

BOARD MEETING MINUTES August 21-23, 2013

Wednesday, August 21st

Department of Consumer Affairs
Hearing Room
1625 N. Market Blvd.
Sacramento, CA 95834

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Dr. Leah Brew, LPCC Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member

Staff Present

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

Guest List

On file

Members Absent

Samara Ashley, Public Member
Deborah Brown, Public Member
Eileen Colapinto, Public Member
Karen Pines, LMFT Member

FULL BOARD OPEN SESSION

Dr. Christine Wietlisbach, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 9:30 a.m. Christina Kitamura called roll, and a quorum was established. Board members and the Administrative Law Judge introduced themselves.

I. Petition for Modification of Probation for Gregory Evans, ASW 35585

Dian M. Vorters, Administrative Law Judge, opened the hearing at 9:34 a.m. Phillip Arthur, Deputy Attorney General (DAG), presented the facts of the case on behalf of the Board of Behavioral Sciences. Gregory Evans was not represented by an attorney.

Judge Vorters went off the record at 9:40 a.m. The record was reopened at 9:48 a.m.

DAG Arthur presented the background of Mr. Evans' probation. Mr. Evans was sworn in. Mr. Evans presented his request for modification of probation and information to support the request. DAG Arthur cross-examined Mr. Evans. Board members also posed questions to Mr. Evans. After Mr. Evans answered all questions, Judge Vorters closed the hearing at approximately 10:23

a.m.

Judge Vorters called for a recess at 10:24 a.m. The Board reconvened at 10:40 a.m.

II. Petition for Modification of Probation for L. Aaron Smith, ASW 33082

Judge Vorters, opened the hearing at 10:41 a.m. DAG Arthur presented the facts of the case on behalf of the Board of Behavioral Sciences. Aaron Smith was represented by his attorney, Tanya Koshy.

DAG Arthur presented the background of Mr. Smith's probation. Mr. Smith was sworn in. Ms. Koshy presented Mr. Smith's request for modification of probation and information to support the request. Ms. Koshy questioned Mr. Smith.

DAG Arthur cross-examined Mr. Smith. Board members also posed questions to Mr. Smith. Ms. Koshy presented a closing argument. Judge Vorters closed the hearing at approximately 11:48 a.m.

The Board took a lunch break at 11:48 a.m. and reconvened at 1:07 p.m.

III. Petition for Early Termination of Probation for Alyson Stack, MFC 53325

Judge Vorters, opened the hearing at 1:07 p.m. DAG Arthur presented the facts of the case on behalf of the Board of Behavioral Sciences. Alyson Stack was not represented by an attorney.

DAG Arthur presented the background of Ms. Stack's probation. Ms. Stack was sworn in. Ms. Stack presented her request for modification of probation and information to support the request. DAG Arthur cross-examined Ms. Stack. Board members also posed questions to Ms. Stack. After Ms. Stack answered all questions, Judge Vorters closed the hearing at approximately 1:45 p.m.

The Board took a break at 1:45 p.m. and reconvened in closed session at 1:55 p.m.

IV. Suggestions for Future Agenda Items

This item was taken after closed session.

V. Public Comment for Items Not on the Agenda

This item was taken after closed session.

FULL BOARD CLOSED SESSION

VI. Pursuant to Section 11126(c)(3) of the Government Code, the Board will Meet in Closed Session for Discussion and Take Action on Disciplinary Matters

FULL BOARD OPEN SESSION

The Board took items IV and V after closed session at 4:20 p.m. There were no public comments or suggestions for future agenda items.

VII. Adjournment

The Board adjourned at 4:20 p.m.

Thursday, August 22nd
Department of Consumer Affairs
Hearing Room
1625 N. Market Blvd.
Sacramento, CA 95834

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Dianne Dobbs, Legal Counsel
Rosanne Helms, Legislative Analyst
Christina Kitamura, Administrative Analyst

Guest List

On file

Members Absent

Samara Ashley, Public Member
Eileen Colapinto, Public Member
Karen Pines, LMFT Member

FULL BOARD OPEN SESSION

Introductions

Dr. Christine Wietlisbach called the meeting to order at 8:45 a.m. Christina Kitamura called roll, and a quorum was established. The Board went into closed session at 8:46 a.m.

FULL BOARD CLOSED SESSION

VIII. 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 met in closed session and returned to open session at 10:47 a.m.

FULL BOARD OPEN SESSION

IX. Introductions

The Board Members and Board staff introduced themselves.

X. Report from item VIII - Closed Session pursuant to Section 11125.2 of the Government Code

Dr. Wietlisbach reported that the Board met in closed session to evaluate the performance of the Board's Executive Officer.

