STATE OF CALIFORNIA
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DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR
BOARD OF PSYCHOLOGY
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BOARD MEETING MINUTES
Department of Consumer Affairs
2005 Evergreen Street
Sacramento, CA 95815-3894

Thursday, December 2, 2010

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
Barbara Cadow, Ph.D.
Michael Erickson, Ph.D.
Miguel Gallardo, Psy.D.

Others Present:
Robert Kahane, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
LaVonne Powell, Legal Counsel
Gina Bayless, Enforcement Coordinator
Linda Kassis, Administrative Services Coordinator
Lavinia Snyder, Licensing/Registration Program Coordinator
Denise Russell, Continuing Education/Probation Coordinator
Deborah Morales, Enforcement Analyst

9:00 A.M. – Open Session

Agenda Item #1 – Approval of August 20 & 21, 2010 Minutes

It was M(Rodolfa)/S(Erickson)/C to approve the August 20 - 21, 2010, open session minutes.

Vote: 5 – 0

Agenda Item # 2– President to Assign Credentials Committee

Dr. Sherman announced the assignment of Dr. Rodolfa as the Chair and Dr. Gallardo and Dr. Erickson as members of the Credentials Committee.

Agenda Item #3 – Petitioner Administrative Hearing

9:20 A.M. – LORINE, Kim-Ha, Ph.D., Petition for Termination of Probation

Administrative Law Judge Karen Brandt presided. Deputy Attorney General David Corrick was present and represented the people of the State of California. Kim-Ha Lorine, Ph.D. was present and represented herself.

The Board adjourned into closed session at the conclusion of the hearing pursuant to Government Code section 11126(c)(3) to discuss and vote on disciplinary decisions, including the above petition.

CLOSED SESSION

The Credentials Committee adjourned into closed session at the conclusion of the hearing pursuant to Government Code section 11126(c)(2) to review applicant credentials for licensure.

Agenda Item #4 – Director's Report by Department of Consumer Affairs Representative

Kimberly Kirchmeyer, Deputy Director, Board/Bureau Support, appeared before the Board on behalf of the Director. She provided an update on projects and matters before DCA.

Ms. Kirchmeyer reported that the Governor issued a directive on August 31, 2010 to cease the hiring of employees. She stated that although there may be limited exceptions to the hiring freeze, any exception has to be approved by the State and Consumer Services Agency as well as by the Governor's cabinet and that only the most critical requests are being approved.

Ms. Kirchmeyer stated that the Department continues to encourage boards to move forward with regulations to facilitate the boards' processes regarding the Consumer Protection Enforcement Initiative (CPEI) and acknowledged the Board of Psychology's efforts in this regard. She reported that the Department has completed gathering information regarding performance measurements and that the information will be posted on the Department's website sometime in December.

Ms. Kirchmeyer thanked the Board for moving forward with standards pursuant to SB 1441.

Ms. Kirchmeyer stated that the Department continues to encourage all boards to webcast their meetings.

Brandon Rutschmann, BREEZE project manager, provided an overview of the project to the Board. He explained that the BREEZE system is being designed to replace the antiquated Consumer Affairs System (CAS) and Applicant Tracking System (ATS). He reported that the Department has narrowed the project down between two vendors. Mr. Rutschmann thanked Mr. Kahane and his staff for their work on this project.

Agenda Item #5 - Enforcement

a) Strategic Plan Progress Report

The enforcement Strategic Plan goals and objectives are ongoing. Dr. Sherman reported that the Board is currently working on reviewing proposed changes to the disciplinary guidelines (Goal 5).

b) Enforcement Statistics

Dr. Sherman referred the Board to the enforcement statistics in the agenda packets. Dr. Rodolfa stated that this year the Board received 246 complaints to date yet only 10 accusations have been filed. Dr. Rodolfa stated that in comparison to the total number of complaints received overall only a small percentage result in formal discipline action. Dr. Rodolfa recommended that staff add licensing statistics to the report for review at the next meeting.

c) Consumer Protection Enforcement Initiative (CPEI) – Consideration of Regulatory Amendments for Disciplinary Matters and to Define Additional Bases of Unprofessional Conduct (provisions formerly contained in SB 1111)

The Board reviewed proposed changes to the title of Article 7 of Division 13.1. The title is amended to read Standards Related to Denial, Discipline, and Reinstatement of Licenses.

It was M(Rodolfa), S(Erickson)/C to notice the language for hearing.

Vote: 5-0

The Board reviewed proposed changes to section 1397.2. Dr. Sherman stated that the proposed changes further define specific instances of unprofessional conduct.

The Board voted to approve draft language for 1397.2.

