC Section 4999.46 – Definitions. Section 4999.46(b)(5) states the requirement of 150 supervised clinical experience hours in a hospital or community mental health setting. LPCC regulations now specifically define the terms “clinical setting” and “community mental health setting.”

The recommendation is to amend this section to reference these definitions in regulation.

14. Amend BPC Section 4999.90 – Unprofessional Conduct. Several subdivisions of the LPCC unprofessional conduct section are in need of minor technical amendments to conform to the unprofessional conduct sections for other licensees.

The recommendation is to make technical amendments to this section to conform to existing laws regarding substance abuse, supervision, and inclusion of LPCCs.

15. Amend BPC Section 4999.120 - LPCC Fees. This section sets the various fees charged to LPCCs. SB 274 removed the annual renewal requirement for LPCC licenses issued under grandparenting. Therefore, the fee listed in subsection (h) is obsolete.

The recommendation is to amend this section of the LPCC code to remove the fee established in subsection (h).

The following additional omnibus bill items were issues raised recently and were not discussed at the Policy and Advocacy meeting in October 2011.

16. Amend BPC Section 4980.80 – California Law and Professional Ethics. Section 4980.78 sets forth requirements for out of state applicants for licensure or registration applying before January 1, 2014. Under current law, an applicant who completed a two-semester or three-quarter unit course in law and professional ethics for marriage and family therapists that included areas of study specified in Section 4980.41 must also complete an 18-hour California law and ethics course.

However, the course of study specified in Section 4980.41 must be a course in California law and professional ethics. It is unlikely that an out-of-state applicant would have taken a law and ethics course specific to California. If they had, there would be no need for them to take an additional 18-hour course. Therefore, this requirement is duplicative.

The recommendation is to amend Section 4980.80 to require an 18-hour course in California law and professional ethics if the applicant has completed a 2 quarter unit or semester unit course that does not meet the requirements specified in 4980.41.

17. Amend BPC Section 4999.90 – Unprofessional Conduct. It is considered unprofessional conduct for both LMFT and LCSW licensees and registrants to violate the law as it relates to a patient's access to his or her own records. There is no similar clause in LPCC licensing law.

The recommendation is to amend this section to add a provision stating that it is unprofessional conduct for an LPCC applicant or registrant to violate the law regarding patient access to his or her records.

Ms. Epstein commented on #5 regarding acceptance of valid passing exam scores. She stated that CAMFT does not have an opinion on whether 7 years is the right amount of time. She asked if Ben Caldwell, AAMFT-CA, provided additional information regarding benchmarks used by other states.

Ms. Rhine responded that Mr. Caldwell has not presented that information yet. Seven years is the cycle used for the Board's occupational analysis, which is how the 7-year benchmark was derived.

Ms. Gonzales suggested that the Board not make a decision on this matter until more information is brought forward.

Judy Johnson moved to direct staff to make any non-substantive changes to the proposed language with the exception of #5 and #9, and sponsor legislation to make the suggested amendments. Christina Wong seconded. The Board voted unanimously (9-0) to pass the motion.

The Board recessed for lunch at 11:39 a.m. and reconvened at 1:28 p.m.

b. Discussion and Possible Regulatory Action to Make Conforming Changes to California Code of Regulations Title 16, Section 1833 Implementing SB 363, Chapter 384, Statutes of 2011

Ms. Helms presented SB 363 regulatory changes. SB 363 limited the number of client-centered advocacy hours for a marriage and family therapist intern to 500 hours.

Previously, the law limited the number of hours an MFT intern could obtain for direct supervisor contact, professional enrichment activities, and client centered advocacy together to 1,250 hours. The Board had concerns that this allowed an intern to potentially obtain too many client centered advocacy hours, when they should be gaining the majority of their hours counseling clients in order to adequately prepare them for licensure.

Due to these concerns, SB 363 revised the law to allow up to 500 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes, and client centered advocacy.

