STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.
BOARD OF PSYCHOLOGY
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BOARD MEETING MINUTES

Radisson Newport Beach
4545 MacArthur Boulevard
Newport Beach, CA 92660

Friday, May 20, 2011

The open session meeting was called to order by the President, Richard Sherman, Ph.D., at 9:07 a.m. A quorum was present and due notice had been sent to all interested parties.

Members Present:
Richard Sherman, Ph.D., President
Emil Rodolfa, Ph.D., Vice-President
Lucille Acquaye-Baddoo
Barbara Cadow, Ph.D.
Michael Erickson, Ph.D.
Miguel Gallardo, Psy.D.
James McGhee
Celinda Vazquez

Others Present:
Robert Kahane, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Norine Marks, Legal Counsel
Gina Bayless, Enforcement Coordinator
Linda Kassis, Administrative Services Coordinator
Karen Johnson, Licensing/Registration Analyst
Denise Russell, Continuing Education/Probation Coordinator

Agenda Item #1 – Approval of February 18-19, 2011 Minutes

It was M(McGhee)/S(Rodolfa)/C to approve the February 18-19, 2011, open session minutes.

Vote: 8 – 0

Agenda Item #2 – Approval of 2011-2013 Strategic Plan

It was M(Acquaye-Baddoo)/S(Cadow)/C to approve the substantive portions of the 2011-2013 Strategic Plan and delegate to staff to make minor grammatical and non-substantive changes.

Vote: 8 – 0

Agenda Item #3 – Credentials Committee

The Credentials Committee met to discuss and formulate recommendations to the board. See agenda item 5(a) for the Board's discussion.

Agenda Item #4 – Enforcement Committee

The Enforcement Committee met to discuss and formulate recommendations to the Board. See agenda item 5(b) for the Board's discussion.

Agenda Item #5 – Reconvene Full Board for Committee Reports and Board Action

a) Credentials Committee Report

Strategic Plan Progress Report
Dr. Rodolfa stated that goal L-3 (Clearly communicate the required qualifications for licensure through publications, web updates and outreach) was discussed extensively during the Credentials Committee meeting. He stated that it is especially important to clearly communicate with individuals who are appealing the denial of their hours of supervised professional experience to make it clear to them the reasoning behind the Board's denial. Dr. Rodolfa also reiterated that the Executive Officer being unable to attend the Association of State and Provincial Psychology Boards' (ASPPB) meetings is very problematic in that it does not allow California to keep up with what is going on in other states.

Satisfaction Survey Results
Dr. Rodolfa highlighted the high percentage of satisfaction with the Board's response to credentialing issues between March 2010 and March 2011. He stated that this indicates that staff is doing a wonderful job. He also stated that he is very surprised that the vast majority of responses received indicates that they applied for licensure via the U.S. mail rather than online.

Review of Petition Pursuant to Gov. Code section 11340.6 to Amend Title 16, California Code of Regulations Section 1387(b)(9) – Supervised Professional Experience
Dr. Rodolfa reported that the Board received a petition to amend its regulations to allow individuals who are working under a Marriage and Family Therapist (MFT) or a Licensed Clinical Social Worker (LCSW) license to count those hours toward the supervised professional experience required for licensure as a psychologist. He stated that the Board received a comment from the California Psychological Association opposing the petition. Dr. Rodolfa stated that during Committee's discussion of the petition, the committee was not in support of amending the regulations due to the ambiguous nature of the regulations that would result given that there is a separate licensing board that oversees the licensing of MFTs and LCSWs.

It was M(Rodolfa)/S(Acquaye-Baddoo)/C to deny this petition and to delegate to the Chairperson of the Credentials Committee to work with the Executive Officer to develop the response to this petition.

Vote: 8 – 0

Review and Discuss Provisions of AB 2435 (Lowenthal), Chapter 552, Statutes 2010 - Elder and Dependent Adult Abuse-Recommended Training
Dr. Rodolfa stated that the Credential Committee recommends approving the draft language to amend section 1382.6 of Title 16 of the California Code of Regulations and moving forward with the rulemaking process to implement the statute. However, he stated that has concerns regarding the Legislature becoming involved in the credentialing issues of the Board. He stated that the Board needs to be watchful of any legislation coming down the pipe requiring additional training requirements for psychologists.

Discuss Education Requirements of Model Licensing Acts
Dr. Rodolfa stated that the Credentials Committee did not have time to discuss this issue. He stated that a meeting had been noticed for May 6, 2011, however, that meeting had to be cancelled. He stated that the committee decided to hold that meeting publicly between now and the next Board meeting and report back to the Board.

Discuss Supervised Professional Experience (SPE) Agreement Form
Dr. Rodolfa stated that the Credentials Committee had a long, substantive discussion regarding this issue. He stated that everyone is concerned with the experience of trainees and the denials of hours of supervised professional experience. He stated that some applicants have lost the form once it was completed and signed, and some have completed the form incorrectly which has created a large amount of problems for applicants as well as for Board staff who review the applications. Dr. Rodolfa stated that although the discussion on this topic was lengthy, the committee didn't have time to determine exactly what the next steps should be. He stated that during the Credentials Committee meeting regarding the model licensing acts, the committee will also discuss this issue. He also requested that Board staff bring some redacted forms to the committee to review so that the committee members can understand how they are reviewed and ensure that there is consistency in the review of the forms.

