

## **BOARD MEETING MINUTES August 22-23, 2012**

Department of Consumer Affairs  
Hearing Room  
1625 North Market Blvd., 1<sup>st</sup> Floor  
Sacramento, CA 95834

### ***Wednesday, August 22nd***

#### **Members Present**

Dr. Christine Wietlisbach, Chair, Public Member  
Karen Pines, Vice Chair, LMFT Member  
Betty Connolly, LEP Member  
Dr. Harry Douglas, Public Member  
Sarita Kohli, LMFT Member  
Patricia Lock-Dawson, Public Member  
Christina Wong, LCSW Member

#### **Members Absent**

Samara Ashley, Public Member  
Renee Lonner, LCSW Member

#### **Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Asst. Executive Officer  
Rosanne Helms, Legislative Analyst  
Marc Mason, Administration/Exam Manager  
Christina Kitamura, Administrative Analyst  
Dianne Dobbs, Legal Counsel

#### **Guest List**

On file

### **FULL BOARD OPEN SESSION**

#### **I. Introductions**

Dr. Christine Wietlisbach, Board of Behavioral Sciences' (Board) Chair, opened the meeting at 10:15 a.m. Christina Kitamura called roll. A quorum was established.

Betty Connolly is a new member appointed to the Board. Ms. Connolly gave a brief summary of her background.

Dr. Wietlisbach announced that 5 members were recently appointed to the Board:

1. Dr. Leah Brew, LPCC Member
2. Eileen Colapinto, Public Member
3. Linda Forster, Public Member
4. Deborah Brown, Public Member
5. Betty Connolly, LEP Member

Board members, Board staff, and meeting attendees introduced themselves.

**II. Approval of the May 16-17, 2012 Board Meeting Minutes**

Kim Madsen noted a correction on page 3 to delete “of” between “many” and “people.”

Dr. Wietlisbach noted a grammatical correction on page 30 items 23 and 24.

***Karen Pines moved to adopt the Board meeting minutes as amended. Christina Wong seconded. The Board voted (5 approvals, 2 abstentions) to pass the motion.***

**III. Approval of the July 19, 2012 Board Meeting Minutes**

***Patricia Lock-Dawson moved to adopt the Board meeting minutes. Sarita Kohli seconded. The Board voted (6 approvals, 1 abstention) to pass the motion.***

**IV. Chair Report**

**a. Committee Assignments**

Dr. Wietlisbach reported that Karen Pines has been assigned to the CE Provider Review Committee.

**b. November Board Meeting Date**

Dr. Wietlisbach reported that the fall Board meeting has been changed to November 27th and 28th.

**V. Executive Officer’s Report**

**a. Budget Report**

Ms. Madsen presented the budget report. The Board completed the fiscal year 2011/2012 with an unencumbered balance of nearly \$189,000 and collected revenues in excess of \$7.9 million.

A current fund condition report was not available, but a 3.1 month reserve balance was reported.

The Board has a total of \$12.3 million dollars in loans to the General Fund. The Board was informed that it may receive some repayment towards this loan in 2012/2013. Although this has not been confirmed, any repayment the Board receives will be reported as soon as possible.

The proposed 2012/2013 budget is \$8,153,000 with 40.7 staff positions.

Budget letter (BL) 12-03 issued by the Department of Finance (DOF) on March 12, 2012, directed the Board to reduce its authorized positions. The Board was directed to reduce its salary savings by 3.1 positions (1.6 authorized and 1.5 temporary help positions). The Board eliminated two positions that were currently vacant; the Licensed Clinical Social Worker (LCSW) evaluator position and the half-time special investigator position.

Ms. Madsen received news that the Board may be able to rehire for the 1.6 authorized positions due to recent developments. She is still waiting for the details to be worked out.

The economic climate of the California state budget has not improved. Many of the previous directions and executive orders to reduce spending will remain effective during fiscal year 2012/2013. Additionally, Board staff will receive one day off in exchange for a

5% salary reduction. Staff must use this day each month and is not allowed to accrue the day off to use at a later time. The Board office will continue its normal operating hours.

On July 3, 2012, the Legislature approved Governor Brown's Reorganization Plan. This plan calls for reducing the number of state agencies from 12 to 10 and eliminates or consolidates a number of departments and entities. The plan will be implemented within the next year.

Although the Board is not directly affected by the reorganization plan, the agency that the Board reports to, the State and Consumer Services Agency (SCSA) will see significant changes. SCSA and the Business, Transportation, and Housing Agency will be consolidated into a new agency, which will be known as the Business and Consumer Services Agency (BCSA). The Department of Consumer Affairs (DCA) will remain under BCSA. However, DCA will see the addition of the following departments.

