

## **BOARD MEETING MINUTES August 18-19, 2016**

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

**Thursday, August 18<sup>th</sup>**

### **Members Present**

Deborah Brown, Chair, Public Member  
Patricia Lock-Dawson, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Betty Connolly, Public Member  
Dr. Peter Chiu, Public Member  
Massimiliano "Max" Disposti, Public Member  
Renee Lonner, LCSW Member  
Karen Pines, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

### **Members Absent**

Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member  
Sarita Kohli, LMFT Member

### **Staff Present**

Kim Madsen, Executive Officer  
Steve Sodergren, Assistant Executive Officer  
Angelique Scott, Legal Counsel  
Dianne Dobbs, Legal Counsel  
Christina Kitamura, Administrative Analyst

### **Guests**

*See sign-in sheet*

## **FULL BOARD OPEN SESSION**

Deborah Brown, Chair of the Board of Behavioral Sciences (Board), called the meeting to order at 1:05 p.m. Christina Kitamura called roll, and a quorum was established.

Administrative Law Judge Marcie Larson presided over the hearings.

### **I. Petition for Modification of Probation for Alejandro Barela, ASW 67503**

Judge Larson opened the hearing at 1:08 p.m. Deputy Attorney General Kristina Jarvis presented the facts of the case on behalf of the People of California. Mr. Barela represented himself.

Ms. Jarvis presented the background of Mr. Barela's probation. Mr. Barela was sworn in. He presented his request for modification of probation and information to support the request. Mr. Barela answered questions posed by Ms. Jarvis and Board Members.

Judge Larson closed the hearing at 1:50 p.m.

### **II. Petition for Early Termination of Probation for Traci D. Bianchi Templin, IMF 80402**

Judge Larson opened the hearing at 1:55 p.m. Deputy Attorney General Kristina Jarvis presented the facts of the case on behalf of the People of California. Ms. Bianchi Templin represented herself.

Ms. Jarvis presented the background of Ms. Bianchi Templin's probation. Ms. Bianchi Templin presented her request for modification of probation and information to support the request. Ms. Bianchi Templin was sworn in. She presented her request for modification of probation and information to support the request. Ms. Bianchi Templin answered questions posed by Ms. Jarvis and Board Members.

Ms. Bianchi Templin called upon witnesses Tracy Moore and Darlene Davis.

Judge Larson closed the hearing at 2:43 p.m. The Board took a break at 2:43 p.m. and reconvened at 2:57 p.m.

*Ms. Lock-Dawson did not return to the meeting (2:52 p.m.)*

### **III. Public Comment for Items not on the Agenda**

No public comments were presented.

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

Dr. Christine Wietlisbach requested a discussion on retaining legal counsel exclusive to the Board of Behavioral Sciences.

Ms. Brown announced that the Board will not reopen the webcast for adjournment of today's meeting.

The Board entered closed session at 2:59 p.m.

**FULL BOARD CLOSED SESSION**

- V. 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, Including the Above Petitions, and Any Other Matters. The Board will also, Pursuant to Section (a)(1) of the Government Code, Meet in Closed Session to Evaluate the Performance of the Executive Officer.

**FULL BOARD RECONVENED IN OPEN SESSION**

The Board reconvened in open session at 5:30 p.m. Ms. Brown announced that there was an error on the agenda. The Board did not discuss the Executive Officer's Evaluation in closed session as noted on the agenda.

VI. **Adjournment**

The Board adjourned at 5:31 p.m.

**Friday, August 19<sup>th</sup>**

*The Board took several items out-of-order; however, minutes are written in the order of the agenda.*

**Members Present**

Deborah Brown, Chair, Public Member  
Patricia Lock-Dawson, Vice Chair, Public Member  
Dr. Leah Brew, LPCC Member  
Betty Connolly, Public Member  
Dr. Peter Chiu, Public Member  
Massimiliano “Max” Disposti, Public Member  
Sarita Kohli, LMFT Member  
Renee Lonner, LCSW Member  
Karen Pines, LMFT Member  
Dr. Christine Wietlisbach, Public Member  
Christina Wong, LCSW Member

**Members Absent**

Samara Ashley, Public Member  
Dr. Scott Bowling, Public Member

**Staff Present**

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

**Guests**

*See sign-in sheet*

**FULL BOARD OPEN SESSION**

Deborah Brown called the meeting to order at 8:36 a.m. Christina Kitamura called roll. A quorum was established.