XI. Approval of the May 22-23, 2013 Board Meeting Minutes

The following corrections were made:

- Page 1, agenda item I, 2nd paragraph: "...Deputy Attorney General represented the Board..." was changed to "...Deputy Attorney General *presented the facts of the case on behalf of the Board...*" This change was also applied to page 2, agenda items II and III.
- Page 2, 2nd paragraph: duplicative paragraph was omitted.
- Page 6, item XII.b., 4th paragraph: "...as well as reminding staff the importance..." was changed to "...as well as reminding staff *of the importance...*"
- Page 10, item XV.a., 2nd paragraph: "...the temporary license expires after 12 months upon issuance..." was changed to "...the temporary license expires 12 months after issuance..."
- Page 11:
 - 1st paragraph, first sentence needs to be reworded.
 - Item XV.c., 2nd paragraph: duplicative bullet was omitted.
- Page 13:
 - 5th paragraph: This paragraph was changed to "Ms. Madsen informed Ms. Gonzales that since this bill is permissive, and the Board is facing other enforcement priorities, it is likely that the Board will not be issuing cease and desist letters."
 - 9th paragraph: "...who doesn't have social work degree..." was changed to "...who doesn't have a social work degree..."
- Page 14, item XV.c., 3rd paragraph needs to be reworded.
- Page 17:
 - 4th and 6th paragraphs: "mandated reported" was changed to "mandated *reporter*"
 - 4th paragraph needs to be reworded.
 - 8th paragraph: "requiring entire teams" changed to "requiring *an entire team*"

Christina Wong moved to approve the minutes as amended. Renee Lonner seconded. The Board voted unanimously (8-0) to pass the motion.

XII. Executive Officer's Report

a. Budget Report

Kim Madsen provided a summary of the budget report. The 2012/2013 budget is \$8,077,669. As of June 30th, the Board has spent about 93% of the total budget. Most of the money was spent on personnel and operating expenses.

The Board is awaiting the final figures for fiscal year 2012/2013, which will be available mid to late August. The Board expects these final figures will change the Board's unencumbered balance, which is currently estimated at \$564,832. The unencumbered balance primarily reflects BreEZe expenditures that were not encumbered due to the delayed implementation of BreEZe.

Revenues collected as of June 30th were estimated at \$7,938,000.

The Board's fund condition reflects 3.3 months in reserve. This figure reflects a scheduled repayment of \$1.4 million dollars related to the 2002 \$6 million loan.

The Board's loan balance to the General Fund is \$12.3 million. The Department of Finance submitted a report reflecting the balance of all loans to the General Fund and a planned repayment schedule. Repayment of the \$6 million loaned to the General Fund during the 2002 Budget Act is scheduled to occur in multiple fiscal years. These fiscal years are not specified.

Repayment of \$3 million of the \$6 million total loaned to the General Fund during the 2008 and 2011 Budget Act is scheduled for fiscal year 2015/2016.

The Board's 2013/2014 budget is \$8,063,000, which is a slight decrease from last year's budget. Reductions in the Board's equipment replacement costs and department pro rata costs can be attributed to the slight decrease.

Effective July 1st, the furlough program and personal leave program ended. State employee salaries were restored to levels prior to the furlough and personal leave program. Additionally, state employees received a 3% increase.

b. Operations Report

Ms. Madsen provided a summary of the Operations Report.

The Board is recruiting for a vacancy in the Licensing Unit and for a permanent intermittent Regulation Analyst.

The second quarter statistics reflect an overall increase in marriage and family therapist intern (IMF) and associate social worker (ASW) application volume, which is typical following graduations. However, the LCSW and LEP examination applications decreased by 10% and 19% respectively.

Ms. Madsen presented the application processing times, and noted that the processing times are posted on the Board's website. The MFT and LCSW examination programs are experiencing a 6-month delay.

A total of 2,443 examinations were administered in the first quarter. Ten examination development workshops were conducted between April and June.

The cashiering unit is currently processing renewal applications within 7 days of receipt. All other applications are processed within 7 days of receipt.

Enforcement staff received 235 consumer complaints and 246 criminal convictions representing a 3% and 23% increase respectively from the previous quarter. This quarter, 487 cases were closed, and 12 cases were referred to the Office of the Attorney General for formal discipline.

Enforcement staff continues to meet or exceed the established performance measures (PM) with the exception of PM 4, Formal Discipline. This performance measure relies on the efficiency of outside state agencies such as the Office of Attorney General and the Office of Administrative Hearings. The Board's current quarterly average is 947 days.

c. Personnel Update

Ms. Madsen provided a summary of the Personnel Update.