- Department of Real Estate,
- Office of Real Estate Appraisers,
- Structural Pest Control Board,
- Board of Chiropractic Examiners.

BCSA will also include the following departments: Housing and Community Development, Fair Employment and Housing, Alcohol Beverage Control, California Horse Racing Board, Seismic Safety Commission, and the Department of Business Oversight.

Ben Caldwell, American Association for Marriage and Family Therapy California Division (AAMFT-CA), expressed his opinion regarding pay cuts for staff of special funded agencies. He commended staff for maintaining productivity during this difficult time. Mr. Caldwell also asked if there were any concerns that the 3.1 month reserve will drop. Ms. Madsen explained that the Business and Professions Code recommends a 24-month reserve balance be maintained. However, due to the economic climate, DOF has not been alarmed with the 3-month reserve balance. Ms. Madsen feels that if the reserve drops to a 2-month reserve balance, DOF may be concerned.

#### **b. Operations Report**

Ms. Madsen presented the operations report. The second quarter statistics continue to reflect an increase in application volume. The volume of Associate Social Worker (ASW) applications increased by 68%. This was due to the applications received after graduations during the second quarter. The Licensed Marriage and Family Therapist (LMFT) Examination Eligibility applications are taking about 3-4 months to process.

The Board's efforts to reduce the LMFT Examination Eligibility application backlog resulted in the approval of an additional 217 applications from the last quarter report.

The reduction in staffing within the licensing unit will impact processing times to approve LCSW examination applications. Board management is currently reviewing the LCSW examination approval process to develop a plan that will assist the LCSW evaluator and minimize the impact to applicants.

In the last quarter, the Board issued 920 new licenses.

A total of 2,473 examinations were administered in the second quarter. Fourteen examination development workshops were conducted in April through June.

The cashiering unit is currently processing renewal applications within 6 days of receipt. All other applications are processed within 3 days of receipt. Ms. Madsen added that the renewal applications are processed by one individual.

The Enforcement staff saw a 45% increase in consumer complaints and 38% increase in criminal convictions. During the second quarter, 573 cases were closed and 32 cases were referred to the Attorney General's office for formal discipline.

Enforcement staff continues to meet or exceed the established performance measures (PM) with the exception of PM 4, Formal Discipline. DCA established the performance target for PM 4 at 540 days (18 months). The current quarterly average is 858 days. 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.

The second quarter reflects a slight decrease in overall satisfaction, accessibility, and courtesy. Successful service increased slightly. Since the third quarter in 2011, the Board has observed a decrease in the number of respondents to the Board survey (47%). This trend continues with a 20% decrease in respondents from the previous quarter.

#### **c. Personnel Update**

Ms. Madsen reported that Terri Maloy was promoted to a Staff Services Analyst to evaluate Licensed Professional Clinical Counselor (LPCC) applications.

#### **d. BreEZe Update**

Ms. Madsen reported that the BreEZe "go live" date has been pushed out to mid-November. Ten staff members are currently working with the BreEZe team on this project. Staff training on the new BreEZe system is expected to take place in October if the November "go live" date does not change.

### **VI. Update on the Continuing Education Committee**

Steve Sodergren provided an update on the Continuing Education (CE) Provider Review Committee. In order to address a number of concerns related to the Board's Continuing Education Provider requirements, the Board voted at its November 2011 meeting to create a two-member committee, the CE Provider Review Committee (Committee), to review and discuss the Board's current CE provider requirements and other models of continuing education. Professional organizations that represent the Board's licensees have been actively participating in the discussions that have taken place during three separate meetings held this year.

The Committee focused on comparing the Board's current CE provider requirements to the CE provider requirements of other DCA healing arts boards as well as licensing boards in other states. The Committee's discussion focused on various professional organization's policies and procedures for approving and/or accrediting CE providers. Discussion centered on professional organizations and educational institutions. The Committee focused on the key components of a continuing education provider approval program. This discussion centered on the following:

- Recognition and acceptance of continuing education units from professional associations with existing continuing education provider programs,
- Recognition and acceptance of continuing education units from educational institutions,

- Recognition and acceptance of additional methods to obtain continuing education units,
- Criteria that future or new professional associations continuing education provider must satisfy to be recognized and accepted by the Board.

At the next meeting, tentatively planned for September, the Committee will focus on further defining the requirements for each of the components discussed in July. There will also be a discussion around additional professional organizations that should be accepted by the Board as CE provider approver. Lastly, the concept of establishing a continuing competency model for BBS professionals, instead of or in addition to a continuing education model, will be explored.

