

BOARD MEETING MINUTES August 27-28, 2015

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

Thursday, August 27th

Members Present

Christina Wong, Chair, LCSW Member
Deborah Brown, Vice Chair, Public Member
Dr. Scott Bowling, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Betty Connolly, LEP Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Dr. Christine Wietlisbach, Public Member

Staff Present

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

Members Absent

Samara Ashley, Public Member
Patricia Lock-Dawson, Public Member
Sarita Kohli, LMFT Member

Guests

See sign-in sheet

FULL BOARD OPEN SESSION

Christina Wong, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 8:30 a.m. Christina Kitamura called roll, and a quorum was established.

Administrative Law Judge Danette Brown, presided over the hearings.

I. Petition for Modification of Probation for Gimone Bryant, ASW 36074

Judge Brown opened the hearing at 8:33 a.m. Deputy Attorney General Kristina Jarvis presented the facts of the case on behalf of the Board of Behavioral Sciences. Gimone Bryant was not represented by an attorney.

Ms. Jarvis presented the background of Mr. Bryant's probation. Mr. Bryant was sworn in. Mr. Bryant presented his request to modify probation. He was questioned by Ms. Jarvis and the Board members.

Mr. Bryant acknowledged his original request for modification of probation. However, upon being advised by Ms. Jarvis that he does not qualify for termination, he omitted that particular request from his overall request for modification.

Judge Brown closed the hearing at 9:05 a.m.

II. Petition for Modification of Probation for Feroozan Jami, IMF 69435

Judge Brown opened the hearing at 9:07 a.m. Deputy Attorney General Jarvis presented the facts of the case on behalf of the Board of Behavioral Sciences. Feroozan Jami was not represented by an attorney.

Ms. Jarvis presented the background of Ms. Jami's probation. Ms. Jami was sworn in. She presented her request for modification of probation or to terminate probation, and information to support the request. She was questioned by Ms. Jarvis and Board Members. Judge Brown closed the hearing at 10:01 a.m.

III. Petition for Early Termination of Probation for Maatisak Amenhetep, LCSW 19290

Judge Brown opened the hearing at 10:01 a.m. Deputy Attorney General Jarvis presented the facts of the case on behalf of the Board of Behavioral Sciences. Maatisak Amenhetep was not represented by an attorney.

Ms. Jarvis presented the background of Ms. Amenhetep's probation. Ms. Amenhetep was sworn in. Mr. Amenhetep presented her request for early termination of probation and information to support the request. She was questioned by Ms. Jarvis and Board Members.

Ms. Amenhetep called upon a witness, Paul Gipson. He spoke on behalf of Ms. Amenhetep. Ms. Jarvis and Board members questioned Mr. Gibson.

Ms. Amenhetep called upon a second witness, Ms. Helm. Ms. Helm is Ms. Amenhetep's therapist. Ms. Jarvis questioned Ms. Helm; then cross-examined Ms. Amenhetep again.

Judge Brown closed the hearing at 11:05 a.m.

IV. Petition for Early Termination of Probation for Theresa Fenander, LCSW 25391

Judge Brown opened the hearing at 11:06 a.m. Deputy Attorney General Jarvis presented the facts of the case on behalf of the Board of Behavioral Sciences. Theresa Fenander was not represented by an attorney.

Ms. Jarvis presented an opening statement. Ms. Fenander was sworn in. Ms. Fenander presented her request for early termination of probation and information to support the request. She was questioned by Ms. Jarvis and Board Members. Judge Brown closed the hearing at 11:43 a.m.

The Board took a break at 11:43 a.m. and reconvened at 11:52 a.m.

V. Petition for Early Termination of Probation for Sarah Shems, IMF 70128

Judge Brown opened the hearing at 11:52 a.m. Deputy Attorney General Jarvis presented the facts of the case on behalf of the Board of Behavioral Sciences. Sarah Shems was not represented by an attorney.

Ms. Jarvis presented an opening statement. Ms. Shems was sworn in. Ms. Shems presented her request for early termination of probation and information to support the request. Ms. Shems was questioned by Ms. Jarvis and Board Members. Judge Brown closed the hearing at 12:38 p.m.

VI. Public Comments

There were no public comments.

VII. Suggestions for Future Agenda Items

There were no suggestions.

The Board took a break at 12:39 p.m. and reconvened in closed session at 2:04 p.m.

FULL BOARD CLOSED SESSION

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

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

FULL BOARD OPEN SESSION

X. Adjournment

The Board adjourned at 5:00 p.m.