Lisa Rangel was promoted to a Management Services Technician (MST) in the Licensing Unit. She will perform the duties of a Licensed Marriage and Family Therapist (LMFT) Evaluator. Lisa will join the LMFT Unit full-time once her commitment to the BreEZe project is finished.

Melissa Lara was promoted to an MST and will perform the functions of a Licensing Clinical Social Worker (LCSW) and Associate Social Worker (ASW) Evaluator. The Board now has two full-time and one part-time LCSW/ASW Evaluators.

Lupe Baltazar accepted a part-time Office Technician position in the Enforcement Unit. Lupe is new to state service and will perform the duties of the Board's Fingerprint Technician.

There is a vacant Office Technician (OT) full-time position in the Licensing Unit. This vacancy is to fill behind Melissa Lara. The OT will function as a Licensed Educational Psychologist (LEP) Evaluator in the Licensing Unit. The Board will begin recruitment for this vacancy as soon as it receives approval from the Office of Human Resources

Rebecca Gonzales and Janlee Wong from the National Association of Social Workers California Chapter (NASW-CA), Lisa Mardones from the California Society for Clinical Social Work (CSCSW), Ben Caldwell from the American Association for Marriage and Family Therapy California Division (AAMFT-CA), and other members of the public all expressed their concerns regarding the increase in application processing times.

Ms. Madsen reported that additional resources have been requested, including additional staff.

d. BreEZe Update

Ms. Madsen reported that the Board will not "go live" in September as previously reported. The Board is now scheduled to launch in October.

In June, Board staff participated in "End-to-End" testing of the BreEZe system. This test was considered successful in that no major defects were identified during the week of testing. Although some issues were identified during testing, the issues were resolved. All testers were able to start and complete their assigned test scripts.

Final testing of the BreEZe system (regression testing), will begin about 4 weeks prior to the "go live" date. During this period, staff will verify that the corrections to the system have been made, no defects exist, and the system performs as expected. Provided that regression testing is successful, the Department of Consumer Affairs (DCA) will begin the final steps to transition to the BreEZe system.

The following timelines were developed by BreEZe:

- Approximately 11 days before the "go live" date, the Board will cease all cashiering functions. The online license verification will reflect data that was current on the last cashiering date.
- Approximately one week prior to the "go live" date, fingerprint processing and exam eligibility transactions to the testing vendor will cease.
- Approximately 5 days prior to "go live" date, the entire legacy system will shut down.
- One day prior to the "go live" date, staff will verify that data conversion occurred and the system performs as expected. Staff will indicate "go" or "no go" based on their verification.
- On the "go live" day, if a "no go" status is determined, BreEZe will not be operational and existing data systems will be restored.

Ms. Madsen added that the phone calls will be answered during the period that the system is shut down.

e. LPCC Program Update

Ms. Madsen provided a brief summary of the Licensed Professional Clinical Counselor (LPCC) Program:

- To date, 295 Professional Clinical Counselor Intern (PCI) registrations were issued.
- It is taking approximately 45 days to evaluate out-of-state traditional applications.

- All non-BBS licensed grandparent applications have been evaluated. A total of 1,236 applications were received.
- To date, 1,557 (71%) MFT/LCSW grandparent applications were evaluated. A total of 2,196 applications were received.
- To date, a total of 458 LPCC licenses have been issued.
- To date, a total of 295 PCI registrations have been issued.

XIII. Out-of-State Education Review Committee Update

Ms. Madsen provided a summary of the Out-of-State Education Review Committee (Committee) meeting held in June. The Committee continued discussions related to the challenges out-of-state applicants will encounter after 2014 and possible solutions.

Board staff estimated that approximately 10% of the LMFT applications and 35% of the LPCC applications are from out-of-state. The Committee looked at a comparison of LMFT and LPCC licensure requirements by state. This comparison revealed that each state, including California, requires a master's level or doctorate degree. Yet, an out-of-state applicant will not have the California specific education and will be required to remediate this coursework. After 2014, out-of-state applicants will not be permitted to remediate required coursework through continuing education programs.

The Committee and stakeholders discussed continuing to allow out-of-state applicants to remediate coursework deficiencies through continuing education (CE) courses where applicable. Allowing out-of-state applicants to remediate coursework through CE programs addressed the challenges of cost and time.

The Committee and stakeholders also discussed the idea of two pathways to licensure for an out-of-state applicant: (1) a pathway for an out-of-state licensed applicant and (2) a pathway for an out-of-state applicant who was not licensed. Board staff suggested that out-of-state applicants follow the same requirements as in-state applicants based upon the date the applicant began and completed his/her degree program.