**VII. Introductions**

Board Members, Board staff, and public attendees introduced themselves.

**VIII. Consent Approval of the May 12-13, 2016 Board Meeting Minutes**

This item was deferred.

**IX. Consent Approval of the August 2, 2016 Board Meeting Minutes**

**Patricia Lock-Dawson moved to approve the August 2, 2016 Board Meeting minutes. Christina Wong seconded. The Board voted unanimously to pass the motion.**

Board vote:

Karen Pines - yes  
Max Disposti – yes  
Dr. Leah Brew – yes  
Dr. Christine Wietlisbach – yes  
Renee Lonner – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Betty Connolly yes  
Christina Wong - yes  
Dr. Peter Chiu - yes  
Sarita Kohli - yes

## **X. Chair Report**

### **a. Announcement of the Policy and Advocacy Committee Members**

Deborah Brown thanked Renee Lonner and Dr. Christine Wietlisbach for their dedication to the Policy and Advocacy Committee (Committee). Ms. Brown announced the Committee members effective immediately: Christina Wong (Committee Chair), Dr. Scott Bowling, Samara Ashley, and Deborah Brown.

### **b. Board Member Activities**

There were no activities to present.

### **c. Procedures for Discussions During Board Meeting**

Ms. Brown outlined procedures for Board Meetings.

#### Draft Meeting Minutes

When necessary, discussion regarding content will be discussed during meetings. Typographical or grammatical edits will not be outlined during meetings. Ms. Brown requested that edits should be forwarded to Ms. Kitamura.

#### Board Member Discussion

Raise hands to speak, and speak clearly into the microphone.

### **d. Recognition of Board Staff for Years of Service**

Ms. Brown recognized Joanna Huynh (5 years), Flora Lopes (5 years), David Jones (5 years), Ellen Villegas (5 years), Marsha Gove (10 years), and Michelle Eernisse-Villanueva (10 years).

## **XI. Executive Officer's Report**

### **a. Budget Report**

#### 2015/2016 Budget

- The Board's budget was \$10,351.00.
- Expenditures total to date is \$10,193,944, which is 98% of the Board's budget.

- The Board collected \$9,097,141.08 in total revenue.

The final figures for 2015/2016 are not available yet. Current Board projections indicate that the Board's expenditures may exceed \$100,000. The Board is working with the DCA Budget Office to ensure the Board does not exceed its expenditure authority. The Board anticipates a small reversion for fiscal year (FY) 2015/2016.

#### Fund Condition

The fund condition for 2015/2016 reflects a 5-month reserve as of April 2016.

#### 2016/2017 Budget

The Board's FY 2016/2017 budget is projected to be \$12,679,000. This figure includes the additional 8.5 staff positions, and the Board's share of cost (\$123,000) for two budget change proposals sought by the Department of Justice, Attorney General's Office (AG). These proposals seek to add additional staff resources in the AG Licensing Section and implement the AG reporting requirements pursuant to SB 467.

Additionally, the Board's budget includes increased expenditure authority for the Board's examination vendor contract. This increased authority allows examination candidates to continue to schedule their examinations without disruption. The Board's examination vendor contract was based upon the previous examination structure. Under the new examination process, the examination vendor contract was insufficient to accommodate the increased number of candidates in the examination process.

As of April 2016, the Board's fund condition for FY 2016/2017 projects 11.6 months in reserve and reflects General Fund loan repayments in the amount of \$6.3 million.