Friday, August 28th

Members Present

Christina Wong, Chair, LCSW Member
Deborah Brown, Vice Chair, Public Member
Samara Ashley, Public Member
Dr. Scott Bowling, Public Member
Dr. Leah Brew, LPCC Member
Dr. Peter Chiu, Public Member
Betty Connolly, LEP Member
Patricia Lock-Dawson, Public Member
Renee Lonner, LCSW Member
Karen Pines, LMFT Member
Dr. Christine Wietlisbach, Public Member

Staff Present

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

Members Absent

Sarita Kohli, LMFT Member

Guests

See sign-in sheet

FULL BOARD OPEN SESSION

Christina Wong called the meeting to order at 8:34 a.m. Christina Kitamura called roll. A quorum was established.

XI. Introductions

Board Members, Board staff and attendees introduced themselves.

XII. Approval of the May 20-21, 2015 Board Meeting Minutes

Dr. Peter Chiu moved to accept the May 20-21, 2015 Board Meeting minutes. Karen Pines seconded. The Board voted unanimously (11-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea

Dr. Leah Brew - yea
Dr. Peter Chiu - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach - yea

XIII. Chair Report

Ms. Wong congratulated Dr. Peter Chiu and Dr. Christine Wietlisbach on their recent reappointments to the Board.

Ms. Wong acknowledged the Board of Behavioral Sciences' (Board) 70th Anniversary.

The Board Members acknowledged staff who served 5 years, 10 years, and 15 years at the Board.

XIV. Executive Officer's Report

a. Budget Report

2014/2015 Budget:

The 2014/2015 budget for the Board is \$9,407,794. As of June 30, 2015, the Board has spent \$8,805,714, reflecting 94% of the total budget.

The Board is projecting an unencumbered balance of \$602,080 at the end of the 14/15 fiscal year, which exceeds previous estimates from prior budget reports.

Board staff and management met with the budget office to review the expenditure figures to identify areas of discrepancies. It appears that the salaries and benefits for the CIC staff on loan to the Board were not included in the Board's expenditures. This amount is approximately \$162,000. Also, due to an accounting requirement for the LPCC program, the LPCC staff salaries are not reflected in the Salary & Wages budget line. This discrepancy totals \$150,000. Board staff and the Budget Office will research to determine if the requirement to separate LPCC program costs from the other Board programs is still in effect.

The cancellation of some examination development workshops accounts for the under-spending in the Interagency Services (OER IAC) and C&P Services External Subject Matter Expert budget line items. The discrepancies in the C&P Services – External Contracts and Facilities budget line items were noted. Board management requested the Budget Office to further review these two line items to confirm the figures are accurate.

The Board's 14/15 fiscal year budget summary will be updated after all of the research is completed. A final summary of the 14/15 fiscal year budget will be presented at the next Board meeting.

As of June 30, 2015, the Board had collected \$8,085,648 in total revenue.

Board Fund Condition

The Board's fund condition reflects 4.4 months in reserve at the end of the 14/15 fiscal year.

General Fund Loans

With the recent loan repayment, the current outstanding balance of loans to the General Fund is \$9.9 million.

2015-2016 Budget

The Board's budget for fiscal year 2015/2016 is \$9,039,000. As previously reported, the Board's budget includes two limited-term positions and full-time position authority for two existing half-time positions. Additionally, the Board's cost for the BreEZe system will increase significantly in 2015/2016. The Board's BreEZe costs will increase 94%; rising from \$482,249 in 2014/2015 to \$938,109 in 2015/2016, and increasing to \$990,811 in 2016/2017. The increase in cost is attributed to the amended BreEZe contract.

b. Operations Report

Licensing Program

With the exception of the LCSW examination applications, application volumes increased in the fourth quarter. The increase in registrant volumes is primarily due to graduation.

The LMFT unit is evaluating applications within 41 days of receipt. The LCSW unit is evaluating applications within 31 days of receipt. All other applications types are evaluated within 25 days or less of receiving the application.

A total of 1,030 initial licenses were issued in the third quarter.

Examination Program

A total of 3,150 examinations were administered in the third quarter. Seven (7) examination development workshops were conducted from April through June.

Administration Program

The Board received 8,480 applications in the fourth quarter. The Department of Consumer Affairs (DCA) central cashiering unit received and processed 9,236 renewal applications. The Board's cashiering unit processed 1,053 renewal applications. Online renewals increased with 3,273 individuals renewing their licenses or registrations online.

Enforcement Program

The Enforcement staff received 229 consumer complaints and 250 criminal convictions in the fourth quarter. A total of 446 cases were closed this quarter, and

35 cases were referred to the Attorney General's office for formal discipline. Twenty-six (26) Accusations and 3 Statement of Issues were filed this quarter. The current average for Formal Discipline is 719 days. The performance goal is 540 days.