Discuss Substantial Compliance Criteria for Out-of-State Experience Pursuant to California Code of Regulations Section 1387.4
Dr. Rodolfa stated that the Credentials Committee did not have enough time to discuss this issue.

Discuss Accrual of Clinical Research Hours Towards Supervised Professional Experience
Dr. Rodolfa stated that the Credentials Committee did not have enough time to discuss this issue, however, the Credentials Committee wants this issue to be added on the agenda for the next Board meeting.

Public Comment
Steve Arthur, Ed.D., President, Ryokan College, stated that he hopes that approved schools are going to be invited to the Credentials Committee meeting for this discussion of the model licensing acts. He stated that he did not receive an invitation to the last meeting.

It was M(Rodolfa)/S(Cadow)/C to approve the Credential Committee's report and the recommendations contained therein.

Vote: 8 – 0

b) Enforcement Committee Report

Strategic Plan Progress Report
Ms. Acquaye-Baddoo reported that staff is working on goal ENF-5 (Maintain disciplinary guidelines) for presentation at the August Board meeting. She stated that the Enforcement Committee discussed Board processing times and asked that this data be included in the Board meeting agenda packets.

Enforcement Statistics
Ms. Acquaye-Baddoo reported that there has been no significant increase in any area. She stated that although the enforcement unit is down a position, they still move forward an excellent product. She also noted that investigations and cases that are pending at the Office of the Attorney General have the longest processing times.

Ms. Acquaye-Baddoo requested that Ms. Bayless provide an overview of the Board's complaint process. Ms. Bayless explained that when a complaint first comes in, it goes through a complaint intake review which establishes if the Board has jurisdiction. If so, the

complaint is assigned to an enforcement analyst to conduct a desk investigation, set up an investigative plan, determine what steps need to be followed, and obtain releases from the necessary parties. Once the case file is complete, it is sent to an expert to perform an initial review to determine whether any departures from the standard of care have occurred and if so, whether they are simple or extreme. The expert also determines if further information is required. Once the case is returned to Board staff, if the case does not warrant formal investigation, the case may be closed due to insufficient evidence or the licensee may be educated. Those that warrant formal investigation will be referred to the Medical Board of California for investigation. Once the formal investigation is completed, the case is sent to a different expert for review. If a departure from the standard of care is substantiated, Board staff proceeds with administrative action.

Ms. Acquaye-Baddoo requested that information be sent to professional associations as a recruitment process for Board experts. She requested that both large and small associations be included so that diversity can continue to be enhanced.

Mr. Kahane stated that there has been a recent increase in unlicensed activity cases. He stated that the Board tracks unlicensed activity statistics and has the authority to issue citations and fines, issue cease and desist notices and disconnect their telephone service. He stated that these cases are also referred to the local District Attorney's office to pursue criminal prosecution as well

It was M(Cadow)/S(Vazquez)/C to approve the Enforcement Committee's report and the recommendations contained therein.

Vote: 8 – 0

Agenda Item #6 - Regulation Update, Review and Action as Necessary

a) Regulations Status Update

i) Update Regarding Approved Amendments to Title 16, California Code of Regulations Sections 1381.7, 1381.8 and 1381.9 – Disclosure of Discipline and Criminal Convictions

Ms. Kassis reported that this rulemaking file became effective on March 4, 2011. She explained that any licensee or registrant who does not currently have an electronic record of the submission of fingerprints will be required to be re-fingerprinted, and will receive a notice indicating that they are required to do so. She indicated that Board staff has been working with the Department to implement this process, and the target date for implementation is June 1, 2011.

ii) Amendments to Title 16, California Code of Regulations Sections 1397.60 – 1397.7 – Continuing Education Requirements

Ms. Kassis stated that the Board reviewed comments received in response to a 15-day notice of proposed modifications to the originally proposed text at the last Board meeting. She indicated that the Board voted at that time to adopt the language of the proposed changes as modified and to move forward with the rulemaking process. She stated that she will be completing the documents necessary to submit this file to the Office of Administrative Law in the near future.

iii) Proposed Amendments to Title 16, California Code of Regulations, Division 13.1, Article 1 (General Provisions), Article 2 (Applications), Article 3 (Education and Experience), Article 4 (Examination), Article 5 (Registered Psychologists), Article 5.1 (Psychological Assistants) and Article 6 (Fees)

Ms. Kassis stated that the Board motioned at its last meeting to notice this proposal for hearing. She stated that due to the mandatory 45-day comment period prior to adoption, the notice of proposed changes would have to be filed with the Office of Administrative Law sometime in June in order to have a hearing at the August Board meeting. She indicated that due to other priority issues, this timeframe probably will not be feasible.

iv) Proposed Amendments to Title 16, California Code of Regulations, Section 1397.12 – Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

Ms. Kassis stated that the Board motioned at its last meeting to notice this proposal for hearing. She stated that due to the mandatory 45-day comment period prior to adoption, the notice of proposed changes would have to be filed with the Office of Administrative Law sometime in June in order to have a hearing at the August Board meeting. She indicated that due to other priority issues, this timeframe probably will not be feasible.