Dr. Harry Douglas added that the Committee wanted to provide a substantive outcome for the Legislature. One concern that was heard is that the Board maintains gate keeping responsibility and to not “loosen up” the requirements.

Rosanne Helms added that SB 1183 died.

## **VII. Update on the Department of Managed Health Care Autism Task Force Meetings**

Ms. Madsen provided an update on the Autism Task Force meetings.

SB 946 required the Department of Managed Health Care (Department) in conjunction with the Department of Insurance, to establish an Autism Advisory Task Force by February 1, 2012. The purpose of the task force is to provide assistance to the Department on topics related to behavioral health treatment and to develop recommendations relating to the education, training, and experience requirements to secure licensure from the State of California.

The task force began meeting in February 2012. The Board has participated in those meetings since March 2012. The next meeting is scheduled for this Friday. Recommendations for licensure may be presented at this meeting.

The 18-member task force has considered numerous issues such as consumer protection, professional competence, licensure requirements, and ensuring that an adequate number of providers are available to consumers. On July 13 and 22, 2012, the task force convened two panels of experts to discuss licensure requirements and the current practice of experts in the field who do not possess the Board of Certified Behavioral Analyst (BCBA) certification.

These discussions entailed consideration of possible grand parenting provisions as well as consumer protection components requiring criminal background checks and efficient methods to identify and remove unsafe practitioners. In addition, the task force members listened to testimony from current practitioners in the field regarding training of staff, coordination of care, and established models of best practices.

Dr. Christine Wietlisbach and former Board member Dr. Judy Johnson each attended a task force meeting. During the meetings Board staff has provided comments regarding the process of licensure, examination, and regulatory oversight. Additionally, staff and Board members noted that many of the Board's current licensees are actively providing similar services under the scope of their current licenses.

The task force will prepare the final report to submit to the Governor and specified members of the Legislature by December 31, 2012. The report will include the findings of the task force as well as recommendations for a pathway to licensure.

Ms. Madsen stated that the Board may be the regulatory entity that the task force will recommend through legislation to oversee this licensure process.

Patricia Lock-Dawson asked what setting a behavioral analyst would practice in. Ms. Madsen stated that a lot of treatment takes place in regional centers. However, much of the treatment occurs in the home. There are different levels of these practitioners. One level is the “front line” individual who has very little educational background and is trained by the agency that employs the individual. Another level is the mid-level practitioner who has a bachelor degree and/or a master’s degree. This practitioner may supervise the front line practitioner, they may provide treatment, and they may develop the treatment plan. Finally, there is the director of the agency or regional center.

Ms. Madsen stated that testimony was heard from individuals in the field who are providing treatment but were not certified with the Board of Certified Behavioral Analysts; however, they held a professional license from another agency. Additionally, other licensed professions that are providing treatment are, for example, Licensed Occupational Therapists, Licensed Speech Therapists, and Licensed Educational Psychologists (LEP). The challenge becomes how to establish a professional license without excluding the other licensees.

Ms. Connolly stated that much of the treatment taking place in the home is provided by the BCBA. Establishing ABA-based instruction in school practice should be provided by an LEP with a behavioral background. BCBAs have a very comprehensive behavioral background; however, they do not have the educational perspective.

Christina Wong asked how many behavioral analysts are working or might be working in the field. Ms. Madsen responded that there are about 1,500 BCBAs in California. BCBAs are only licensed in 7 or 8 states. It will be very difficult in determining the numbers of potential behavioral analysts.

Janlee Wong, National Association of Social Workers California Chapter (NASW-CA), asked if the Board has the capability of taking on another license. He also expressed that the idea of licensing a particular special population and a particular diagnosis is unusual. The other licenses under the Board are designed for treatment to cover a wide population. Mr. Wong also expressed that this group must have a large number of disciplinary problems that is causing the State of California to pursue this license.

Dean Porter, California Association for Licensed Professional Clinical Counselors (CALPCC), stated that CALPCC is concerned about a license for a single diagnosis especially without educational requirements.

The Board took a break at 11:25 a.m. and reconvened 11:45 a.m.

Ms. Madsen announced that the next task force meeting will be held on Friday at the Sacramento Convention Center, and the task force will take public comment. She also directed the audience to the task force’s website to get more information on future meetings and agendas.

### **VIII. Update on the Licensed Professional Clinical Counselor Program**

Ms. Madsen provided an update on the LPCC program.

On May 14, 2012, the Board welcomed Terri Maloy to the unit as an LPCC evaluator. Terri evaluates Professional Clinical Counselor Intern (PCI) applications and traditional out-of-state applications.