The first Enforcement Subject Matter Expert (SME) Training was held on July 30, 2015. A total of 20 SMEs attended the training. Guest speakers from the Division of Investigation, the Office of the Attorney General, and current Enforcement SMEs provided information about the role of the SME and discussed best practices. Dr. Ian Russ, Child Custody Evaluator, was also a guest speaker.

Outreach Events

Board staff participated at the following events:

- MFT Consortium Meetings throughout the state;
- National Association of Social Workers (NASW) Lobby Days in Sacramento, April 2015;
- California Association of Marriage and Family Therapists (CAMFT) Conference in Burlingame, May 2015
- MFT Intern Applicant Presentation in Sacramento, June 2015.

Upcoming Events

- NASW-CA Annual Conference, October 2015, South San Francisco Center
- CAMFT Fall Symposium, November 2015, Orange County

Additional Outreach Efforts

The Board's summer 2015 newsletter has been released and is available on the Board's website.

c. Personnel Update

New Employees and Promotions

- Marlon McManus returns to the Board to serve as the Staff Services Manager I over the Consumer Complaint & Investigations Unit of the Enforcement Program.
- Carl Peralta transferred to the Board as an Office Technician (OT) in the Licensing Unit. He will serve as the Licensed Educational Psychologists (LEP) Evaluator.
- Lisa Cigelske will join the Board as a Staff Services Analyst (SSA) in the Licensing Unit.
- Lupe Baltazar was promoted to an SSA in the Enforcement Program's Criminal Conviction and Probation Unit.

Departures

- Gina Bayless, Enforcement Manager of the Consumer Complaint & Investigations left the Board on June 30, 2015.
- Heather Ito, seasonal employee, left the Board for a permanent position on August 27, 2015.

Vacancies

Board staff has initiated the recruitment process for the positions noted below:

- Management Services Technician (MST), Licensing Unit, to fill behind Lupe Baltazar;
- MST; Licensing Unit; new vacancy
- OT; Cashier Unit; new vacancy

XV. Strategic Plan Update

Steve Sodergren provided an update on the Strategic Plan:

- Licensing
 - Application processing times are now less than the parameters set forth in Regulation.
 - The Board is continuing to monitor the “Buckets” legislation.
 - The Supervision Committee continues to discuss supervision requirements.
 - The renewal application is available through the online BreEZe system; staff is currently testing address change application functionality in BreEZe.
- Enforcement
 - Staff completed the recruitment process for SMEs.
 - Staff conducted a training session for all enforcement SMEs.
- Legislation and Regulation
 - Office of Administrative Law (OAL) approved the regulation package to incorporate Uniform Standards for Substance Abusing Licensees, which will become effective October 1, 2015.
- Outreach and Education
 - A Winter and Summer newsletter has been published and distributed.
 - Staff are revising the web content. Staff has established a Twitter and Facebook account.

XVI. Supervision Committee Update

Christy Berger presented the Supervision Committee (Committee) update.

Update on Supervisor and Supervisee Survey Results

While the number of responses increased since the prior report, staff did not recognize any major changes to the overall statistical information.

Informal Decisions

The following informal decisions may change or evolve as the Committee works through various issues. Upon completion of the Committee’s work, formal decisions will be presented to the Board for consideration, and will require the passage of legislation and/or regulations in order to implement.

Supervisor Qualifications

- Increase the initial training of LMFT and LPCC supervisors to 15 hours for consistency with the current requirements for LCSW supervisors.

- Require 6 hours of ongoing training every two years for LCSW, consistent with current LMFT and LPCC requirements. The committee is exploring the possibility of using a competency-based model for these hours rather than specifying particular training content.
- Require supervisors to self-certify to the Board that they meet all qualifications to supervise prior to the commencement of supervision.
- Require the supervisor to provide the supervisee with a signed disclosure that includes information about how to submit a complaint about a supervisor.

Remaining Areas to Address

The remaining areas that the committee needs to address are as follows:

- Supervision Requirements including supervision definitions, amount and type of weekly supervisor contact, supervision formats, monitoring/evaluating the supervisee, etc.
- Supervisor Responsibilities including the Supervisor Responsibility Statement.
- Employment/Employers requirements including registrant/trainee employment, supervisor employment, offsite supervision, temp agency employers, etc.

XVII. Examination Restructure Update

Mr. Sodergren presented the Examination Restructure update.

Exam Blackout Period

During the month of December 2015, the Board is implementing a blackout period. During this period LMFTs and LCSWs will be unable to schedule or test. The blackout period will allow the Board to validate applicant data and verify it has been transmitted and received by the various vendors. This will help to ensure that testing candidates will be able to resume scheduling and testing on January 1, 2016.