Agenda Item #7 – Director's Report by Department of Consumer Affairs Representative

Brian Stiger, Director of the Department of Consumer Affairs (DCA), reported that Anna Caballero has been appointed as the new Secretary of the State and Consumer Services Agency (SCSA). He also indicated that Kimberly Kirchmeyer, DCA's Deputy Director of Board/Bureau Relations, will be returning to the Medical Board of California at the beginning of June.

Regarding the Governor's Budget, Mr. Stiger indicated that DCA will not be affected too much. He indicated that the hiring freeze, which is designed to save as much money as possible, is still ongoing. He stated that there is an opportunity to request an exemption from the freeze, and that DCA has been fairly successful, receiving approval of approximately 10 out of 15 freeze exemption requests for about 40 positions throughout DCA.

Mr. Stiger stated that the newest Executive Order regarding travel restrictions has limited travel to essential and non-discretionary travel only. He indicated that this has complicated things for DCA given that the Agency Secretary has to approve every travel request. He stated that Secretary Caballero has delegated some of this authority to him, allowing him to approve specific types of travel requests. Because of these restrictions, he stated that the Board may have to minimize the number of staff attending Board meetings, so there may well be a noticeable impact to the Board.

Mr. Stiger stated that enforcement is the highest priority of DCA. He stated that this Board is moving forward with enforcement regulations and mirrors DCA in making it a high priority. He indicated that DCA is posting statistics for enforcement and licensing on its website.

Mr. Stiger provided the Board with an update on the BreEZe project. He explained that this is a database project to consolidate two of DCA's antiquated systems. He reported that there is a vendor in place, and that DCA is negotiating the final costs which came out a little higher than originally anticipated. He stated that the new system should be in place by August.

Mr. Stiger stated that DCA has a new Executive Officer performance evaluation process and thanked Dr. Sherman for his work on this effort. He also noted that many boards have requested salary increases for their Executive Officers. He reported that DCA has hired an outside contractor to determine what would be fair for salary increases for the Executive Officer classification.

Mr. Stiger stated that he is really impressed with Board staff. He stated that he is also impressed with the packet material and how early it was sent out as well as the availability of the material on the Board's website.

Mr. McGhee expressed his concern regarding the Executive Officer being unable to attend national meetings such as the ASPPB meetings. Mr. Stiger assured the Board that the travel restrictions apply to all boards. He stated that once the budget is signed, all boards will receive a targeted savings goal and each board will be able to manage itself within those constraints.

Mr. McGhee raised concerns regarding the General Fund loans. Mr. Stiger stated that he has never seen any negative impact on any board's operations, and that he has seen these loans get paid back before it impacts the board's/bureau's/commission's ability to carry out its mission. He stated that he will have DCA's fiscal officer work with Mr. Kahane on this issue.

Agenda Item #8 – Legislation Committee

The Legislation Committee met to discuss and formulate recommendations to the Board. See agenda item11(a) for the Board's discussion.

Agenda Item #9 – Examination Committee

The Examination Committee met to discuss and formulate recommendations to the Board. See agenda item 11(b) for the Board's discussion.

Agenda Item #10 – Continuing Education Committee

The Continuing Education Committee met to discuss and formulate recommendations to the Board. See agenda item 11(c) for the Board's discussion.

Agenda Item #11 – Reconvene Full Board for Committee Reports and Board Action

a) Legislation Committee Report

Strategic Plan Progress Report
Ms. Vazquez stated that the Board needs to be more proactive on bills that affect the profession of psychology. She stated that staff should continue working with DCA's Legislative and Policy Review Division.

AB 39 (Beall) – Special Education: Funding
Ms. Vazquez stated that this bill is no longer moving.

AB 40 (Yamada) – Elder abuse: reporting
Ms. Vazquez stated that this bill would require mandated reporters to report elder abuse to both the local ombudsman and the local law enforcement agency. CPA is taking a watch position as this bill moves through the process

AB 584 (Fong) – Workers' Compensation: Utilization Review
Ms. Vazquez stated that this bill would not have an effect on psychologists, rather it would impact medical providers and the insurance agency. She stated that the Legislation Committee will continue to watch this bill.

AB 625 (Ammiano) – Sex Offender Registration
Ms. Vazquez stated that this bill, which would tier the way sex offenders register with the State, is moving along in the process. She stated that this bill would align California with the way other states require registration for sex offenders. She stated that the Legislation Committee will continue to watch this bill. CPA is watching this bill as well.

SB 33 (Simitian and Wolk) – Elder and Dependent Adult Abuse
Ms. Vazquez stated that this bill, which would eliminate the sunset date and make permanent the Elder Abuse and Dependent Adult Civil Protection Act, is currently in the Assembly. She stated that since it contains no substantive policy changes other than eliminating the sunset date, the Legislation Committee will watch this bill.