### **b. Operations Report**

#### Licensing Program, 4<sup>th</sup> Quarter

Application volumes increased. The increase is attributed to new applications for registration as an intern/associate due to graduation, as well as the ongoing and increasing number of Law and Ethics Examination applications. Application processing times remain at 30 days or less.

The Board issued 995 new licenses. The Board has over 106,000 licensees and registrants, which is an increase of 4,000 from the previous report.

#### Examination Program, 4<sup>th</sup> Quarter

- 5,486 examinations were administered. Of this number, 4,006 were Law and Ethics examinations.
- 753 candidates participated in the Association of Social Work Board (ASWB) national examination.
- Eleven examination development workshops were conducted from April to June.

#### Administration Program, 4<sup>th</sup> Quarter

- 10,451 applications were received; 43% increase since last quarter (not including renewal applications)
- Online renewal activity decreased 26% since last quarter.

#### Enforcement Program, 4<sup>th</sup> Quarter

- 270 consumer complaints received
- 232 criminal convictions
- 482 cases were closed
- 20 cases were referred to the AG's office for formal discipline
- 27 Accusations and 2 Statement of Issues were filed
- 39 final citations
- Average number of days to complete Formal Discipline was 828 days

#### Continuing Education Audits

In January 2016, the Board resumed auditing licensees for compliance with the continuing education requirements. From January to June, a total of 217 licensees were randomly selected for the audit. A total of 76 licensees failed the audit (25%).

### **c. Personnel Report (page 20)**

#### New Employees/Promotions

- Sasha Addison, Office Technician (OT), Enforcement Unit
- Samuel Hall, OT, Enforcement Unit
- Valerie Enloe, Management Services Technician (MST), Licensing Unit
- Julie Ruprecht, MST, Licensing Unit
- Kaitlin Martin, MST, Examination Unit

#### Departures

- Relena Amaro, Examination Unit, accepted a promotional position with the Department of Public Health
- Melissa Lara, Enforcement Unit, accepted a promotional position with the Board of Registered Nursing

#### Vacancies

- 2 Office Assistant positions received in the FY 2016/2017 Budget Change Proposal (BCP) for the Administration Unit. Interviews to be conducted this month.
- 1 OT position in the Cashiering Unit. Interviews to be conducted this month.
- 1 OT position in the Enforcement Unit
- 1 OT position received in the FY 2016/2017 BCP for the Administration Unit
- 1 OT limited-term position in the Cashiering Unit. A tentative offer has been extended to the selected candidate.
- 1 MST position received in the FY 2016/2017 BCP for the Examination Unit. Applications are currently under review.
- 1 MST position received in the FY 2016/2017 BCP for the Licensing Unit. An offer has been made to the selected candidate.
- 1 Staff Services Analyst (SSA) position in the Examination Unit. Request to fill this vacancy to be submitted this month.
- 1 SSA position in the Enforcement Unit. Recruitment to begin in September. Recruitment to begin in September.

## **XII. Strategic Plan Update**

Licensing, Goal 1.4: The Supervision Committee held its last meeting on August 18<sup>th</sup> to discuss draft language for the LMFTs, LCSWs, and LPCCs. Draft language will be presented to the full Board in November.

Licensing, Goal 1.5: Telehealth regulations became effective July 1, 2016.

Outreach and Education, Goal 6.3: Ms. Madsen met with OSHPD in June to discuss collaboration to promote awareness of educational loan repayment opportunities.

### **XIII. Supervision Committee Update**

The Supervision Committee held its final meeting on August 18<sup>th</sup>. Staff anticipates that the law changes proposed by the Supervision Committee will be considered by the Policy and Advocacy Committee on September 30<sup>th</sup> and presented to the full Board for consideration at the November 2016 meeting. Staff would run legislation and regulations during 2017 in order to begin implementing the proposed changes.