Outreach

To better inform applicants and registrants as to how the exam restructure will affect them, staff has been developing informational materials and videos. As materials are developed they will be posted to the Board's website on the Examination News page. During the beginning of August, the Examination News page was revised and now includes links to more information about the exam restructure. Staff is also distributing informational inserts to newly eligible interns and exam candidates.

Christy Berger has been coordinating with DCA to develop three informational videos. The first of these videos is expected to be posted in September.

BreEZe System Changes

Board and DCA BreEZe staffs have been working the last few months to finalize the system design materials that document new system requirements needed in the BreEZe system. The design materials were submitted to the vendor in July, and subsequently in July, the vendor provided the Board and DCA an impact analysis.

The Board continues to work with the BreEZe team, DCA's Office of Professional Examination Services (OPES) and the Association of Social Work Boards (ASWB) in order to identify and coordinate the manual processing of exam eligibilities. Staff is working on developing and implementing business processes that will ensure a minimal impact to applicants.

Sean O'Connor, Policy and Programs Review Division, assured the Board that the changes in the BreEZe system are priority, and the department recognizes the urgency of the exam restructure.

Mr. O'Connor made the following suggestions:

- Update the renewal notice to mention online renewal option;
- Utilize the resource (Enforcement Actions Report) to breakdown data regarding enforcement cases spent at the Attorney General's (AG) Office;
- Mr. O'Connor has ideas to accomplish the task of tracking supervisors, when the staff is prepared to discuss this.

The Board took a break at 9:48 a.m. and reconvened at 10:04 a.m.

Dr. Peter Chiu left the meeting at 9:48 a.m.

XVIII. Review and Discussion of the Board of Behavioral Sciences Sunset Review Report

Kim Madsen presented a draft of the Sunset Review Report. The final report will be available at the November 2015 Board Meeting.

XIX. Policy and Advocacy Committee Report

a. Recommendation and Possible Action to Rescind the Following Board Policies

- i. Complaint Disclosure Policy #E-06-02**
- ii. Public Disclosure of License Verification Policy #E-06-01**

Agenda item XIX a. ii. regarding Public Disclosure of License Verification was merged with item XIX a. i. Complaint Disclosure Policy, and was discussed as item XIX a. i.

During the May 2006 Board meeting, Board Members were informed that Executive Order S-03-06 required all state agencies to take a number of actions related to agency compliance with the California Public Records Act (PRA). The action required of each agency was to review and revise written guidelines for accessibility of public records, as necessary. A review of current Board policies noted two policies required revisions – Policy #E-06-01 and #E-06-02.

Board Members discussed the proposed revisions and some amendments to both policies. Specifically, the policies did not mention the inclusion of reporting

settlements and arbitrations. The suggested amendments included revisions to the language for clarity. The Board Members voted to accept the amendments to Policy #E-06-01 and Policy #E-06-02.

The California PRA, Government Code section 6250 *et seq.*, requires public records be available upon request. The Board is subject to the requirements for all public record requests. The Board's response is coordinated with its DCA legal counsel.

Business and Professions Code section 27 specifies what information, such as enforcement actions and a licensee's address of record, must be available through the Board's website. Since 2006, revisions to both of these code sections have been enacted, with the last revisions occurring in 2014. These revisions include the contents of Policy # E-06-01 and #E-06-02.

Business and Professions (B&P) Code 4990.09 specifies how long a citation and fine issued for \$1500 or more shall be published on the Board's website. A citation and fine of less than \$1500 may not be published on the Internet.

At the time these policies were adopted, some of the code sections related to PRAs and license disclosure were not specific. So it was prudent for Boards and Bureaus to adopt policy guidelines as to what specific information would be available to the public. The Board's policies for complaint disclosure and public disclosure of license verification are now incorporated into the B&P Code and the Government Code.

At its August 2015 meeting, Policy & Advocacy Committee (Committee) recommended rescinding both policies.

Patricia Lock-Dawson moved to rescind Policy #E-06-01 and #E-06-02. Dr. Leah Brew seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

- Christina Wong - yea
- Deborah Brown - yea
- Samara Ashley - yea
- Dr. Scott Bowling - yea
- Dr. Leah Brew - yea
- Betty Connolly - yea
- Patricia Lock-Dawson - yea
- Renee Lonner - yea
- Karen Pines - yea
- Dr. Christine Wietlisbach - yea

iii. Advertising Psychotherapy/Psychologist Policy #E-95-2

In November 1995 the Board members adopted Policy #E-95-2 to address the use of the words “psychotherapy” and “psychotherapist” by Board licensees in advertisements. The intent of this policy appeared to be to clarify the appropriate use of these words so that the policy was not misleading.