It is taking approximately 6 weeks to evaluate a PCI Application received at the Board. Terri is currently evaluating applications received in early July.

To date, the Board has issued 63 PCI registrations: LPCC out-of-state traditional applications and LPCC grandparent applications.

It is taking approximately 90 days to evaluate out-of-state traditional applications. The Board is currently evaluating applications received in May 2012.

The LPCC Grandparent period ended on December 31, 2012. The applications postmarked by December 31<sup>st</sup> were accepted by the Board as meeting the filing requirement. The Board received 3,433 applications for the two grandparent programs. The majority of these applications were received in the final two days of December. Once the application has been evaluated, the applicant has one year from the date on the "notice" from the Board to remediate all deficiencies.

The Board has two evaluators evaluating the LPCC grandparent applications. Joanna Huynh is evaluating the MFC/LCS Grandparent applications, and Christy Berger is evaluating the Non-BBS Licensed Grandparent applications. Of the MFC/LCSW Grandparent applications, 30% of the 2,196 applications received have been processed. About 525 applicants are eligible to take the Gap Exam. Of that number, 115 applicants have taken the Gap Exam. At this point, staff estimates that at current staffing levels, it will take approximately 18 months from December 2011 to evaluate those applications.

For the Non-BBS Licensed Grandparent applications, the Board received 1,236 applications. About 20% of those applications have been processed to date. Approximately, 162 applicants were eligible to take the Law and Ethics Exam; 84 of those applicants have taken that exam. Approximately, 232 applicants were eligible to take the national exam. Staff estimates that it will take 24 months from December 2011 to evaluate those applications. The Board has licensed 105 LPCCs.

A letter was sent to the applicants in the Grandparenting population advising them of the current staffing resources and time frame to evaluate applications. Staff assured them that the one-year time frame does not begin until they receive the letter of notification from the Board.

The volume of applications received is the equivalent to what a licensing program will receive in 1 ½ years; and that volume was received in a couple of days. This is a challenge. The Board has realigned its resources to evaluate the grandparent applications. Staff will continue to make those efforts and continue to post evaluation times on the website.

Ms. Porter expressed her disappointment to learn that the processing times may take up to 24 months. Ms. Porter stated that she understands the constraints that Board staff is facing; however, the members of CALPCC are contacting CALPCC and expressing their frustration.

Ms Pines stated that at the last meeting, it was stated that there was some delay with the educational institutions providing information regarding their curriculum. Ms. Madsen responded that those issues have been resolved.

Dr. Douglas asked how this will impact the processing times for regular applications. Ms. Madsen responded that some traditional applications have been received, and staff is trying to juggle between traditional applications and grandparent applications.

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

### **a. Discussion and Possible Action regarding Revisions to the Retired License Statute**

Rosanne Helms presented proposed revisions to the retired license statute.

AB 2190 gave the Board the authority to issue retired licenses effective January 1, 2011. As of June 2012, the Board had issued 561 retired licenses. Since this law went into effect, some issues have been raised by staff.

The first issue is the requirements for a retired license. Licensees may request a retired license if they complete the required application, pay the required fee, if the license is current and active or capable of being renewed, and if the license is not under any type of disciplinary action by the Board.

The use of the term “current and active or capable of being renewed” has been a source of confusion for Board staff and licensees since the retired license law went into effect. For example, a suspended license is capable of being renewed; however, the disciplinary action would make the licensee ineligible for a retired license.

The intent of the phrase “capable of being renewed” was to allow a licensee on inactive status to apply for a retired license without having to first renew their license to active status. An inactive license is capable of being renewed. Furthermore, it would be burdensome to require an inactive licensee to complete continuing education and pay a renewal fee for an active license to request a retired license.

Due to this confusion, staff recommends consideration of an amendment to delete the term “capable of being renewed” and instead state that the license must be current and active or inactive.

The second issue is the timeline to restore a retired license to active status. Current law allows a holder of a retired license to apply to restore his or her license to active status if he or she was issued the retired license less than five years ago. This law is inconsistent with the law regarding renewal of an expired license. An expired license may only be renewed within three years of its expiration.

Staff recommends consideration of an amendment to reduce the timeline to restore a retired license from retired to active status from five years to three years. At its July 2012 meeting, the Policy and Advocacy Committee recommended that the Board consider adopting the amendments proposed by staff.

There was no discussion from the Board. There were no public comments.

***Christina Wong moved to direct staff to make any nonsubstantive changes and pursue legislation to make the proposed changes. Sarita Kohli seconded. The Board voted unanimously (7-0) to pass the motion.***

**b. Discussion and Possible Regulatory Action to Require All Applicants to Submit a National Data Bank Inquiry Result**

Mr. Sodergren presented the proposed regulatory action regarding Board applicants and the National Data Bank Inquiry.