The informal decisions made by the committee have been incorporated into an initial draft of proposed language which addresses the following:

- Makes supervision provisions consistent among the professions.
- Allows supervision of students performing psychotherapy to satisfy the supervisor two-year experience requirement.
- Strengthens provisions related to monitoring and evaluating the supervisee, including the Supervisory Plan form and Supervisor Responsibility Statement form.
- Addresses supervisors being reachable while supervisee is providing services.
- Requires an initial supervisor training of 15 hours for all professions.
- Requires six (6) hours of continuing professional development for supervisors every two years.
- Requires supervisors to notify the Board that they are supervising.
- Requires new and existing supervisors to perform a self-assessment of qualifications to supervise. Supervisors would submit the self-assessment to the Board, and provide a copy to each supervisee along with the supervision brochure. The Board would add a modifier to the licensee's status on Breeze to indicate that he or she is a supervisor.
- Provides the Board with the authority to audit supervisors.
- Requires the supervisor to ensure that the amount of group supervision is appropriate to each supervisee's needs.
- Allows triadic supervision in place of individual supervision.
- Requires applicants who have completed their experience hours to continue receiving one hour of supervision per week, per work setting.

The proposed language does not include the following provision as staff plans to run it as a separate regulatory proposal: Parameters for acceptable documentation when a supervisor is deceased or incapacitated and an Experience Verification form had not yet been signed.

*The Board took a break at 9:50 a.m. and reconvened at 10:06 a.m.*

### **XIV. Examination Restructure Update**

Staff is continuing their work on transitioning to the new exam requirements. Operationally the transition is nearly complete. Exam candidate information is now being transmitted to exam vendors daily. Staff has identified gaps in application processing and continuing to ensure that electronic files are updated so that candidates are not adversely affected. Currently, staff is concentrating its efforts for ASWB clinical exam applicants to ensure that all electronic files for exam candidates that are eligible have been sent to ASWB.



Beginning July 1<sup>st</sup> all registrants are required to have taken the Law & Ethics exam to renew. Up to this date, there was a grace period in place for registrants whose registration expired on or before June 30, 2016. While the Board has worked towards informing registrants of this new requirement, there are still some registrants that are unaware of this requirement. To minimize the impact of this requirement, the Board has dedicated extra resources to processing Law & Ethics applications as well as added system enhancements that allow for quicker processing of renewals.

With the new changes there has been an increase in workload in application processing as well as customer inquiries. Staff has been working diligently to keep the processing times down.

**XV. Discussion and Possible Action Regarding Proposed Revisions to the BBS Logo**

Cesar Altamirano from the Department of Consumer Affairs Publication Unit presented graphic samples of new BBS logos. Board Members provided input on the logos. Board Members suggested that the graphic should reflect a holistic, diverse “feel” and avoid images that could relate to stigmas.

Kim Madsen suggested exploring a new BBS logo during Strategic Planning meetings. These meetings are anticipated to take place during the summer of 2017. The Board agreed.

**XVI. Discussion and Possible Action Regarding Establishing a Board Policy to Remove Board Newsletters from the Board Website After 5 Years**

Business and Professions Code (BPC) §27 (a) specifies the type of information that the Board is required to publish on its website. In addition to displaying a licensee’s or registrant’s information, other information including suspensions, revocations and other related enforcement actions taken by the Board is published on the website.

BPC §4990.09 further defines the parameters regarding the reporting of citations. Pursuant to this code section, the Board shall not publish on the Internet, the final determination of a citation and fine of \$1500 or less for more than five years from the date of issuance. After five years, the Board must remove the action from its website. Currently, BreZE is designed to perform this function automatically.

In 2015, the Board resumed publishing its newsletter. Board disciplinary actions, including citations and fines, are published in the newsletters. Concerns emerged related to publishing citations and fines of less than \$1,500 on the Board’s website and in the Board’s newsletter. A citation and fine may be issued for minor violations with a fine less than \$1,500. This raises the question whether these names should appear on the Board’s website. Although the Board defines a citation and fine as an administrative action, listing formal disciplinary action under the title “Administrative Actions” in the Board newsletter may be confusing.

The Policy and Advocacy Committee (Committee) discussed this matter and recommended minor modifications, such as revising the titles in the Board newsletter to be consistent with the definitions of the Board actions in the newsletter. These modifications could be done without any formal direction from the Board.