On August 14, 2012, the Board gave notice of proposed changes to California Code of Regulations (CCR) section 1811. This regulation package proposed changes to clarify which abbreviations may be used in an advertisement and whether or not a licensee can use the term “psychotherapy” and “psychotherapist” when advertising. The proposal added a subsection “c” to CCR 1811, which stated that licensees may use those words in an advertisement provided that requirements of subsection (a) are met. CCR 1811(a) specifies the type of abbreviations a licensee or registrant may use in advertisements.

This regulatory package was approved and went into effect on April 1, 2013.

The Policy & Advocacy Committee recommended rescinding this policy.

Dr. Christine Wietlisbach moved to rescind Policy #E-95-2. Samara Ashley seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach - yea

iv. Correspondence Degree Program Policy #L-98-02

In May 1998, the Licensing Committee discussed the issue of accepting correspondence degree programs. Information presented at the meeting included information staff collected from other states to determine if they accepted correspondence degree programs. The survey revealed that most states do not accept this type of degree program.

The Licensing Committee subsequently voted to not accept correspondence degrees, which resulted in Board Policy #L-98-02.

Business and Professions Code sections 4980.36, 4980.37, 4989.20, 4996.2, 4999.32, and 4999.33 each specify the educational qualifications for licensure. Pursuant to these sections, applicants must possess a qualifying degree from an educational institution that is accredited by a specific accrediting agency.

At its August meeting, the Policy & Advocacy Committee recommended rescinding this policy.

Patricia Lock-Dawson moved to rescind Board Policy #L-98-02. Dr. Leah Brew seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach - yea

v. License Surrender Policy #E-96-1

In February 1998, the Enforcement Committee discussed the Board's License Surrender Policy #E-96-1. The members noted this policy and the recommended language in the Board's Disciplinary Guidelines for voluntary surrender. Although no changes to the policy were proposed, Richard Leslie, Legal Counsel for CAMFT, stated that in the voluntary surrender decisions, there is mention of the ability for licensees to petition for reinstatement. Mr. Leslie believed that petitioning for reinstatement should not be an option. The current Executive Officer and DCA Legal Counsel agreed to look into this matter. There was no record of the outcome of that matter.

Since 1996, the Board's Disciplinary Guidelines have been revised several times. The Board's Disciplinary Guidelines are incorporated by reference in CCR section 1888. In order to propose any revision to these guidelines, the Board must initiate the rulemaking process.

A review of the Board's current Disciplinary Guidelines reveals that nearly all of the language in Policy #E-96-1 is reflected in the Disciplinary Guidelines.

At its August 2015 meeting, the Policy & Advocacy Committee recommended rescinding this policy.

Karen Pines moved to rescind Board Policy #E-96-1. Deborah Brown seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly – yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach - yea

vi. Mail Ballots and Confidentiality of Executive Session Policy #B-02-1

At its November 2002 meeting, the Board discussed the adoption of the Mail Ballots and Confidentiality of Executive Session Policy #B-02-1. The discussion focused on whether or not it was necessary to have this policy when there are several statutes and regulations that address mail ballots and confidentiality. Further, the members added that this issue could be addressed during Board Member training.

DCA Legal Counsel stated that although DCA provided New Board Member Orientation, the trainings may not be convenient for all individuals and the new members may not be aware of all the confidentiality issues before they become a functioning board member. The Board Members decided not to adopt this policy.

Board staff was unaware that Policy #B-02-1 was not adopted until this policy's history was researched. The policy reflected an adoption date and therefore, it was assumed the policy was adopted. The ability to determine a decision by mail ballot is addressed in Government Code section 11526. This code does not specify the number of votes needed to hold a case for discussion. Nor, do Board records reflect how the current number of "two" was determined.

The Bagley-Keene Open Meeting Act addresses the confidentiality of a closed session meeting.

The mail ballot process is included in the Board Member Procedure Manual.

At its August 2015 meeting, the Policy & Advocacy Committee recommended removing this policy.

Samara Ashley moved to remove Board Policy #B-02-1. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach – yea

b. Recommendation and Possible Action to Revise the Following Board Policies

i. Record Retention Schedule for Enforcement Related Files Policy #E-00-1

The Business and Professions Code requires the Board to maintain a central file for individuals who hold a license or registration. Further, the State Administrative Manual section 1611 requires each agency to establish a records retention program.

Each agency must manage its own records program and is required to review its retention schedule every five (5) years. A current records retention schedule must be on file with the State Records Center (SRC) in order to store records.

Before May 2000, the Board had an existing retention schedule; however, the schedule did not include a retention period for citation and fines. In May 2000, the Consumer Committee determined that citation and fines would be kept for a period of one year in the office and ten years in SRC.