A conflict now exists between the revised law and Section 1833(a)(4) of the Board's regulations. This section of regulations currently only allows up to 250 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes. This is in direct conflict with the 500 hours allowed with the revisions of SB 363.

The proposed changes are:

1. Strike CCR Section 1833(a)(4), which is the section in regulations limiting experience gained administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes to 250 hours. The new requirement from SB 363, which allows up to 500 hours, is already clearly specified in Section 4980.43(a)(9) of the code.
2. Correct reference errors in Section 1833 of the Board's regulations that have occurred due to changes in statute.

At its October 2011 meeting, the Policy and Advocacy Committee recommended that the Board direct staff to pursue regulations to make the proposed changes.

Christina Wong moved to direct staff to make any non-substantive changes to the amendments and pursue a regulatory package to make the proposed changes. Sarita Kohli seconded. The Board voted unanimously (9-0) to pass the motion.

b. Discussion and Possible Rulemaking Action Regarding Implementation of SB 704, Chapter 387, Statutes of 2011; Examination Restructure

Ms. Helms presented the proposed regulations to incorporate examination restructure.

Effective January 1, 2013, applicants for LMFT, LPCC, and LCSW licensure shall pass two exams: a California law and ethics examination and a clinical examination. These new exams replace the standard written and the clinical vignette exams currently in place for MFTs and LCSWs, and change the exam structure for LPCCs. The changes are as follows:

Law and Ethics Exam

- A new registrant with the Board would be required to take the law and ethics exam. This exam must be taken within the first year of registration with the Board.
- 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.

Clinical Exam

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.

Examination Restructure for LPCCs

Under SB 704, LPCCs will follow the same examination process as LMFTs and LCSWs for the law and ethics exam, however, the current exam structure for LPCCs differs from LMFTs and LCSWs.

Current law states that once an LPCC registrant has completed all supervised work experience, completed all education requirements, and passed the law and ethics exam, he or she may take a clinical exam administered by the Board, or the national examinations, if the Board finds that one of these examinations meet the prevailing standards for validation and use of the licensing and certification tests in California.

At its meeting in May 2011, the Board accepted the National Clinical Mental Health Counselor Examination (NCMHCE) as meeting California testing standards. This proposed regulation establishes the NCMHCE as the designated examination for LPCCs.

Several sections of the Board's regulations need to be revised in order to be consistent with the changes in SB 704 and the Board's recent decision to accept the NCMHCE exam for LPCCs. These changes fall into three categories:

- Incorporation of the NCMHCE and the California Law and Ethics examination into regulation as Board-designated exams required for LPCC licensure candidates.
- Revision of references to examination names in regulations in order to be consistent with the newly required examinations for registrants seeking an LMFT, LCSW, or LPCC license.
- Incorporation of language allowing the Board to accept the national examinations for LMFT and LCSW licensure, if the examinations are determined to be appropriate by the Board.

In addition, the passage of SB 274, deleted the annual renewal requirement for LPCCs who obtained a license through the grandparenting process. Grandparented LPCCs will now renew biennially, consistent with all other Board-issued licenses. The proposed regulations incorporate this change as well.

At its October 2011 meeting, the Policy and Advocacy Committee directed staff to make minor technical changes and submit to the Board for consideration as a rulemaking package.

Judy Johnson moved to direct staff to make any non-substantive changes and submit a rulemaking package to make the proposed regulatory amendments. Patricia Lock-Dawson seconded. The Board voted unanimously (9-0) to pass the motion.

c. Discussion and Possible Action Regarding Continuing Education Provider Approval, California Code of Regulations Title 16, Article 8, Creation of a Continuing Education Committee

Ms. Rhine presented revisions of continuing education provider regulations.

Current law requires all licensees of the Board, as a condition of biennial licensure renewal, to complete 36 hours of continuing education (CE). CE courses must be obtained from:

- An accredited or state-approved school; or,
- A professional association, licensed health facility, governmental entity, educational institution, individual, or other organization approved by the Board.