The Board is asked to consider establishing a policy to specify the removal of newsletters from the Board’s website that complies with the five-year requirements specified in BPC §4990.09.

The Committee voted to recommend the Board establish a policy to remove the Board's newsletters from its website within a specified period of time, and advise the public how they may obtain newsletters once they are removed from the Board's website.

***Renee Lonner moved to establish a policy to remove the Board's newsletters from its website after 5 years. Dr. Peter Chiu seconded. The Board voted unanimously to pass the motion.***

Board vote:

Karen Pines - yes  
Max Disposti – yes  
Dr. Leah Brew – yes  
Dr. Christine Wietlisbach – yes  
Renee Lonner – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Betty Connolly yes  
Christina Wong - yes  
Dr. Peter Chiu - yes  
Sarita Kohli - yes

#### **XVII. Discussion and Possible Action Regarding the Addition of Taking and Passing the Law and Ethics Examination as a Probation Term**

At its May meeting, the Board suggested that in lieu of requiring probationers to take a Law and Ethics course as a condition of probation, the probationer could take and pass the Law and Ethic examination.

The Board's October 2015 Disciplinary Guidelines specify "take and pass licensure examination(s) as a probation condition for the following violations.

- Sexual Misconduct (Anything other than as defined in B&P Section 729)
- Intentionally/Recklessly Causing Physical or Emotional Harm to Client
- Gross Negligence/Incompetence
- Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee/Registrant
- Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties, and Functions of License
- Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License/Competence
- Discipline by Another State or Governmental Agency
- Misrepresentation of License/Qualifications (if violation warrants this condition)
- Failure to Maintain Confidentiality

For other violations, an "Education Course" is listed. Depending on the violation, the Board may order a Law and Ethics course. The Board may require a full semester course or specify the number of hours to be completed. If the number of hours is specified, typically, the course is completed through a continuing education provider.

The current Disciplinary Guidelines were written prior to the Examination Restructure. The probation term “take and pass the licensure examination(s)” is reflective of the examination process prior to the Examination Restructure.

The Examination Restructure did not change the number of examinations required for licensure. It created the Law and Ethics examination for LMFTs, LCSWs, and LPCCs and added the use of the national examinations for two professions.

Under the existing Disciplinary Guidelines, the “take and pass the licensure examination(s)” term presents an increase cost to probationers who would now be required to take the national exam in addition to the Law and Ethics exam.

Further, requiring a California probationer to take a national examination to satisfy a probation term may not be appropriate since the content of the examination assesses an individual’s competency to enter the profession nationwide and does not include state-specific practices.

Determining a probation term involves consideration of the type and egregiousness of violation(s) and if the public was harmed. In some situations, it may be appropriate to require a probationer to take and pass the licensure examinations. In other situations, it may be appropriate to require the probationer to take and pass the Law and Ethics examination in lieu of a course. However, the current Disciplinary Guidelines do not specify the option to order a probationer to take and pass the Law and Ethics examination.

***Dr. Leah Brew moved to direct staff to draft a proposal that identifies the violations for the addition of taking and passing the Law and Ethics Examination as a probation term. Dr. Peter Chui seconded. The Board voted unanimously to pass the motion.***

Board vote:

Karen Pines - yes  
Max Disposti – yes  
Dr. Leah Brew – yes  
Dr. Christine Wietlisbach – yes  
Renee Lonner – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Betty Connolly yes  
Christina Wong - yes  
Dr. Peter Chiu - yes  
Sarita Kohli - yes

**XVIII. Discussion and Possible Action Regarding Section 100 Rulemaking Proposal to Make Non-Substantive Changes to California Code of Regulations, Title 16, Division 18**

California Code of Regulations (CCR) Title 1, §100 allows an agency to add to, revise or delete regulatory text without following the specified rulemaking procedures if the change does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of a CCR rights provision. Due to past statutory changes, technical and non-substantive amendments to current regulations are needed.