The Committee and stakeholders expressed a desire to be consistent, where possible, in the proposed changes to both LMFTs and LPCCs.

Draft language will be presented at the Committee meeting in September.

XIV. Policy and Advocacy Committee Report

a. Legislative Update

Ms. Helms reported on the Board-sponsored bills. AB 958 regarding Child Custody Evaluators has become a two-year bill. The other four bills are moving through as expected. The deadline for the Governor to sign legislation is the end of September.

AB 512 regarding Healing Arts Licensure Exemption and SB 282 regarding Confidential Medical Information were signed by the Governor.

The board took a lunch break at 11:47 a.m. and reconvened at 1:14 p.m.

b. Rulemaking Update

This item was taken out of order and presented after item XVIII.

Regulations to implement SB 363, Marriage and Family Therapist Intern Experience, was approved by OAL and filed with the Secretary of State. It becomes effective on October 1, 2013.

XV. Discussion and Possible Rulemaking Action Regarding Revision to the Board's Continuing Education Program

Ms. Helms presented the background and proposed language regarding the revision of the CE Program.

For the past 18 months, the Board has undergone an extensive committee process to revise its CE regulations.

The resulting proposed regulations remove the Board's authority to directly approve and license CE providers. Instead, the Board will recognize "approval agencies" that have already established stringent requirements for CE providers. The Board will also recognize a limited number of entities as CE providers, allowing these named entities to offer CE courses directly to Board licensees without approval from an approval agency.

At its May 2013 meeting, the Board approved the latest version of the CE regulations. However, additional changes are needed before the rulemaking proposal can be submitted to the Office of Administrative Law (OAL):

- A phase out period is needed for the Board's existing CE approval system. To address this, staff added a six-month delayed implementation of the new regulations. Under this delayed implementation, the new CE approval system would go into effect six months from the OAL-designated effective date.

In addition, a new section was added. This section specifies other details of the CE program transition period, including the date that the Board will no longer accept CE provider applications, when the Board will cease CE provider renewals, and the time period during which Board licensees may submit CE credits from discontinued providers.

- Form update.
- CE Credit for Enforcement Case Review or Examination Development
- Technical issues required for OAL purposes.

Ms. Wong referred to page 12 of the proposed language, Section 1887.8 regarding revocation and denial of Board-approved provider status. She pointed out that this section should remain in effect until the current providers are completely phased out, otherwise this will remove the Board's authority to monitor those providers.

Mr. Caldwell suggested corrections:

- Page 8, Section 1887.4(b): "The content of the course shall be based upon a methodological, theoretical, research, or practice knowledge base..."
- Page 8, Section 1887.4(d): "Courses shall not predominantly reflect the commercial views..."

Ms. Helms presented a suggestion on behalf of Jill Epstein, California Association of Marriage and Family Therapists (CAMFT). Ms. Epstein referred to the following sections:

- Section 1887(e) on page 2: An "approval agency" means an organization recognized by the board which evaluates and approves providers of continuing education, evaluates and approves the courses offered by each approved provider, and monitors the quality of each approved continuing education course.

- Section 1887.42(a)(5) on page 10: Approval agencies shall conduct periodic reviews of courses offered by providers approved by the agency to determine compliance with the agency's requirements and requirements of the Board and, upon request, report the finding of such review of the Board.

In Ms. Epstein's correspondence to Ms. Helms, she asked if there was a difference between approving the agencies and approving the courses.

Ms. Helms responded that a change could be made on Section 1887(e). Ms. Helms suggested the following: An "approval agency" means an organization ensures courses offered by its providers meet the Board's CE requirements.

Christina Wong moved to direct staff to make any discussed changes, including non-substantive changes and changes to 1887(e) and 1887.8, and to pursue a regulatory proposal. Sarita Kohli seconded. The Board voted unanimously (8-0) to pass the motion.

XVI. Update on the California Marriage and Family Therapy Occupational Analysis and Collaboration with the Association of Marital and Family Therapy Regulatory Boards – Dr. Tracy Montez

Dr. Tracy Montez from Applied Measurement Services, LLC, provided an update regarding the California Marriage and Family Therapy Occupational Analysis and the collaboration with the Association of Marital and Family Therapy Regulatory Boards (AMFTRB).

Dr. Montez reported that the AMFTRB met the professional guidelines and technical standards for examination validation; however, some technical issues were noted. She also noted the ratio of California licensees (approximately 35,000) versus the nation (approximately 20,000).

