STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF PSYCHOLOGY

MEMORANDUM

To: Enforcement Committee **Date: May 30, 2012**

From: Gina Bayless,
Enforcement Coordinator

Re: **Review revisions to the Guidelines for Argument in Proceedings Before the Board**

Attached for your review are the Guidelines for Argument in Proceedings Before the Board revised as recommended by the committee.

BOARD OF PSYCHOLOGY
GUIDELINES FOR ARGUMENT IN PROCEEDINGS BEFORE THE BOARD

The purpose of this policy is to provide guidance to all persons involved, including the parties, the Administrative Law Judge (ALJ) and the Board of Psychology (Board) members, in proceeding for petition for reinstatement, or for modification or termination of probation (penalty relief), on a non-adoption of a proposed decision, or on remand after issuance of a writ of administrative mandate.

1. The Board allows the parties to present written argument when it has non-adopted an ALJ proposed decision, or a decision has been remanded back to the Board; or written or oral argument when a petition for reinstatement or for penalty relief has been filed.

2. The Board will sit with an ALJ at proceedings for petitions for reinstatement or for penalty relief. The ALJ is expected to preside over the proceeding.

3. The ALJ, Board members and other parties to the proceeding should review and discuss the ground rules for a proceeding allowing for oral argument, which include, but are not necessarily limited to, the following:

   a) For petitions for reinstatement or for penalty relief proceedings, the testimony should focus on evidence of rehabilitation and why the respondent no longer presents a risk to re-offend, and not in rehashing previous revocation or probation decisions.

   b) The Board members may ask questions of the parties to clarify testimony, subject to rulings by the ALJ.

   c) The Deputy Attorney General (DAG) representing the people is responsible for submitting into evidence all original documents filed in a petition for reinstatement or for penalty relief.

   d) The sequence of time limitations on oral argument in proceedings before an ALJ are as follows:

      First, respondent/petitioner –30 minutes
      Second, Deputy Attorney General/Complainant–30 minutes
      Third, respondent/petitioner rebuttal–10 minutes
      Fourth, Deputy Attorney General/Complainant–10 minutes

The parties are requested to give the Enforcement Coordinator a time estimate to present their case if they expect to exceed these guidelines.

4. At the end of a proceeding allowing for oral argument, petitioner may be given the opportunity to personally address the Board. The DAG may also make a recommendation on the outcome of the petition.

5. During closed session, the ALJ may assist the Board with its deliberations. Legal counsel is present to advise the Board in its decision making.

6. The ALJ is expected to write all decisions of the Board regarding petitions for reinstatement and for penalty relief and forward the decision to the Board's Enforcement Coordinator:

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The Board's legal counsel is responsible for all other decisions. Time permitting, prior to being signed all decisions will be circulated to the participating Board members for review to ensure the decision and order reflects the decision of the Board. Otherwise, review is delegated to the President of the Board.