SB 541 (Price) – Contractors' State License Regulatory Boards; Expert Consultants
Ms. Vazquez stated that this bill would impact the way the Board uses expert consultants in enforcement and examinations. She stated that currently we receive invoices for services provided by experts, however, this bill would require the Board to establish a contract with expert consultants. Ms. Bayless stated that late last year, we were told that we would have to change to a contracting system for expert consultants which would have created a large impact on workload given the number of expert consultants the Board utilizes. She stated that this bill would streamline the process by requiring a simplified contract rather than a full contract as would have been required per our prior discussions with DCA. She stated that this bill would still require the Board to have a contract and encumber funds in our budget for every expert consultant, however, it would be a much simpler process than what we were looking at previously. She also indicated that there is a potential loss of expert consults since we have been informed that we would not be able to contract with any psychologist who currently works for the State of California, however, this does not apply to employees in the University of California system. Ms. Vazquez stated that the Legislative Committee recommends a support position on this bill.

SB 747 – (Kehoe) – Continuing Education: Lesbian, Gay, Bisexual and Transgender Patients
Ms. Vazquez stated that this bill raises concerns in that it is not the best way to build the curriculum of a psychologist's continuing education. She stated that although the Legislative Committee agrees that the content area of this bill is relevant to the practice of psychology, psychologists are trained to take continuing education courses that are relevant to their practice. Dr. Faltz, Director of Public Affairs of CPA, stated that CPA is opposed to this bill and has a long-standing position that mandated courses is a waste of a licensee's required number of hours of continuing education by requiring education in areas that may not apply to them. Mr. Stiger stated that DCA is opposed to this bill as they believe that licensing boards are in the best position to determine which continuing education courses their licensees should be required to take. Discussion ensued. The Board voted to oppose this bill and have Mr. Kahane send a letter of opposition to the author.

Legislation Pertaining to the Regulatory Process

SB 366 (Calderon and Paveley) – Regulations: Agency Review
Ms. Vazquez reported that this bill is no longer moving.

SB 396 (Huff) – Regulations: Review Process
Ms. Vazquez reported that this bill is no longer moving.

SB 400 (Dutton) – Regulations: Impact on Businesses
Ms. Vazquez reported that this bill is no longer moving.

SB 401 (Fuller) – Regulations: Repeal Provisions
Ms. Vazquez reported that this bill is no longer moving.

SB 553 (Fuller) – Regulations: Effective Date
Ms. Vazquez reported that this bill is no longer moving.

SB 560 (Wright) – Regulations: Small Businesses
Ms. Vazquez reported that this bill is no longer moving.

SB 591 (Gaines) – Administrative Regulations: Reductions
Ms. Vazquez reported that this bill is no longer moving.

SB 688 (Wright) – Regulations: Legislative Approval
Ms. Vazquez reported that this bill is no longer moving.

AB 273 (Valadao) – Regulations: Economic Impacts Review
Ms. Vazquez stated that this bill is being moved to tracking.

Legislative Status Report on Bills of Interest to the Board
The Legislative update report on bills of interest to the Board was provided on a matrix included in the meeting packets.

Any Other Bills of Interest
Ms. Vazquez requested that the following bills be placed on the agenda for the August Board meeting:

SB 544 – Professions and Vocations: Regulatory Boards (A new version of SB1111)
AB 415 – Healing Arts: Telehealth
SB 105 – Public Safety: Snow Sports Helmets

2011 Tentative Legislative Calendar
The 2011 Tentative Legislative Calendar was included in the Board meeting packets.

It was M(McGhee)/S(Gallardo)/C to approve the Legislation Committee's report and the recommendations contained therein.

Vote: 8 – 0

b) Examination Committee Report

Strategic Plan Progress Report
Dr. Rodolfa reported that the Examination Committee Strategic Plan goals and objectives are ongoing.

Examination Statistics
Dr. Rodolfa expressed his concerns regarding the pass rate for first timers on the EPPP in California being much lower than the national average. He stated that the statistics on the CPSE show a good pass rate which indicates that candidates who have passed the EPPP are well prepared to pass the CPSE and practice in California. He indicated that the pass rate on the CPLEE, which is a subset of the CPSE taken by candidates who have been licensed for at least five years in another jurisdiction, is significantly lower than the CPSE which indicates that those candidates think they know how to practice and don't study ethics and California law prior to taking the examination.

Update Regarding Audit of the California Psychology Supplemental Examination (CPSE) by the Office of Professional Examination Services (OPES)
Dr. Rodolfa stated that DCA's Office of Professional Examination Services (OPES) is conducting an audit of the CPSE to look for overlap between that examination and the EPPP. He stated that he believes there is a significant overlap between the two examinations, and he is hoping that OPES focuses on laws and ethics in the state since statistics reflect that psychologists are not being disciplined for not knowing psychology, rather for violating laws and ethics.

It was M(Rodolfa)/S(Acquaye-Baddoo)/C to approve the Examination Committee's report and the recommendations contained therein.

Vote: 8 – 0

c) Continuing Education Committee Report

Strategic Plan Progress Report
Dr. Gallardo stated that the Continuing Education Committee's top priority is moving forward with the revisions to the continuing education regulations. He stated that the committee is

continuing to identify ways to best educate licensees regarding the upcoming continuing education changes. He reported that the average non-compliance rate is 14.75 upon the first report to the Board by the MCEP Accrediting Agency, however, most licensees quickly fall into compliance upon receipt of a letter from the Board information them of their non-compliance. He stated that the process is currently adequate, but will be revisited if the compliance rate drops.