In order to be approved by the Board, a CE Provider must meet the Board's course content and instructor qualification criteria as outlined in statute and regulation.

CE course content shall be applicable to the practice of the particular profession and must be related to direct or indirect patient care. A CE Provider must renew their approval every 2 years.

A number of issues have come to the attention of staff this year related to CE Provider approval. One of the issues was the inclusion of self-study courses versus online courses. It is difficult for staff to determine the difference between a self-study course and an online course. Currently, all 36 hours of CE can be obtained through an online course, but only half of the CE can be obtained through a self-study course.

There are several policy questions and technical issues that should be addressed; for example, whether SMEs should receive CE credit for their work.

Another issue is related to the National Association of Research and Therapy of Homosexuality (NARTH). The Board began receiving calls from the public regarding NARTH. NARTH was approved by the Board as a CE Provider in 1998. NARTH provides CE classes and are active in "conversion" therapy for individuals that have unwanted homosexual tendencies. Hundreds of emails were received from individuals protesting the approval of this organization.

The Board does not have discretion regarding course content. It is the responsibility of the CE provider to ensure that they meet the course content requirement. The Legislature is looking at this, and there will be a bill moving forward.

There are many other deficiencies in the CE provider system that needs to be addressed. At its meeting in October 2011, the Policy and Advocacy Committee recognized the need to review the current regulations and taking a look at the issues. Another matter that should be discussed is the integration of the continuing education model.

Last year DCA began the discussion of transitioning healing arts board's from a continuing education model to a continuing competency model for licensure renewal. Continuing competency, at its most basic level, is a model that goes beyond imposing mandatory CE courses and requires that the licensee's knowledge, skills and clinical performance be assessed to determine areas of needed improvement. Education under the continuing competency model may be gained through different paths beyond the traditional classroom or coursework structure. Additionally, a continuing competency model generally requires demonstration of current competency, usually through an examination.

The Board of Podiatric Medicine within DCA has a continuing competency model. Other boards, such as the Board of Occupational Therapy, have adopted a hybrid system which requires the completion of professional development units (PDUs).

The Policy and Advocacy Committee suggested creating a two-member Ad Hoc committee to examine the issues and possible solutions to be considered by the Board.

Dr. Johnson referred to courses within the school districts that were meant to take place over a period of time, for a number of hours in length each day. Individuals attended these courses for about 30 minutes to correct their school work.

Ms. Wong expressed that it is important to monitor CE providers and the coursework that is delivered.

Discussion took place regarding the formation of a subcommittee to address CE issues. Ms. Lock-Dawson and Ms. Pines expressed that this is a large project for only two members, and suggested adding additional members to the subcommittee. Dr. Douglas suggested a two-member committee to begin the work, and later, more members can be added to the committee if necessary.

Ms. Madsen ensured that the subcommittee will have staff support. Dr. Johnson agreed with Dr. Douglas' suggestion.

Ms. Lock-Dawson asked what the objective would be for this subcommittee. Ms. Rhine responded that the CE program would go through a holistic review, and the subcommittee would determine if changes should be made to the program. This subcommittee would operate as a workgroup with stakeholders involved. Staff would research information and provide that information to the subcommittee.

Ms. Epstein expressed that CAMFT would like to be involved in this process. Ms. Rhine responded that the associations are an important component to this process.

Ms. Lock-Dawson stated that the subcommittee, with the assistance of Board staff, should conduct substantial amount of outreach to affected stakeholders. Dr. Douglas agreed, stating that the input from stakeholders is important.

Patricia Lock-Dawson moved to create a two-member subcommittee to examine the issues and possible solutions to be considered by the Policy and Advocacy

Committee for recommendation to the Board. Christina Wong seconded. The Board voted unanimously (9-0) to pass the motion.

d. Discussion and Possible Rulemaking Action Regarding Revision of Disciplinary Guidelines

Ms. Helms presented proposed revisions to the enforcement regulations.