## Proposed Changes

1. Authority and Reference Citations: Update and correct “authority” and “reference” citations for consistency with current statutes.
2. Continuing Education (CE):
  - Update and repeal regulations pertaining to Board-approved CE providers. The Board’s program that issued approvals for CE providers ceased on July 1, 2015 and was replaced by regulations that instead recognize “approval agencies” specified in 16 CCR §1887.4.1, as well as the Board-recognized CE providers specified in 16 CCR §1887.4.3.
  - Correct statutory citations that are outdated due to the passage of legislation.
  - Change the term “CE Exception” to “CE Waiver” to more accurately convey that the CE may be waived only for the current renewal period, and not for a future renewal period. It is common for applicants to mistakenly believe that an approval means they are “exempt” from future CE requirements.
  - Technical and grammatical changes to forms required for requesting a waiver of CE as follows:
    - To more accurately convey the actual regulatory requirements
    - To update the “Notice of Collection of Personal Information” to reflect current laws protecting privacy and personal information.
    - To remove the applicant’s social security number box, as it is not necessary
    - To remove duplicative form instructions
    - To remove an outdated item on the “Request for CE Waiver – Licensee Application”, under Part 2, question 3. It is no longer necessary to request to complete all CE hours via self-study, as this is now permitted for all licensees.
3. LPCC Grandparenting: Repeal regulations pertaining to the LPCC grandparenting program. Per Business and Professions Code (BPC) §4999.54, the grandparenting application deadline was December 31, 2011, and the Board has completed evaluating all applications received under this program.
4. Examination Restructure: Repeal regulations pertaining to outdated examinations and delete language specifying the implementation date of January 1, 2016.
5. Technical and Grammatical Changes

Patricia Lock-Dawson moved to using the term “temporary exception” in place of “waiver” in the proposed regulation changes to continuing education, accept all other proposed changes, direct staff to make any non-substantive changes to the amendments and submit a regulation package. Sarita Kohli seconded. The Board voted unanimously to pass the motion.

Board vote:

Karen Pines - yes  
Max Disposti – yes  
Dr. Leah Brew – yes  
Dr. Christine Wietlisbach – yes

Renee Lonner – yes  
Deborah Brown – yes  
Patricia Lock-Dawson – yes  
Betty Connolly - yes  
Christina Wong - yes  
Dr. Peter Chiu - yes  
Sarita Kohli - yes

**XIX. Status of Board-sponsored Legislation and Update on Other Legislation Affecting the Board; Possible Action**

AB 2191, the Board's Sunset Bill

This bill was amended to make minor, non-substantive changes. The bill is on its third reading in the Senate.

AB 2199: Sexual Offenses Against Minors: Persons in a Position of Authority

This bill died.

SB 1034: Health Care Coverage: Autism

This bill has been amended since the last Board meeting. Instead of deleting the sunset date, it now sets it at January 1, 2022, and other technical changes were made to the proposed language

AB 1715: Healing Arts: Behavioral Analysis: Licensing

This bill died.

SB 1101: Alcohol and Drug Counselors: Regulation

This bill died.

SB 1155: Professions and Vocations: Licensees: Military Service

This bill died.

SB 1195: Professions and Vocations: Board Actions: Competitive Impact

This bill died.

**a. Assembly Bill 1917 (Oberholte) Educational Requirements for Marriage and Family Therapists and Professional Clinical Counselor Applicants**

This bill was signed by the Governor.

**b. Senate Bill 1478 (Senate Business, Professions, and Economic Development Committee) Omnibus Bill**

This bill is on third reading in the Assembly. Staff expects additional amendments requested by the Board, as well as double-joining language to resolve conflicts with AB 1917, will be made before the end of the legislative session.

**c. Proposed Legislation in Response to North Carolina State Board of Dental Examiners v. Federal Trade Commission Supreme Court Decision; SB 1194, SB 1195 or Similar Bill**

Although SB 1195 has died, DCA has provided language for a revised version of that bill that may be introduced prior to the end of this year's legislative session. The language is very similar to what has already been considered, but there are some key differences.