In January 2001, Board Policy #E-00-1, Record Retention Schedule for Enforcement Related Files, was adopted. This policy specifies the number of years the Board will retain Enforcement related material in the Board office, at SRC, and provides for confidential destruction of these materials following the retention period.

The retention period for citation and fines is a total of 5 years and not the 11 years agreed to by the Committee members. Staff research did not reveal any minutes or records for this change. However, on or about January 2007, six years after the adoption of Policy #E-00-1, Business and Professions Code section 4990.9 was revised to state in part that the Board may publish on the

Internet the final determination of a citation and fine of \$1,500 dollars or less for a period of time in excess of five years from the date of the citation.

The Board's current record retention was approved in 2014 and the retention schedule for enforcement-related material complies with Policy #E-00-1.

Board staff recommends that the Committee members review the current retention period (1.5 years) for complaints and investigations that are closed without merit. Considering the type of cases closed without merit, retaining the information for 6 months in the Board office and then destroying the case confidentially may be more appropriate.

The remainder of the Board's current Enforcement Related Files retention schedule appears appropriate. However, the reference to Government Code section 14750 is now incorrect and should be updated.

At its August 2015 meeting, the Policy & Advocacy Committee recommended revising this policy to reflect a shorter retention period for all cases closed either as non-jurisdictional or unactionable and keeping the retention schedule the same for all other cases closed without merit.

Patricia Lock-Dawson moved to adopt Policy #E-15-1. Betty Connolly seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach – yea

ii. Third Party Complaint Policy #E-98-01

In February 1998, the Enforcement Committee discussed whether or not to adopt a policy regarding third party complaints. At that time, these types of complaints were received regarding child custody cases. For various reasons, investigation of these complaints could not move forward. The Enforcement Committee adopted Policy #E-98.01, which specified how staff shall evaluate third party complaints.

Board enforcement staff currently follows Policy #E-98-01. Third party complaints are difficult to investigate because they require release of information from the patient. The Board may or may not be successful in obtaining this release. Further, the patient may be reluctant to participate in the investigation. In these situations, the case is closed.

With respect to the concerns expressed in 1998 about child custody cases, through a legislative change, the Board now has access to child custody evaluation reports for investigative purposes.

At its August 2015 meeting, the Policy & Advocacy Committee recommended updating the existing Policy #E-98-1.

Dr. Leah Brew moved to adopt Policy #E-15-2. Renee Lonner seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach – yea

iii. Succession of Officers Policy #B-05-1

In November 2004, the Board requested that a policy be drafted to address situations when the Board Chair is unable to serve for reasons including term expiration and absences. Policy #B-05-01, Succession of Officers, was adopted in February 2005.

While the Board has not invoked the use of this policy in recent years, it is reasonable to have a policy addressing the absence of the Board Chair. However, the policy should be updated to reflect minor changes since 2005 such as the Board address.

At its August 2015 meeting, the Policy & Advocacy Committee recommended updating the existing Policy #B-05-01.

Renee Lonner moved to adopt Policy #B-15-3. Samara Ashley seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach – yea

iv. Board Member Attendance and Reimbursement Policy #B-98-1

During the 1997-1998 Sunset Review, Boards were asked about their Board member attendance policies. At its January 1998 meeting, the Board was informed of this inquiry and was provided information regarding other boards' attendance policy to review. Following the Board's review of other board policies, Policy #B-98-1 was drafted. The policy was adopted in May 1998.

Many of the topics in Policy #B-98-1 are specified under current law. B&P Code section 103 sets forth the compensation for Board members. However, this code section does not specify the types of activities that are considered "official duties". The State Administrative Manual (SAM) specifies travel reimbursement rates that are incorporated into the Department of Consumer Affairs Travel Guide.

The topics related to attendance are relevant. Although the expectation is that the Board member will attend all board and committee meetings, Board member attendance is not specified in law.

Since many of the topics related to travel are already addressed in the SAM and incorporated in the DCA Travel Guide, it is redundant to have a Board policy addressing these topics.

Therefore, the Board may wish to consider revising Policy #B-98-1 to set forth a policy related only to Board Member attendance. Additionally, the Board may wish to consider adopting a new policy clarifying the "official duties" for which per diem may be claimed.

At its August 2015 meeting, the Policy & Advocacy Committee recommended revising Policy #B-98-1 to address only Board Member attendance and establishing a per diem policy.

Dr. Leah Brew moved to revise Policy #B-98-01 to Policy #B-15-1, and adopt Policy #B-15-2. Dr. Scott Bowling seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach – yea

The Board took a break at 10:59 p.m. and reconvened at 11:07 a.m.