Dr. Gallardo stated that Board staff will face a challenge once the new regulations become effective in conducting random audits. He stated that currently, there is a 100% audit with the MCEPAA process, however, under the new regulations, we will be shooting for a 10% audit. This will create significant changes to the staff processes.

Dr. Gallardo stated that although outreach has been limited, Mr. Kahane, Mr. Thomas, and Ms. Johnson were able to attend the CPA convention. He stated that the Board's presence there was important due to the availability to answer questions on a wide range of topics, but mostly continuing education and renewal.

Continuing Education Statistics
The continuing education statistics were included in the Board meeting packets.

Review Petition from The Association of Black Psychologists (ABPsi) for recognition as an entity with an accrediting function
Dr. Gallardo stated that at the previous Board meeting, the Board requested clarification from ABPsi regarding their request for recognition as an entity with an accrediting function. He stated that additional material was received from ABPsi and that they are requesting to be added for recognition under the current regulations as well as being added to the proposed regulations which will become effective January 1, 2013. Discussion ensued.

It was M(Vazquez)/S(McGhee)/C to approve ABPsi to perform an accrediting function under current regulations.

Vote: 8 – 0

Dr. Rodolfa expressed concern about adding any entities to the proposed regulations without having established criteria for doing so. He recommended that the Continuing Education Committee meet to establish criteria. Dr. Gallardo stated that he recommends adding ABPsi to the proposed regulations and then to establish criteria for future requests. Dr. Sherman asked if ABPsi can be added to the new regulations prior to establishing the criteria. Ms. Marks stated that the Board can pull back the current rulemaking file to make amendments, or to wait until the proposed regulation changes are in effect and make changes at that time. Either way, she recommended establishing the criteria first prior to recognizing any entities beyond the scope of the current proposal.

Dr. Erickson expressed concern regarding the process and recommended establishing criteria. Dr. Rodolfa agreed and stated he thinks that the Board needs criteria to move forward to approve any organizations beyond the scope of the current proposal. Dr. Gallardo stated that the Continuing Education Committee will hold a publicly noticed meeting to establish criteria and to discuss the possibility of removing specifically named entities from the proposed regulations.

It was M(Cadow)/S(Gallardo)/C to approve the remainder of the Continuing Education Committee's report and the recommendations contained therein.

Vote: 7 – 0

Agenda Item #12 – CLOSED SESSION

The Board adjourned into closed session pursuant to Government Code Section 11126(a)(1) and 11126(c)(3) to discuss and vote on appointment, employment, or evaluation of a public employee and disciplinary decisions.

Saturday, May 21, 2011

The open session meeting was called to order by the President, Richard Sherman, Ph.D., at 9:05 a.m. A quorum was present and due notice had been sent to all interested parties.

Members Present:
Richard Sherman, Ph.D., President
Emil Rodolfa, Ph.D., Vice-President
Lucille Acquaye-Baddoo
Barbara Cadow, Ph.D.
Michael Erickson, Ph.D.
James McGhee
Celinda Vazquez

Others Present:
Robert Kahane, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Norine Marks, Legal Counsel
Gina Bayless, Enforcement Coordinator
Linda Kassis, Administrative Services Coordinator
Denise Russell, Continuing Education/Probation Coordinator

Agenda Item #13 – Regulation Hearing

Title 16, California Code of Regulations Sections 1380.4 & 1397.2 – Delegation of Functions and Unprofessional Conduct

The Board conducted a regulation hearing regarding the delegation of functions and unprofessional conduct. The proposed regulations would delegate authority to the Executive Officer to order an applicant for licensure to submit to a physical or mental examination, or to approve settlement agreements for revocation, surrender, or interim suspension of a license or registration. The proposal would also amend the title of Article 7 of Division 13.1 from Restoration of Suspended or Revoked Licenses, to Standards Related to Denial, Discipline, and Reinstatement of Licenses and Registrations to provide clarification of the subject matter of the regulations contained within Article 7. This proposal would, in addition to conduct described in Business and Professions Code Section 2960, further define "unprofessional conduct" to prohibit the inclusion of specific provisions in agreements to settle civil disputes, and to also include failure of the licensee or registrant to: provide lawfully requested documents; cooperate with an investigation; report an indictment charging a felony, arrest, or conviction; report any disciplinary action taken by another licensing entity or authority; or comply with a court order issued in the enforcement of a subpoena mandating the release of records to the Board.

Mr. Stiger commented that it appears that the language allows delegation to the chairperson and vice-chairperson in the absence of the Executive Officer and Assistant Executive Officer. Ms. Marks stated that the reference to chairperson and vice-chairperson is old language which is being replaced by President and Vice-President. She stated that she would advise the Board to delete the reference to delegation to the President and Vice-President in the absence of the Executive Officer and Assistant Executive Officer as this would put Board members in the investigative realm rather than in the decision making realm.

Dr. Faltz provided oral testimony on behalf of CPA. He stated that CPA wants to assure that the bond of confidentiality is always present and that records aren't released without the patient's consent. Ms. Marks stated that these regulations address the consequence of not providing records that are lawfully requested and not the process of getting them.