Staff is proposing several revisions to the Disciplinary Guidelines, which are incorporated by reference into Board regulations. These changes are based on suggested adjustments from the Board's enforcement unit.

The proposed changes are:

1. Update of penalty guideline references: Due to legislative changes, several sections listed as references in the penalty guidelines need to be updated to reference the correct section.
2. Reimbursement of Probation Program: A respondent's reimbursement to the Board of his or her probation program costs is listed in the Disciplinary Guidelines as an optional term and condition of probation. However, it is standard that the Board requires a probationer to reimburse the Board for probation costs. Therefore, this condition has been moved to the list of standard terms and conditions of probation.
3. Psychotherapy: If a respondent is required to participate in psychotherapy as one of the terms of his or her probation, the Disciplinary Guidelines currently require that within 60 days of the effective date of the Board's decision, the respondent must submit to the Board the name and qualifications of the therapist he or she would like to choose within 60 days of the effective date of the Board's decision. However, once a respondent is notified of an adopted decision, they have 30 days before the decision becomes effective. From this time, under current law, the respondent then has another 60 days to choose a therapist. As a result, respondents are not starting their required psychotherapy for approximately 3 to 4 months.

Staff proposes changing the 60-day period to submit a therapist for approval to 15 days. If this change is implemented, a respondent would know 45 days in advance that they must choose a therapist and submit the pertinent information about their chosen therapist to the Board.

4. Rehabilitation Program: The Board may require a respondent to participate in a rehabilitation program as one of the terms of his or her probation. Staff recommends an amendment requiring a rehabilitation program to submit to the Board quarterly written reports addressing the respondent's progress in the program.
5. Submission of Biological Fluid Testing and Samples: If a respondent is required to submit to biological fluid testing and samples as a term of probation, the Disciplinary Guidelines state it is currently his or her responsibility to ensure the testing agency submits the results to the Board. However, this is now done automatically through the testing agency. Therefore, staff proposes deleting this requirement.
6. Monitoring of Billing System: Under current law, if a respondent is required to obtain a billing system monitor as a term of probation, he or she will be notified of the decision and have 30 days before it becomes effective. Once effective, he or she must then obtain a billing system monitor within 30 days.

Staff proposes an amendment that is more consistent with the Board's requirements for other terms and conditions of probation. A respondent would still be notified of the Board's decision and have 30 days before it becomes effective. Once effective, the respondent would need to submit the name of the billing monitor he or she would like to use for Board approval within 15 days. Once the Board approves a billing monitor, the respondent must obtain the services of the billing monitor within 15 days of the Board's approval.

7. License Surrender: Staff proposes a clarification to the license surrender language in the Disciplinary Guidelines. The modification would add gaining experience to the list of requirements that an applicant would need to meet if he or she decided to re-apply for licensure in the future.

At its October 13, 2011 meeting, the Policy and Advocacy Committee recommended that the Board direct staff to begin the rulemaking process.

Michael Santiago commented on the item #4 regarding the rehabilitation program. This relates in the draft of the Disciplinary Guidelines item #7. It states that the quarterly report shall be submitted to the Board by the rehabilitation program. There is no authority for the Board to require that the rehabilitative program provide a report. It is upon the respondent to ensure that the Board receives the progress or status update directly from the rehabilitation program.

Samara Ashley moved to direct staff to make any non-substantive changes to the proposed language and begin the rulemaking process, and to include language provided by legal counsel regarding reports from the rehabilitation program in item #4 and trigger language in Section 1888. Judy Johnson seconded. The Board voted unanimously (9-0) to pass the motion.

e. Discussion and Possible Regulatory Action Regarding the Implementation of SB 1441, Chapter 548, Statutes of 2008 and SB 1172, Chapter 517, Statutes of 2010

Ms. Helms presented the proposed regulations incorporating uniform standards for substance abusing healing arts licensees.