Based upon the ratio, the acceptable performance of the current licensing examination, and the delay in implementing the exam restructure, Dr. Montez recommended that the Board continue to have discussions with AMFTRB to further address the technical issues.

Dr. Montez specifically suggested:

- In renewing the Board's contract with the National Board for Certified Counselors, have the Office of Professional Examination Services (OPES) follow-up on recommendations made regarding transparency of their exam program;
- The Board's subject matter experts review a sample of AMFTRB exam items to ensure rigor and cognitive demand; and
- The Board and OPES continue discussions regarding steps the AMFTRB is taking to expand its exam program.

XVII. BreEZe Presentation

This item was taken out of order and was presented after items XVIII and XIV.b.

Steve Sodergren presented a demonstration of the BreEZe data system. Lynne Stiles, the Board's IT Analyst, also provided information of the BreEZe data system.

XVIII. Office of Professional Examination Services Presentation – Amy Welch-Gandy and Nicole Woods

This item was taken out of order and was presented after item XVI.

Amy Welch-Gandy and Nicole Woods from the Office of Professional Services provided an overview of the Board's examination development and testing process.

Ms. Welch-Gandy explained the role of Office of Professional Examination Services (OPES) and its mission. She briefly outlined the reasons for licensure exams and the rules and regulations that must be adhered to.

What does OPES do?

- Conducts occupational analyses,
- Conducts national audits,
- Provides program oversight for exam development,
- Conducts item writing workshops,
- Oversees the Master Contract for computer-based testing, and
- Reports to the legislature regarding testing standards.

Ms. Welch-Gandy outlined the steps taken to develop an exam.

Nicole Woods gave an overview of administration of the exam, computer-based testing, and security of the exam.

Ms. Madsen explained the process of recruiting subject matter experts for exam development.

Ms. Madsen responded to questions regarding the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition (DSM-V), stating that material from the DSM-V will not appear on the exams until after January 1, 2014.

The Board took a break at 2:43 p.m. and reconvened at 2:56 p.m.

XIX. 2014 Meeting Dates

Ms. Madsen presented the 2014 meeting dates.

The Board will meet:

- March 5th-6th in Sacramento
- May 21st-22nd in Southern California
- August 20th-21st in Sacramento
- November 19th-20th in Southern California

The Policy and Advocacy Committee will meet in Sacramento on the following dates:

- February 6th
- April 3rd
- August 1st
- September 26th

XX. Suggestions for Future Agenda Items

Dr. Leah Brew suggested a discussion regarding therapists, supervisors, and psychiatric evaluators who provide evaluations/reports on probationers. Dr. Brew also suggested a discussion about developing standardized reporting criteria and developing an evaluation process for professionals providing psychiatric evaluations.

XXI. Public Comment for Items Not on the Agenda

Cecilia Pinhel, Sanctuary Psychiatric Centers of Santa Barbara, is a licensure applicant. She has not been able to pass the licensing examination. Ms. Pinhel distributed a handout that outlined

her experience in her attempt to become licensed. Ms. Pinhel urged the Board to allow accommodations for candidates whose primary language is not English.

XXII. Adjournment

The Board adjourned at 4:17 p.m.

Friday, August 23rd
Department of Consumer Affairs
Emerald Room
1747 N. Market Blvd.
Sacramento, CA 95834

Members Present

Dr. Christine Wietlisbach, Chair, Public Member
Christina Wong, Vice Chair, LCSW Member
Dr. Leah Brew, LPCC Member
Deborah Brown, Public Member
Betty Connolly, LEP Member
Dr. Harry Douglas, Public Member
Sarita Kohli, LMFT Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member

Staff Present

Kim Madsen, Executive Officer
Steve Sodergren, Asst. Executive Officer
Paula Gershon, Licensing Manager
Pearl Yu, Enforcement Manager
Marc Mason, Administration/Exam Manager

Guest List

On file

Members Absent

Samara Ashley, Public Member
Eileen Colapinto, Public Member
Karen Pines, LMFT Member

FULL BOARD OPEN SESSION

Dr. Wietlisbach called the meeting/strategic planning session to order at approximately 8:30 a.m.
Ms. Madsen called roll, and a quorum was established.

XXIII. Strategic Planning Session with SOLID Planning Solutions

Board members, Board executive staff and managers participated in a Strategic Planning Session conducted by DCA's SOLID Planning Solutions.

XXIV. Suggestions for Future Agenda Items

There were no suggestions.

XXV. Public Comment for Items Not on the Agenda

There were no public comments.

XXVI. Adjournment

The Board adjourned at approximately 3:30 p.m.