The hearing was closed.

Agenda Item #14 – Consideration and Adoption of Proposed Regulatory Language to Amend Title 16, California Code of Regulations Sections 1380.4 & 1397.2 – Delegation of Functions and Unprofessional Conduct

Dr. Sherman thanked the audience for their attendance and asked for comments from Board members.

Dr. Rodolfa recommended eliminating the reference to the President and Vice-President and leaving the delegation authority with the Executive Officer, or in his or her absence, the Assistant Executive Officer in section 1380.4. He questioned what would happen if both the Executive Officer and Assistant Executive Officer were both absent. Ms. Marks cautioned the Board that because functions are being delegated, if you delegate too far down the line, the person who is negotiating the settlement is the one that approves it too, therefore, it is important to maintain some level of review above that. Dr. Rodolfa recommended removing the delegation to the Assistant Executive Officer in the absence of the Executive Officer and replace with "or his or her designee." Dr. Ebert commented that the delegation to the Executive Officer creates due process concerns. Dr. Sherman asked Ms. Marks if this creates a conflict of interest or other problems as expressed in a letter from the California Association of Marriage and Family Therapists (CAMFT) dated May 10, 2011 and by Dr. Ebert. Ms. Marks stated that this does not create a conflict of interest nor does it create any other problematic issues in the administrative process.

It was M(McGhee)/S(Acquaye-Baddoo)/C to modify the text of section 1380.4 to amend the delegation authority to the Executive Officer, or in his or her absence, his or her designee and to issue a 15 day notice of proposed modifications.

Vote: 7 – 0

It was M(Erickson)/S(Acquaye-Baddoo) to delegate the authority to the Executive Officer to make any technical, non-substantive changes.

Vote: 7 – 0

Dr. Erickson stated that Dr. Faltz' concern regarding the release of records is valid and asked if there is a way this can be addressed. Ms. Marks stated that the idea was to put the consequence on not providing the records, not the shortcomings of the process. Mr. Stiger stated that the intention is not to put licensees in a position of violating the law. He stated that it merely sets forth consequences for not providing the records, however, it would not remove the ability of the licensee to quash the subpoena.

Dr. Rodolfa addressed CAMFT's concerns regarding defining "good cause." He stated that the examples provided seem reasonable and would not be a concern to the Board. Ms. Marks stated that there is an allowance for good cause which the Board would probably want to leave as broad as possible giving the licensee a grounds to explain why the records are not being provided within the allowed timeframe. She stated that if a licensee explained that the release of the records is being litigated, she can't see where the Board would not find that good cause.

Dr. Erickson addressed CAMFT's concerns regarding unprofessional conduct. He asked if we amended the proposed regulations to specify the issuance of a citation and fine in cases where records are not received in a timely fashion would limit the Board's ability to do more. Ms.

Marks stated that the currently proposed language does not require the Board to take formal action against a licensee for failure to release records in a timely manner, rather it designates the conduct as unprofessional and allows the Board to act accordingly.

Dr. Rodolfa addressed CAMFT's concerns regarding failure to cooperate and participate. He stated that this language is subjective and undefined and asked if it would be clearer if the language were amended to willful noncompliance. Mr. Stiger stated that the language and currently proposed is designed to improve the way the Board conducts investigations and to help the Executive Officer obtain records sooner to facilitate the investigative process. If the licensee's behavior does result in unprofessional conduct, the issue will come before the Board, so Board members will be able to review the decision making of its staff. He stated that willful noncompliance has a higher legal definition than failure to cooperate and participate.

Dr. Ebert questioned the HIPAA compliance of the Board's release form. Dr. Sherman stated that this issue should be considered as an agenda item for a future Board meeting.

M(Acquaye-Baddoo)/S(Cadow)/C to adopt section 1397.2 as noticed.

Vote: 7 – 0

It was M(Erickson)/S(Acquaye-Baddoo) to delegate the authority to the Executive Officer to make any technical, non-substantive changes.

Vote: 7 – 0

Agenda Item # 15 – Outreach and Consumer Education Committee

The Outreach and Consumer Education Committee met to discuss and formulate recommendations to the Board. See agenda item 17(c) for the Board's discussion.

Agenda Item #16 – Contemporary & Emerging Issues Committee

The Contemporary and Emerging Issues Committee met to discuss and formulate recommendations to the Board. See agenda item 17(b) for the Board's discussion.

Agenda Item #17 – Reconvene Full Board for Committee Reports and Board Action

a) Outreach and Consumer Education Committee Report

Strategic Plan Progress Report

Mr. McGhee reported that the Board has been restricted in its outreach activities due to budgetary restraints. He stated that one idea that was brought up during the Outreach and Consumer Education Committee meeting was recording short podcasts regarding who the Board is and what it does for posting on the Board's website. He stated that it can also help defuse some of the rhetoric about the Board. Dr. Jo Linder-Crow stated that CPA would like to be a partner in this and would be happy to post them on their website as well.

Mr. McGhee stated that the committee discussed the possibility of doing a mental health public service announcement in an effort to reach the underserved communities. He also stated that he wants the Northern California Diversity Conference to remain in focus and not be put on the back burner.