During the 2012 Sunset Review process, the Senate Business, Professions and Economic Development Committee requested an explanation from the Board as to why the Board was not currently using the National Data Bank to conduct background checks on applicants.

The National Data Bank, consisting of the National Practitioner Data Bank (NPDB) and the Healthcare Integrity and Protection Data Bank (HIPDB), is a confidential information clearinghouse created by Congress to improve health care quality. This clearinghouse was established to receive and disclose certain final adverse actions against health care practitioners, providers, and suppliers.

Currently, the Board does not conduct a review of the applicant's employment background and disciplinary history. The Board indicated that it has an interest in using this resource as another tool to conduct background checks and was exploring options to best incorporate its use.

One option for the Board would be to require applicants to submit a Self Query Report. The requirement for applicants to submit a Self Query Report would further assist the Board in determining if an applicant has been the subject of discipline in another state prior to making a license decision to grant or deny a license. This would give the Board an additional tool to assist the Board in meeting its mandate to protect the public.

Self query would be the best option for the Board due to the cost involved. This would cost the Board \$9.50 per applicant. Another reason self query would be the best option is that it would not increase the time it would take the Board to process an application for licensure.

At its July 2012 meeting, the Policy and Advocacy Committee decided that it would be beneficial to require applicants to submit a Data Bank Self-Query to the Board when applying for a license. One question is if the Board wants to require the applicants to do a self query and provide it to the Board when they apply for licensure. Some details that have not been discussed yet is whether this should be required for only out-of-state applicants or for new applicants, and whether this should be retroactive for all licensees of the Board. Another detail is whether this should apply to interns at the time they apply for internship or at the time they apply for licensure.

Mr. Sodergren stated that the Board has been great at reporting. Other states and agencies have been getting better at reporting. He also mentioned that as of July 31<sup>st</sup>, mental health portion will be implemented to the database.

The FBI and DOJ catch the criminal activity through the fingerprinting process. However, the database will catch information not captured through the fingerprinting process, such as medical malpractice payers, adverse actions taken by an employer. Mr. Sodergren listed organizations and entities that would report to the database and the type of information available.

Ms. Pines asked what problem this is going to resolve? Ms. Madsen responded that information is not known at this time because the Board does not currently utilize the

database. Ms. Madsen feels that this would be beneficial especially for out-of-state applicants.

Ms. Pines agreed with Ms. Madsen and expressed her support for utilizing this resource. She also stated that applicants should absorb this cost.

Ms. Lock-Dawson stated that it is unknown how this could help the Board. She suggested doing a pilot program to find out what information this will produce.

Dr. Wietlisbach questioned that if the Board does not go along with this, how will it affect the Board at its next Sunset Review. Ms. Lock-Dawson stated that is the exact reason to move forward with a pilot program, and illustrate that the Board was reasonable and logical in its approach to this process.

Ms. Wong stated the databank captures the malpractice and fraud, which will benefit the Board; it captures what cannot be captured through the fingerprinting process. If the applicant is required to absorb this cost, there is no need for a "test drive." This is not an inconvenience to the applicant. This is a benefit for the Board and for consumer protection.

Ms. Connolly asked how good is the information provided through the database considering that other states and agencies are "getting better at reporting." Mr. Sodergren responded that he is not sure.

Ms. Madsen stated that there will be inconsistent reporting. However, it is a federal mandate to report, and the penalty for not reporting is that the agency's name will appear on the website as a non-complier.

Dr. Douglas addressed the issue of manpower to do a study or a pilot. He feels that the Board does not have the manpower to deal with this issue; the LPCC program is priority.

Dr. Wietlisbach asked how much manpower could this require. Ms. Madsen responded that this can be done without adversely affecting the current workload. Staff is currently running a study on the 90-Day Rule by entering information at the time they evaluate an application. She also stated that the number of out-of-state applicants can be provided as well. Mr. Sodergren stated that the number of out-of-state applicants is minimal, estimating about 500 applicants during the last fiscal year.

Mr. Wong, NASW-CA, concurs with the issues regarding workload, but is concerned about this matter being minimalized. This is not a necessarily perfect database; there could be errors contained within the information. He questioned the method of the identifier, such as social security numbers. Mr. Wong also questioned what the Board will do with the information; will the Board conduct an investigation or will it deny a license?

Ms. Epstein asked if this goes into effect for new applicants, do they have subsequent notices automatically? Mr. Sodergren responded no, but this is something that has not been discussed yet.