This bill:

1. Requires the director of DCA, on his own initiative, or upon request by a board or the Legislature, to review any board action to determine if it is a market-sensitive action.
2. Only allows review of an action that has taken place in the past 60 days. The review process also does not apply to any action taken by a board prior to January 1, 2017.
3. Defines the term "action" to mean non-ministerial formal actions voted on by a board and non-ministerial informal decisions made by staff as a result of explicit or implied delegated authority to act on behalf of the board.
4. Defines "market-sensitive actions" as those actions that create barriers to market participation and restrict competition, including the following:
  - a. Exam passage scores;
  - b. Advertising restrictions;
  - c. Price regulation;
  - d. Enlarging or restricting scope of practice qualifications for licensure; and
  - e. A pattern or program of disciplinary actions affecting multiple individuals that creates barriers to market participation.
5. Defines "clearly articulated and affirmatively expressed state policy" to mean Federal statute and regulations, California state law and regulations, department policies, and executive orders.
6. If the director finds an action is market-sensitive, then he or she has 90 days from receiving the request or initiating review to determine if the market-sensitive action furthers a clearly articulated and affirmatively expressed state policy.
7. Requires the director to notify the board of the review and whether the review resulted from a specific member of the legislature, a specific organization, or a member of the public. The Board must post the director's notification on its website.
8. Requires that while the director is reviewing the action, the board must cease implementation of that action until the review is finalized.
9. At completion of the review, requires the director to take one of the following actions:
  - a. Approve the action if determined that it furthers a clearly articulated and affirmatively expressed state policy; or
  - b. Disapprove the action if it does not further a clearly articulated and affirmatively expressed state policy.
10. Requires the director to issue and post on DCA's web site a final written decision on the board action.

11. Requires the director to review all proposed regulations, final rulemaking records, and relevant facts.
12. Requires that if the director disapproves a regulation because it does not further a clearly articulated or affirmatively expressed state policy, that the disapproval shall be in writing.
13. Prohibits a board from overriding the director's disapproval of a regulation that was disapproved because it does not further a clearly articulated and affirmatively expressed state policy.
14. Requires a public entity to pay for a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her official capacity as a board member.

***Christina Wong moved to support the text as is, and if there are changes to the bill, then to bring back to the Board unless they are non-substantive changes. Dr. Leah Brew seconded. The Board voted unanimously to pass the motion.***

Board vote:

Karen Pines - yes  
 Max Disposti – yes  
 Dr. Leah Brew – yes  
 Dr. Christine Wietlisbach – yes  
 Renee Lonner – yes  
 Deborah Brown – yes  
 Patricia Lock-Dawson – yes  
 Betty Connolly yes  
 Christina Wong - yes  
 Dr. Peter Chiu - yes  
 Sarita Kohli - yes

**XX. Status of Board Rulemaking Proposals**

Standards of Practice for Telehealth

These regulations took effect July 1, 2016.

English as a Second Language: Additional Examination Time

These regulations were approved by DCA, and is currently at agency for review.

**XXI. 2017 Board Meeting Dates**

Ms. Madsen presented an amended list of the 2017 meeting dates. The amended date is Policy and Advocacy Committee from June 3, 2017 to June 23, 2017.

Jeffrey Liebert, American Association for Marriage and Family Therapy (AAMFT), noted a conflict on a committee meeting date with the AAMFT national conference date.

**XXII. Suggestions for Future Agenda Items**

Rebecca Gonzalez, National Association of Social Workers - California Chapter, requested that the Board clearly outline its evaluation process regarding applicants who have criminal

records, and the amount of time it may take to process when there are delays in obtaining police reports and other documentation.

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

Ms. Madsen and the Board presented the Board's legal counsel, Dianne Dobbs, with a Resolution. Ms. Angelique Scott has been appointed as the Board's new legal counsel.

**XXIV. Adjournment**

The meeting adjourned at 12:14 p.m.