Mr. McGhee stated that the committee discussed webcasting the next Board meeting. Mr. Stiger stated that DCA staff can webcast the meeting at no charge to the Board. Dr. Sherman stated that he wants this implemented for August. He asked Mr. Kahane to work with Mr. Stiger to work out the details.

California Psychological Association Annual Convention
Mr. McGhee stated that although outreach has been limited, Mr. Kahane, Mr. Thomas, and Ms. Johnson were able to attend the CPA convention in April in San Diego. He stated that the Board's presence at the convention was a plus, however, he recommended that for the next convention, in addition to the booth, he would like for the Board to be on the agenda so that CPA members have a chance to meet the Board and we can provide a presentation on the work the Board has been doing.

It was M(Acquaye-Baddoo)/S(Rodolfa)/C to approve the Outreach and Consumer Education Committee's report and the recommendations contained therein.

Vote: 7 – 0

b) Committee on Contemporary & Emerging Issues Report

Discussion regarding Telehealth
Dr. Erickson thanked staff, committee members and the public for their participation in the Committee on Contemporary and Emerging Issues meeting. He stated that this committee currently has many issues to look at and have decided to have a committee meeting in Sacramento at a date yet to be determined. He stated that the first part of the meeting would focus on telehealth and the second part would focus on continued competency. He referred to the material that was provided in the Board meeting packets and stated that although these resources are helpful, they do not contain all the answers. He recommended that the Board develop a policy on telehealth.

Discussion regarding Continued Competency
Dr. Erickson reported that there are a number of things going on in the area of continued competency. He stated that the committee discussed what's going on nationally. Dr. Rodolfa stated that ASPPB has a draft policy on how to implement continued competency for psychologists which can be accessed online. Dr. Erickson stated that this policy will be discussed at the committee meeting in Sacramento. He reported that CPA has graciously offered to cosponsor with the Board a consortium of leaders to come to the committee meeting to talk about continued competency for mental health providers. Dr. Cadow thanked Dr. Erickson for his extensive work in this area.

It was M(McGhee)/S(Rodolfa)/C to approve the Committee on Contemporary and Emerging Issues' report and the recommendations contained therein.

Vote: 7 – 0

Agenda Item #18 – President's Report

a) Monthly Meeting with Executive Officer

Dr. Sherman stated he continues to meet with Mr. Kahane on a monthly basis to discuss Board Operations and recent developments. Dr. Sherman noted these are very good meetings.

b) DCA Monthly Conference Call

Dr. Sherman stated he continues to participate in the Board Chair/President conference calls each month with the DCA Director, Mr. Brian Stiger or assignee. Many issues are discussed, regarding fiscal savings, budget targets, travel restrictions, hiring freeze, continued competency, and continuing to work within the current personnel and staffing concerns-to do more with less.

c) Other Informational Items

Dr. Sherman stated that he attended the CPA convention in San Diego in April as an official representative of the Board. He stated that his term along with Dr. Rodolfa's and Ms. Vazquez' will expire on June 30, 2011 and will be on their grace year unless replaced or reappointed. He also acknowledged Mr. McGhee's and Ms. Acquaye-Baddoo's contributions to the Board.

Dr. Sherman reported that the Board members met in closed session the previous day and unanimously approved the Executive Officer's performance evaluation and raise. He stated that this Board was the first to beta test and implement the new Executive Officer performance evaluation process.

Dr. Sherman stated that the Board's goal is to move forward on standards related to telepsychology and continued competency. He also thanked Mr. Kahane, Mr. Thomas, Ms. Marks and staff for working above and beyond during these times.

Agenda Item #19 – Executive Officer's Report

a) Staff Update

Mr. Kahane reported we have been without an Office Technician since January 4, 2011. The Board still has no Office Technician in Enforcement. The Board Executive Staff is looking into reorganization including CPEI positions. Mr. Thomas and Ms. Bayless are working on new hierarchy, which will improve the Board's efficiency and reporting structure. Given the staffing and other constraints, licensing times are remarkable. Enforcement times are improving. Ms. Kassis has given new meaning to the word multi-tasking. She has a very, very heavy workload, and the two positions in that area are presently vacant or on leave. Ms. Kassis is still getting the work done. Mr. Thomas has been working on numerous issues with deadlines for personnel. Mr. Kahane thanked staff for working under many challenging staffing issues. Mr. Kahane complimented staff on the ability to consistently adapt to the changing environment and continue the high standard of work.

b) Budget Update

Mr. Kahane noted we remain fiscally healthy and within our two to four month operating reserve. The Board continues to run in the black. Moneys being saved, during all the budget crisis/reductions will be placed in our Special Fund for the Board of Psychology.

c) Board Operations

Mr. Kahane stated that he addressed this issue under staff update above.

d) 2012 Board Calendar

Mr. Kahane presented the board with the draft calendar for 2012.

e) Sunset Review

Mr. Kahane discussed Sunset Review for the Board. He noted that the staff received the questions for review. The full report is due to the Legislature in November, 2011, however, appropriate staff will start addressing the questions in June. There is a potential for other questions, which will also need to be addressed. He stated that the report will include reasonable and past Board performance. The Board will have an entire response to the Committee in November. The Board will be ready and prepared to answer questions and give statistics. Mr. Kahane noted the hearing date is set for early 2012. The Board's sunset date is 2013.

f) Other Informational Items

Mr. Kahane reported that staff had a booth at CPA, while working within limited travel permission and Executive Orders. The staff was asked some very interesting and important questions.