XX. Discussion and Possible Action Regarding Proposed Regulations for Telehealth

At its May 2015 meeting, the Board approved regulatory language addressing standards of practice for telehealth. The proposal was filed with Office of Administrative Law (OAL). The 45-day public comment period ended on August 24, 2015, and the public hearing was held on August 25, 2015.

During the public comment period, stakeholders suggested the Board make some amendments to the proposed language. The suggested amendments were:

1. CAMFT Proposal: Amend Sub-Section 1815.5(c)(iv).

This section requires a licensee or registrant, upon initiation of telehealth services, to “Provide the client with written procedures to follow in an emergency situation. This shall include contact information for emergency services near the client’s location.”

The California Association of Marriage and Family Therapists (CAMFT) expressed that this sub-section is not necessary. CAMFT also expressed that the language is unclear as to what constitutes an emergency. CAMFT argues that because there can be a wide variety of emergency situations depending on the circumstances of the client, the language sets an unrealistic requirement upon providers.

CAMFT suggested the language be struck and provided alternative language:

“Make reasonable efforts to ascertain the contact information of relevant resources, including emergency services, in the patient’s geographic area.”

After discussing the suggested language made by CAMFT, the Board and stakeholders agreed to the following language:

“Document reasonable efforts made to ascertain the contact information of relevant resources, including emergency services, in the patient’s geographic area.”

2. Other Written Comments and Comments Received During August 25, 2015 Hearing

Ms. Helms briefly reviewed the written comments and the Board staff responses.

Dr. Leah Brew moved to direct staff to take all steps necessary to complete the rulemaking process, including preparing the modified text as amended here today, and notice the text for an additional 15-day comment period. If after the 15-day comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the regulatory process with OAL. Christina Wong seconded. The Board voted unanimously (10-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley – yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Karen Pines - yea
Dr. Christine Wietlisbach – yea

XXI. Board-Sponsored Legislation Update

Board-Sponsored Legislation

- SB 531 Board of Behavioral Sciences Enforcement Process - This bill is on the Governor’s desk.
- SB 620 Board of Behavioral Sciences: Licensure Requirements - This bill is on the Governor’s desk.
- SB 800 Omnibus Bill - This bill is in the Assembly Appropriations Committee.

Board-Supported Legislation

- AB 250: Telehealth: Marriage and Family Therapist Interns and Trainees - This bill was signed by the Governor and becomes effective January 1, 2016.
- AB 1140: California Victim Compensation and Government Claims Board - The Board’s requested language was amended into the bill. This bill is in the Assembly Appropriations Committee.

Legislation that the Board is Monitoring

SB 479: Healing Arts: Behavior Analysis: Licensing – This bill is now a 2-year bill.

XXII. Status of Board Rulemaking Proposals

Disciplinary Guidelines and SB 1441: Uniform Standards for Substance Abuse

These regulations were approved and take effect October 1, 2015.

Implementation of SB 704 (Examination Restructure)

This proposal is now under review by Business, Consumer Services and Housing Agency.

Requirements for Licensed Professional Clinical Counselors to Treat Couples or Families

This proposal is now under review by DCA.

The Board took a break at 12:01 p.m. and reconvened at 1:17 p.m.

XXIII. Presentation and Discussion of the Use of the Title “Intern” vs “Associate”

Dr. Benjamin Caldwell, Associate Professor from Couple and Family Therapy Program, School of Professional Psychology at Alliant International University gave a presentation regarding the use of the title “Intern” vs. “Associate”.

Dr. Caldwell expressed that the title “Associate” is more appropriate to use for those people at that level.

The term “Intern”:

- Is understood as those who are still in school.
- Defined in the dictionary as “a student or trainee who works, sometimes without pay, in order to gain work experience.”
- Leads to confusion about what an MFT Intern can do.
- Is understood as those who receive little or no compensation.

Employer confusion regarding interns:

- Believe that interns can be unpaid.
- Creates situations for exploitation when gaining supervised experience for licensure.
- For-profit locations conduct a six-point test for internships.
- Non-profit employers are not exempt from labor laws.

Consumer confusion regarding interns:

- Not a real job.
- Intern is assumed to be a student.
- Less respected.

Differences between professions:

- Little to no difference between master’s level professions in regard to client outcomes.
- “Associate” versus “Intern” suggests a difference in career level that does not exist.

Professions that do not use the title “Intern”:

- American Psychological Association use “postdoc,” “postdoctoral training,” or “postdoctoral requirement.”
- Accreditation Council for Graduate Medical Education dropped the term and now use “resident.”
- National Council of Architecture Registration removed the term.
- Other states regulating MFTs
 - 11 states use the title “Associate.”
 - 4 states credential post-degree MFTs under “Intern” title.
 - Where “intern” is used, it usually indicates pre-degree MFTs.