Senate Bill 1441 signed in 2008, required DCA to establish the Substance Abuse Coordination Committee (SACC). The SACC, comprised of the executive officers of the DCA's healing arts boards, was tasked with formulating, by January 1, 2010, uniform and specific standards in specified areas that each board would be required to use in dealing with substance abusing licensees.

The goal of this process was to create consistent and uniform standards allowing consumers better and more consistent protection from substance abusing licensees.

Board staff has incorporated the standards into the Disciplinary Guidelines except for Standards 13 through 16. These standards involve either diversion programs, which the Board does not have, or data collection, which is an internal Board function not appropriately addressed through regulations.

The proposed Uniform Standards Related to Substance Abuse and Disciplinary Guidelines consist of four parts:

1. Uniform Standards Related to Substance Abuse: This is a new section and would apply to licensees or registrants who test positive for a controlled substance, or whose license or registration is on probation due to a substance abuse problem.
2. Penalty Guidelines: This section was already part of the Disciplinary Guidelines. It lists types of violations and the range of penalties that may be imposed.
3. Disciplinary Orders: This section was already part of the Disciplinary Guidelines. It contains language for proposed optional and standard terms and conditions of probation. It has been modified to include the new uniform standards related to substance abuse.
4. Board Policies and Guidelines: Already part of the Disciplinary Guidelines, this section explains the policies and guidelines for various enforcement actions.

SB 1172, passed in 2010, requires a healing arts board to suspend a license if the licensee tests positive for any substance that is prohibited under the terms of the licensee's probation or diversion program. This law allows a board to adopt regulations authorizing it to suspend the license of a licensee on probation or in a diversion program for major violations and when the Board orders a licensee to undergo a clinical diagnostic evaluation.

The Uniform Standards Related to Substance Abuse, which have been added to the Board's Disciplinary Guidelines, include these authorities, and therefore fulfill the requirements of SB 1172.

Staff has made some minor updates since the October 2011 Policy and Advocacy Committee Meeting. The updates are:

- Excluding professional relationships with a licensee in places where financial, personal, or business relationships are already prohibited.
- Specifying that a supervisor must submit his or her required monthly written report directly to the Board.
- Clarifies that the facilitator of a chemical dependency support or recovery group, who is required to be licensed or certified by the state or other nationally certified organizations, must be licensed or certified to provide substance abuse recovery services.
- Other minor technical changes for clarity.

At its October 2011 meeting, the Policy and Advocacy Committee directed staff to submit the proposed regulations to the Board for consideration.

Mr. Santiago reported on the legal opinion on SB 1441 provided by the Legislative Counsel. This legal opinion attempted to address two issues.

1. Was the Substance Abuse Committee (Committee) required to adopt the Uniform Standards pursuant to the rulemaking procedures under the Administrative Procedure Act? According to the Legislative Counsel, the Committee should have gone through the regulatory process.
2. Are the healing arts boards required to implement the Uniform Standards. According to the Legislative Counsel, it is mandatory for the healing arts boards to implement the standards that the Committee set forth.

This still raises some issues for the Board to consider:

- If this Committee reconvenes, will it propose regulations?
- If the Committee reconvenes and goes through the rulemaking process to implement regulations for the standards, what if there is a conflict with to the Board's standards?
- Taking into account that the Board is required to implement the standards, must all the standards be applied to an abusing licensee? Does the Board have discretion which of those standards it can apply to the abusing licensee?

Mr. Santiago outlined the Board's options:

- The Board can go through with rulemaking package provided by staff, or
- The Board can ask DCA for guidance.

Ms. Lock-Dawson and Ms. Lonner both agreed to seek guidance from DCA.