It was M(Rodolfa), S(Erickson)/C to notice the language for hearing.

Vote: 5-0

d) Consideration of Regulatory Amendments to Disciplinary Guidelines

The Board reviewed the proposed changes to the disciplinary guidelines which incorporate the uniform standards related to substance abuse. The Board discussed the guidelines and recommended changes. Dr. Rodolfa recommended that staff make the recommended changes and bring this matter back to the next Board meeting for further review and discussion.

It was M(Rodolfa), S(Cadow)/C to bring back to next meeting.

Vote: 5-0

e) Review Mail Vote Policy

The Board discussed the current mail vote policy that requires one hold vote to hold a case for discussion at the next scheduled closed session. In an effort to streamline the vote process the Board recommended requiring two hold votes for a case to be held for discussion.

It was M(Rodolfa), S(Gallardo)/C to change the number of hold vote from 1 to 2.

Vote: 5-0

<u>Agenda Item #6 – Credentials</u>

a) Strategic Plan Progress Report

Ms. Snyder reported that licensing staff are continuing to reduce the application processing times pursuant to objective L-1. She also reported that she will be focused on updating and enhancing the licensing information available on the Board's website pursuant to objective L-3.

b) Satisfaction Survey Results

Ms. Snyder referred to the satisfaction survey results in the Board packets. Dr. Rodolfa remarked that the responses are terrific really very good which reflects the hard work that the Board staff does.

c) Review of Petition Pursuant to Government Code Section 11340.6 to Amend Title 16, California Code of Regulations Section 1387(b)(9) – Supervised Professional Experience

Dr. Sherman recused himself from the discussion on this issue. Ms. Powell stated that when the Board receives a petition such as this, it has 30 days to deny the petition or to set it for hearing. She stated that the Board should allow discussion and notice it for hearing at the February meeting.

Byron Gross, an attorney representing Ricky Tovim, Psy.D., presented a petition to the Board to amend Title 16, California Code of Regulations section 1387(b)(9). He stated that existing regulations create a roadblock by not allowing trainees to function under another mental health license while accruing hours of supervised professional experience toward licensure as a psychologist. He stated that it is not feasible for his client to work under a psychologist since insurance companies won't pay for services provided under someone else's license.

d) Discuss Possible Amendments to Title 16, California Code of Regulations Sections 1391.5 – Statement of Purpose; Supervision Required and 1391.6 – Supervisor's Responsibility

Ms. Snyder presented the Board with draft proposed language to modify Title 16, California Code of Regulations sections 1391.5 and 1391.6. She explained that existing regulations do not allow for psychological assistants in certain settings to receive supervision from an interim supervisor in the event that the supervisor to whom the psychological assistant is registered is out of the office due to illness or vacation. She stated that staff worked with Ms. Marks to draft this language which would allow interim supervision by a qualified supervisor not to exceed 30 days in the event that the supervisor is unavailable.

It was M(Rodolfa)/S(Erickson)/C to approve the draft proposed language and to move forward with a regulation hearing.

Vote: 5 – 0

e) Discuss Retirement Status for Proposed Legislation

Dr. Sherman deferred this issue to the Credentials Committee.

f) Review and Discuss Provisions of AB 2435 (Lowenthal) Elder and Dependent Adult Abuse – Recommended Training

Dr. Rodolfa reported that this bill encourages the Board to include training in elder and dependent adult abuse, however, it does not require it. He deferred this issue to Ms. Marks to review and bring back to the Credentials Committee.

g) Discuss Association of State & Provincial Psychology Boards Model Licensing Act

Dr. Rodolfa referred to the Association of State and Provincial Psychology Boards Model Licensing Act in the Board packets. He pointed out that the model act defines an institution of higher education in the United States as a university, professional school, or other institution of higher learning that is regionally accredited by bodies approved by the Council on Postsecondary Accreditation and the United States Office of Education. He stated that he is concerned that we accept degrees from approved schools which is not in compliance with the model act.

Dr. Sherman suggested that this issue be deferred to the Credentials Committee.

h) Status Report on Applicant Credentials Reviewed by the Credentials Committee Since the August 20 - 21, 2010 Board Meeting

Dr. Rodolfa reported that the Credentials Committee reviewed a request for an extension of the 30 consecutive month limit to accrue supervised professional experience.

It was M(Credentials Committee)/C to deny the request for an extension of the 30 consecutive month limit to accrue supervised professional experience due to lack of good cause.