Ms. Porter stated that members of American Association of State Counseling Boards (AASCB) reported using the National Databank. She suggested that Board staff survey the members of the AASCB, and ask which members are utilizing the system, request their input, and ask if this system is successful.

Michael Brooks, California Society for Clinical Social Work (CSCSW), shares Mr. Wong's concerns. The database is a good concept, but some states do not report. He explained that when an applicant is queried, the Board will receive a lot of information. Staff will have to determine whether something is egregious and will need to develop criteria.

Mr. Wong, NASW-CA, stated that medical malpractice payments are provided by the query. It may or may not be malpractice; it may be a settlement, but it is unknown. It would require Board staff to investigate.

Ms. Kohli stated that it makes sense for the Board to add the fee to the licensing fee. This will increase work for staff to add one more duty and given the fact that there are few out-of-state applicants, she suggested deferring a decision or the implementation of this.

Dr. Wietlisbach agreed with Ms. Kohli, stating that the Board needs more info on this.

***Patricia Lock-Dawson moved to table this discussion. Harry Douglas seconded. The Board voted unanimously (7-0) to pass the motion.***

Ms. Madsen stated that staff will bring back the following information:

- Number of applicants,
- Information that the self query provides,
- If there is an opportunity for alterations,
- How other states use this, and are they satisfied,
- Quick stats on the information that the query is catching or not catching through the database.

The Board took a break for lunch at 12:49 p.m. and reconvened at approximately 2:00 p.m.

#### **c. Legislative Update**

Ms. Helms presented the legislative update.

SB 632 was an urgency measure which will amend a provision of the licensing law regarding Marriage and Family Therapists training practicum and restore the original intent of requiring only specified MFT trainees to enroll in practicum to counsel clients.

This bill was signed by the Governor on July 3, 2012 and became effective immediately.

SB 1527 and SB 1575 are going through the Legislature, and then the bills will go to the Governor for signature.

The Board's Sunset Bill, SB 1238 that extended the Board's sunset date to January 1, 2017 has been added to SB 1236. The language remains the same.

SB 1183 regarding the Board's continuing education, died in committee last week

There was no Board discussion or public comments.

#### **d. Rulemaking Update**

Some changes took place since the release of the rulemaking update. Ms. Helms presented those changes to the rulemaking update.

The Board will be discussing proposed changes to SB 1111 regarding enforcement regulations in the next agenda item.

Public hearings have been held on the regulation package regarding revision of advertising regulations, two-year practice requirement for supervisors of ASWs and HIV/AIDS continuing education course for LPCCS and the SB 363 regulation package; no public comments were received.

The disciplinary guidelines, enforcement regulations package was noticed at the Office of Administrative Law (OAL).

There was no Board discussion or public comments.

**X. Discussion and Possible Action Regarding Revisions to Regulations to Implement SB 1111 (Negrete McLeod)**

Ms. Helms presented the proposed regulations to implement SB 1111.

Over the past few years, there have been several legislative efforts to streamline the enforcement processes for healing arts boards within DCA. Those efforts have failed. 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.

Due to the urgent need to protect consumers by streamlining the enforcement process, the Senate Business, Professions, and Economic Development Committee and DCA have asked healing arts boards to individually seek regulations to implement those provisions of SB 1111 and SB 544 that do not require new statutory authority.

The DCA legal office identified several components of SB 1111 and SB 544 that may be established through regulations. DCA has asked its healing arts boards to pursue these components through the rulemaking process. The regulatory proposal considered by the Board can be grouped into three categories:

**1. Delegation of Certain Functions**

Proposed Action: Delegate to the Board's Executive Officer the authority to approve settlement agreements for revocation, surrender, and interim suspension of a license, or allow the Executive Officer to delegate this function to another designee.

Rationale: In cases where a licensee has voluntarily admitted to charges and agreed to the revocation, surrender, or suspension of their license, there is little discretion for the Board not to adopt the agreement. Allowing the Executive Officer to approve such an agreement, instead of requiring a full board vote, will shorten the timeframe for these cases, allowing them to become effective more quickly.

**2. Required Actions Against Registered Sex Offenders**

Proposed Action: Require that the Board deny or revoke a license or registration if the applicant or licensee is required to register as a sex offender pursuant to Penal Code Section 290. In addition, require that the Board deny any petition to reinstate or reissue a license or registration to a registered sex offender.

Rationale: The Board is already prohibited from issuing a license or registration to any person who has been convicted of a crime in this or another state or in a territory of the

United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code. This proposal would clarify that the Board must revoke a license or registration upon finding that an applicant or licensee was convicted of a sex offense, and would clarify that the Board must deny a petition for reinstatement or reissuance.