Mr. Brooks expressed that the Board should issue a statement on how it views the use and misuse of substances by licensees. There is no such statement about how it views the responsibility for the licensee to deal with these issues, and what happens when there is a violation instead of breaking it down to a regulatory concept. The regulatory concept does not serve the public or the licensees; it does not address the issue.

Patricia Lock-Dawson moved to direct staff to seek guidance. Karen Pines seconded. The Board voted unanimously (9-0) to pass the motion.

f. Legislative Update

Ms. Helms presented the legislative update.

The Board sponsored four bills, and all were signed by the Governor:

1. SB 274 regarding Professional Clinical Counselors grandparenting period.
2. SB 363 regarding MFT training practicum , client-centered advocacy, and supervision of MFT interns.
3. SB 704 regarding the examination restructure.
4. SB 943, the Board's omnibus bill.

AB 956 regarding advertisements of MFT interns and trainees and SB 146 which adds LPCCs to statutory code sections were signed into law.

g. Rulemaking Update

Ms. Helms presented the rulemaking update. Several regulatory packages have been approved by the Board, and staff is currently sending rulemaking packages to Office of Administrative Law.

XII. Suggestions for Future Agenda Items

Ms. Pines requested that Board seek input from stakeholders on proposals, and this should be a continuing agenda item.

XIII. Public Comment for Items Not on the Agenda

No public comments were made.

XIV. Adjournment

The meeting was adjourned at 2:56 p.m.

Thursday, November 10th

Members Present

Christine Wietlisbach, Chair, Public Member
Patricia Lock-Dawson, Vice Chair, Public Member
Samara Ashley, Public Member
Harry Douglas, Public Member
Judy Johnson, LEP Member
Sarita Kohli, LMFT Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Christina Wong, LCSW Member

Staff Present

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

Members Absent

Guest List

On file

FULL BOARD OPEN SESSION

XV. Introductions

Christine Wietlisbach, Board Chair, opened the meeting at 8:08 a.m. Christina Kitamura called roll. A quorum was established. Board members, Board staff, and audience introduced themselves.

XVII. Petition for Early Termination of Probation, Patricia Evans, MFC 48187

Administrative Law Judge (ALJ) Karl Engeman presided over the hearing. Brian Turner, Deputy Attorney General (DAG), represented the State of California.

Judge Engeman opened the hearing at 8:09 a.m. DAG Turner presented the matter. Ms. Evans presented her request to terminate her probation and information to support her request. DAG Turner cross-examined Ms. Evans. Board members also posed questions to Ms. Evans. After answering all questions, Ms. Evans presented her closing remarks.

Karen Pines joined the meeting at 8:09 a.m. Sarita Kohli joined the meeting at 8:12 a.m.

Judge Engeman closed hearing 8:55 a.m.

XVI. Petition for Modification of Penalty, Edward Tovar, MFC 48554

Ms. Madsen informed the Board that petitioner Edward Tovar will not attend the hearing. The petition was denied.

The Board proceeded into closed session.

BOARD CLOSED SESSION

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

XVIII. Pursuant to Section 11126(a) of the Government Code, the Board Will Meet in Closed Session to Evaluate the Performance of the Board's Executive Officer

The Board took a break and reconvened at 2:50 p.m.

FULL BOARD OPEN SESSION

XIX. Suggestions for Future Agenda Items

No suggestions were made for future agenda items.

XX. Public Comment for Items Not on the Agenda

Brian Stiger, DCA Director, spoke about the recent Legislative Counsel's opinion on SB1441. DCA's Executive Office and Legal Affairs has not been able to analyze that opinion and work with OAL on that opinion. Therefore, Mr. Stiger urges the Board to move forward with the uniform standards.

Doreathea Johnson, Deputy Director of Legal Affairs, clarified that the opinion from the Legislative Counsel is not binding. She also urged the Board to move forward.

XXI. Adjournment

The meeting was adjourned at 2:56 p.m.