The title “Associate” would:

- Bring California in line with other states.
- Reduce confusion among consumers and employers.
- Empower pre-licensed therapists.

Ms. Lonner requested to put this matter on the agenda for the Policy & Advocacy Committee.

Karen Pines left the meeting at 1:50 p.m.

XXIV. Discussion and Possible Action Regarding English as a Second Language Accommodation for Examination Candidates

The Board has discussed reviving the ESL accommodation over the past several Board meetings. At its May 2015 meeting, the Board directed staff to draft language to accomplish the following:

- Specify criteria to be used when considering whether to grant extra examination time for ESL applicants; and
- Allow the Board discretion in making a decision.

The draft language requires applicants to state under the penalty of perjury that English is his or her second language. The language proposes three scenarios under which the Board may consider granting an applicant time-and-a-half on an examination:

1. TOEFL-iBT Score

The applicant must provide a score of 85 or below on the Test of English as a Foreign Language - Internet Based Test (TOEFL-iBT). The score must have been obtained within the previous two years prior to application.

2. Documentation of an ESL Accommodation from the Qualifying Master’s Degree Program

If the qualifying Master’s degree program had granted the applicant an ESL accommodation, then the Board may grant the ESL accommodation.

3. Documentation of a Foreign Qualifying Master’s Degree that was Presented Primarily in a Language Other than English

If the qualifying Master's degree program was from an educational institution outside the U.S., and if coursework was presented primarily in a language other than English, then the Board may grant the ESL accommodation.

Dianne Dobbs suggested removing the term "accommodation" from the title, from subsection (b), and from the last paragraph, and replacing it with the term "option" to avoid confusion with the American Disabilities Act.

Mr. Caldwell stated that universities have a wide range of ESL accommodations they make for students. Subsection (b) may create an inconsistent standard.

Mr. Caldwell also suggested extending the exam time for everyone. This was discussed at previous meetings.

Ms. Madsen summarized the discussion that took place in past meetings regarding extending the exam time:

- It provides candidates more opportunity to harvest exam questions;
- Developers feel that it should not take more than 2 hours to take the exam; many complete the exam in less than 2 hours.
- Allowing more time could be more problematic than helpful.

Ms. Helms suggested using the term "extra time" instead of "option," which was suggested by Ms. Dobbs. Christy Berger explained that "option" seems to mean that there is an option or a choice.

Patricia Lock-Dawson moved to direct staff make changes to the proposed language, and bring it back to the Board. Christina Wong seconded. The Board voted unanimously (9-0) to pass the motion.

The Board voted as follows:

Christina Wong - yea
Deborah Brown - yea
Samara Ashley - yea
Dr. Scott Bowling - yea
Dr. Leah Brew - yea
Betty Connolly - yea
Patricia Lock-Dawson - yea
Renee Lonner - yea
Dr. Christine Wietlisbach – yea

XXV. Discussion and Possible Action Regarding Uniform Standards and Template for Reports and Evaluations Submitted to the Board Related to Disciplinary Matters

Board Members review disciplinary cases and requests from probationers to either modify their probation terms or end their probation early. Reports and evaluations may be included as part of the documentation relevant to the matter. The reports and

evaluations are prepared by various subject matter experts or mental health professionals. The Board Members have expressed a strong desire for consistency in these reports and evaluations. Specifically, the Board Members inquired about psychological evaluation requests, guidelines for preparing the evaluation, and the selection of the mental health professional to conduct the evaluation.

Ms. Madsen reviewed the Board process of psychological evaluation requests. She also provided the Board of Psychology's process, which includes a Guideline for Psychological Evaluations that is provided to the selected mental health professional.

Samara Ashley, Patricia Lock-Dawson, and Renee Lonner volunteered to work on a subcommittee to address this matter. Ms. Ashley will serve as the committee's chairperson.

XXVI. 2016 Meeting Dates

Ms. Madsen reviewed the 2016 meeting dates. She noted the two Sacramento Board Meetings are scheduled for three days to anticipate a larger number of disciplinary cases, if needed. If not needed, the meeting will be 2 days beginning on Thursday.

XXVII. Public Comment for Items not on the Agenda

No public comments were made.

XXVIII. Suggestions for Future Agenda Items

Dr. Brew commented that the Profession of Counseling is looking at trying to increase reciprocity among states. National organizations are trying to unify the title to Licensed Professional Counselor. They are also trying to unify the scope of practice, to allow full reciprocity, and push for accreditation.

Ms. Wong requested to look at the exam standards, and the defensibility and validity of the exam.

Ms. Lock-Dawson requested to have a discussion regarding the teen suicide rate.

XXIX. Adjournment

The meeting adjourned at 2:40 p.m.