### 3. Unprofessional Conduct

Proposed Action: Add the specified acts to the definition of unprofessional conduct that are intended to make the investigation process more efficient.

At its August 2011 meeting, the Board approved the regulatory proposal. The proposal was then submitted to OAL and opened to public comment for a 45-day period. A public hearing was held on May 1, 2012.

The Board received a public comment letter from CAMFT. After reviewing these comments, staff is proposing a number of technical and clarifying amendments to the originally proposed language.

Ms. Epstein thanked staff for incorporating some of the changes that CAMFT recommended. She pointed out a few issues of concern. First, Board staff acknowledged that staffing issues ultimately contributed to delays in the enforcement process. CAMFT is concerned that to combat delays caused by staffing issues, there are more burdens placed on licensees. Second, CAMFT is concerned that the Board is seeking new authority, which must be granted by the Legislature. CAMFT feels that the regulation process is not the legal avenue in which to seek this authority. Finally, the "failure to cooperate with Board investigation" is subjective. If the intent is to take action against those who actively subvert an investigation, then legislation should be pursued with that language.

Ms. Madsen indicated that DCA's legal review determined that the Board has the authority to do this through regulation. She understands CAMFT's concerns regarding the language. She explained that there have been occasions when licensees did not cooperate with Board investigations in cases where allegations were egregious. These cases were dragged out to the timeframe specified by law in which the Board must close the case.

***Christina Wong moved to direct staff to take all steps necessary to finalize the rulemaking process, including modifying the text as approved, submitting modified text for a 15-day comment period, making any nonsubstantive changes to the rulemaking package, and submitting the final package to OAL. Patricia Lock-Dawson seconded. The Board voted unanimously (7-0) to pass the motion.***

## XI. Discussion and Possible Action Regarding AB 1588 (Atkins)

Ms. Helms presented AB 1588, Reservists Licensees' Fees and Continuing Education. At its May 2012 meeting, the Board took a "support if amended" position on this legislation. Since then, the author's office has reached out to the Board as well as other affected boards within DCA in an attempt to amend the bill in a manner that is satisfactory to all parties. Amendments have been made to accommodate the Board's requests.

Existing law allows a licensee of the Board to submit a written request for a continuing education exemption if he or she was absent from the state of California due to military service for at least one year during the previous renewal period. The licensee must submit evidence of service and must submit the request for exemption at least 60 days prior to the license expiration date.

This bill requires boards within DCA to waive continuing education requirements, renewal fees, as well as any other renewal requirements as determined by the Board, for a licensee or registrant while called to active duty as a member of the United States Military Reserve or the California National Guard if the following requirements are met:

- The person's license or registration was current and valid at the time they were called to active duty;
- The renewal requirements are only waived for the period that they are on active duty; and
- Written documentation is provided to substantiate the active duty service.

This bill prohibits the licensee or registrant from engaging in any activities that require a license during the time the waiver is in effect. In order to resume activities requiring a license, requires the licensee or registrant to meet all necessary renewal requirements within one year from the date of being discharged from active service.

This bill is intended to prevent members of the military from being penalized if they allow their professional license to fall into delinquency during their service period. According to the author's office, "military professionals should not be expected to pay to renew an expensive license or fulfill continuing education requirements for a professional license they cannot use while on active duty."

The Board does not currently waive renewal fees if a licensee is called to active military duty. A licensee called to active military duty may choose to renew their license to an inactive status. An inactive status is valid for two years and requires payment of an inactive license fee that is approximately one-half of the standard license renewal fee. There is no inactive status option for a registration.

The Board may waive a licensee's continuing education requirement if he or she was absent from the state of California due to active military service for at least one year during the previous renewal period.

The Board requested an amendment setting a time limit to clarify by which the renewal fee must be paid once the licensee or registrant completes active service. The Board also requested an amendment specifying that the term "written notice" be replaced by the term "affidavit."

The bill now requires the licensee or registrant to meet all necessary renewal requirements within one year from the date of being discharged from active service. The bill also states that written documentation that substantiates the licensee or registrant's active duty service must be provided to the Board. While this amendment does not replace the term "written notice" with the term "affidavit", the bill now allows the Board to adopt regulations to carry out the provisions of the bill.

There were no public comments.

***Sarita Kohli moved to support AB 1588. Christina Wong seconded. The Board voted unanimously (7-0) to pass the motion.***

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

No suggestions for future agenda items were presented.