Mr. Kahane advised the Board of the necessity of attending the Association of State and Provincial Psychology Board's (ASPPB) meeting in Chicago, 2011. This trip has been submitted for approval. As Mr. Kahane is the delegate and a former Board President is running for the Office of President of ASBBP, it is important for California to attend. Mr. Kahane noted we have not been in attendance for years and only partially before that. He stated the price of the trip was less than the dues to belong to ASPPB.

In order to clarify some statements from the previous Board Meeting, .Mr. Kahane explained that Board staff does not defer work within our mission at the expense of our staffing issues. With the hiring freeze, open positions and fiscal constraints we do what we can. Mr. Kahane stated the Board has done more outreach than has been done in the past until the last three years of fiscal emergencies. Mr. Kahane recommended that anyone who wishes to should stop by the Board offices in Sacramento in August and spend a few hours with Board staff. Dr. Sherman suggested perhaps a tour during lunch for those wishing to attend. Mr. Kahane stated he was proud to be the Executive Officer for the Board and especially Board Staff. Dr. Sherman thanked Mr. McGhee and Ms. Marks for all the long hours and all that they do.

Agenda Item #20 – Election of Officers

a) President

Mr. McGhee nominated Dr. Sherman for President.

b) Vice-President

Mr. McGhee nominated Dr. Rodolfa for Vice-President.

It was M(McGhee)/C to elect Dr. Sherman as President and Dr. Rodolfa as Vice-President.

Vote: 7 – 0

Agenda Item #21 – Acknowledgement and Recognition of Board Member(s) Whose Term of Service on the Board Expires June 1, 2011

Mr. McGhee was presented with a plaque in recognition of his service to the Board. Dr. Sherman acknowledged Mr. McGhee and his ability to cut through verbiage and tell it like he sees it. He stated that he appreciates his hard work, toughness and inspiration. Mr. Kahane thanked Mr. McGhee for the opportunity to be the Executive Officer for the Board and for his work on diversity and other very important areas in the practice of psychology.

Mr. McGhee stated that he enjoyed working on the Board and accomplishing tasks for consumers. He thanked the Board for the confidence to elect as him as President as non-psychologist. He stated that staff has been remarkable, especially given all the constraints, budgetary and otherwise. He stated during his service to the Board, he relied heavily on staff and stated that he could not have done the job the Board wanted him to do without them.

Mr. Kahane stated that we were prepared for Ms. Acquaye-Baddoo to be leaving the Board as well given that she is at the end of her grace period after her first term on the Board, however, the Board recently found out that she may be reappointed for a second term. He presented Ms. Acquaye-Baddoo with a plaque "just in case." Dr. Sherman stated that Ms. Acquaye-Baddoo has been an advocate for the profession of psychology. He said that she wanted to learn

everything and that, as a professor for profession, she talked with the same level of expertise at Board meetings as when she teaches her classes. He thanked her for her service.

Agenda Item #22 – Public Comment on Items Not on the Agenda

Dr. Ebert stated that the Board is hard-working and on top of issues. He stated that as a former Board member and President, he knows it takes about three years to learn how to do the job as a Board member. He encouraged the Board members to remember that they took an oath of public protection and to protect the Constitution of the United States and he wants them remember that in the discharge of their duties. He stated that there is an issue with HIPAA compliance in the Board's release form, and asked the Board to address the issue of mental health records like mental health professionals since the records contain very personal information. He reminded the Board that when a case is sent out for investigation, they are assigned to an investigator hired by the Medical Board of California (MBC) and that the law requires an Internal Affairs Unit that doesn't exist at the MBC.

Dr. Ebert reminded the Board that there is an issue with the denial of pre- and post-doctoral hours. He stated that he got the impression that the Board was going to be addressing the issue, and that he hopes that they will.

Dr. Ebert stated that it is troubling to be subjected to a false complaint and that he has never made a physical threat against anyone and that he doesn't intend to do so.

Mr. Stiger stated that it has been a pleasure to be here the last two days. He stated he knows why Ms. Kirchmeyer loves this Board, as it is a strong board with strong, engaged individuals who are on top of the issues and speaks their minds. He thanked Mr. McGhee for his service and thanked staff and the Executive Officer. He said it was really great seeing CPA working collaboratively with regulators to regulate licensees, and he appreciates their efforts in getting the Board's information out to their membership.

Mr. Kahane thanked Mr. Stiger and Ms. Kirchmeyer for their direction and clarity given the constraints that have been imposed. He also stated he was remiss in not recognizing Ms. Russell previously for her work in continuing education and probation.

Agenda Item #23 – Recommendations for Agenda Items for Future Board Meetings

Dr. Ebert recommended creating an agenda item to have past Board Presidents present to the current Board to provide their perspectives to incorporate corporate memory from the past. -

The open session meeting adjourned at 12:33 p.m.

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Richard Sherman, Ph.D. Date
President