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

Ms. Madsen announced the 2013 Board meeting schedule:

- February 27-28: Southern California
- May 22-23: Sacramento
- August 21-22: Sacramento
- November 20-21: Southern California

The Policy and Advocacy Committee meeting dates are posted on the Board's website.

Ms. Pines suggested holding Los Angeles meetings closer to residences of the southern California Board members.

Ms. Madsen provided further clarification on the LPCC application processing times discussed earlier. She explained that each year, the Board has the opportunity to request additional staffing positions. For the upcoming fiscal year, the Board was not successful in obtaining new positions. Either the extra funding in the budget was not available or an Executive Order prohibited the Board from obtaining new positions. Once the budget is approved, the Board is only permitted to spend the money that has been authorized. Management continues to be creative with resources to get the applications processed.

### **XIV. Adjournment**

The meeting was adjourned at 2:43 p.m.

**Thursday, August 23rd**  
**8:30 a.m.**

**Members Present**

Dr. Christine Wietlisbach, Chair, Public Member  
Karen Pines, Vice Chair, LMFT Member  
Deborah Brown, Public Member  
Betty Connolly, LEP Member  
Dr. Harry Douglas, Public Member  
Sarita Kohli, LMFT Member  
Patricia Lock-Dawson, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Samara Ashley, Public Member  
Renee Lonner, LCSW Member

**Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Asst. Executive Officer  
Christina Kitamura, Administrative Analyst  
Julie McAuliffe, Probation Monitor  
Dianne Dobbs, Legal Counsel

**Guest List**

On file

**FULL BOARD OPEN SESSION**

**XV. Introductions**

Dr. Christine Wietlisbach, Board Chair, called the meeting to order at 9:05 a.m. Dr. Wietlisbach introduced new public member, Deborah Brown. Ms. Brown gave a brief summary of her background.

Christina Kitamura called roll, and a quorum was established.

**XVI. Petition for Early Termination of Probation for Engedaw Berhanu, LCS 15980**

Danette C. Brown, Administrative Law Judge (ALJ), presided over the hearing. Anahita Crawford, Deputy Attorney General (DAG), represented the People of the State of California. Engedaw Berhanu represented himself.

Judge Brown opened the hearing at 9:07 a.m. DAG Crawford presented the matter. Mr. Berhanu presented his request to terminate his probation early and information to support his request. DAG Crawford cross-examined Mr. Berhanu. Board members also posed questions to Mr. Berhanu, and DAG Crawford posed further questions to Mr. Berhanu.

After answering all questions, Mr. Berhanu presented closing remarks. DAG Crawford waived closing remarks.

Judge Brown closed the hearing at 10:03 a.m. and called for a recess at 10:04 a.m. The hearing was reconvened at 10:15 a.m.

**XVII. Petition for Modification of Probation for Graham Danzer, ASW 29082**

Danette C. Brown, ALJ, presided over the hearing. Anahita Crawford, DAG, represented the People of the State of California. Graham Danzer was represented by his attorney, John Fler.

Judge Brown opened the hearing at 10:15 a.m. DAG Crawford presented the matter. Mr. Fler presented his client's request to modify probation early and information to support the request. After documents were submitted for the record, Mr. Fler examined Mr. Danzer.

DAG Crawford cross-examined Mr. Danzer. Board members also posed questions to Mr. Danzer, and DAG Crawford posed further questions.

After answering all questions, Mr. Fleeer presented closing remarks.

Judge Brown closed the hearing at approximately 11:20 a.m. and called for a recess. The hearing was reconvened at approximately 11:35 a.m.

**XVIII. Petition for Early Termination of Probation for Balvinder Lallian, IMF 63646**

Danette C. Brown, ALJ, presided over the hearing. Anahita Crawford, DAG, represented the People of the State of California. Balvinder Lallian represented herself.

Judge Brown opened the hearing at approximately 11:35 a.m. DAG Crawford presented the matter. Ms. Lallian presented her request to terminate her probation early and information to support her request. DAG Crawford cross-examined Ms. Lallian. Board members also posed questions to Ms. Lallian, and DAG Crawford posed further questions to Ms. Lallian.

Darlene Davis appeared as a witness on behalf of Ms. Lallian. Judge Brown closed the hearing at approximately 12:05 p.m.

**XIX. Suggestions for Future Agenda Items**

No suggestions for future agenda items were presented.

**XX. Public Comment for Items Not on the Agenda**

No public comments were made.

The Board closed the meeting at approximately 12:10 p.m.

**FULL BOARD CLOSED SESSION**

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

**FULL BOARD OPEN SESSION**

**XIX. Adjournment**

After the Board met in closed session, the meeting was adjourned.