Vote: 5 – 0

Agenda Item #7 – Examination

a) Strategic Plan Progress Report

Dr. Rodolfa stated that the Strategic Plan objectives are ongoing. He stated that he would like to add a review of the California Psychology Supplemental Examination to the February agenda due to the significant overlap with the Examination for Professional Practice in Psychology.

b) Examination Statistics

Dr. Rodolfa reported that the statistics on the Examination for Professional Practice in Psychology shows nothing remarkable compared to the national statistics. He stated that the pass rates on the California Psychology Supplemental Examination (CPSE) are very high with over a 92 percent pass rate for first-time test takers in October 2010. He also stated that he is surprised by the lower pass rate on the California Psychology Laws and Ethics Examination (CPLEE) since the CPLEE is a subset of the CPSE.

c) Discuss Update to the Request for Reasonable Accommodation Form

Dr. Rodolfa stated that the Department is conducting forms revisions workgroups, and that the reasonable accommodation form is one of the forms that they will be reviewing. He stated that we will wait to see what the Department's recommended changes to this form are.

Agenda Item # 8– Legislation

a) Strategic Plan Progress Report

Ms. Kassis stated that the Strategic Plan objectives are ongoing.

b) AB 583 (Hayashi) – Health Care Practitioners: Disclosure of Education

Ms. Kassis reported that this bill was chaptered on September 29, 2010. A synopsis of the bill was provided in the Board packets. Dr. Rodolfa questioned the exemption of certain health care practitioners under this bill. Dr. Faltz explained that this is a California Medical Association bill designed to address CMA's concern about members of the public getting confused about who they believe is a real doctor.

c) AB 2500 (Hagman) – Professions and Vocations: Licenses: Military Service

Ms. Kassis reported that this bill was chaptered on September 27, 2010. A synopsis of the bill was provided in the Board packets. It was also noted that the Board currently has existing law that addresses this issue.

d) AB 2699 (Bass) – Healing Arts: Licensure Exemption

Ms. Kassis reported that this bill was chaptered on September 24, 2010. A synopsis of the bill was provided in the Board packets. Mr. Kahane reported that the Department is currently developing model regulation language for implementation of this bill.

e) Legislative Update on Other Bills of Interest to the Board

Ms. Kassis referred to the legislative update provided in the Board packets.

f) Any Other Bills of Interest

None.

Agenda Item #9 – Continuing Education

a) Strategic Plan Progress Report

Ms. Russell stated that the Strategic Plan progress report has been modified to provide more detail and that the continuing education objectives are ongoing.

b) Continuing Education Statistics

Ms. Russell referred to the continuing education statistics in the Board packets. She stated that the current non-compliance rate is 14% for the most recent reporting period. She noted that this is the first report for this group, and the non-compliance rate typically goes down quickly on subsequent reports, as documented on the report, once licensees are notified of the deficiency and have an opportunity to fix it. The Board requested that a discussion on how to reduce non-compliance rates be included on the agenda for the February meeting.

c) Review Request for Exception Pursuant to Title 16, California Code of Regulations Section 1397.62(b)

The Board reviewed one request for exception pursuant to Title 16, California Code of Regulations Section 1397.62(b).

It was M(Cadow)/S(Gallardo)/C to approve the request for exception.

Friday, December 3, 2010

The open session meeting was called to order by the President, Richard Sherman, Ph.D., at 9:00 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

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

Agenda Item #10 – Regulation Hearing

Title 16, California Code of Regulations Sections 1397.60 – 1397.7 – Continuing Education Requirements

The Board conducted a regulation hearing regarding the continuing education requirements. The proposed regulations will redefine the Board's continuing education provider approval system to make it consistent with other states and will also restructure the process for compliance monitoring and reporting.

Jo Linder-Crow, Ph.D., Executive Director of the California Psychological Association provided oral testimony. She pointed out to the Board that the proposed language may create some unintended consequences. She stated that as the proposed language is currently written, licensees who are accruing hours of continuing education prior to the effective date of the regulation change would not be able to count those hours towards their continuing education requirements. She also stated that continuing education providers who are currently approved by the MCEP Accrediting Agency (MCEPAA) need sufficient time to make the transition from being an MCEPAA provider to being a provider approved by the American Psychological Association (APA). She stated that APA accepts applications from providers only twice each year and that the providers need to be given enough time to go through the APA application process once the regulations are approved. The proposed changes would implement the new regulations effective January 1, 2012 which may not give providers enough time to obtain APA approval.

Dr. Linder-Crow recommended adding language to state that continuing education hours that are currently being accrued can be counted under the new regulations. She also recommended amending the effective date of the regulations to January 1, 2013.

The Board also reviewed a written comment submitted by Dr. Linder-Crow expressing CPA's concerns regarding the issues brought forth in her oral testimony.

Mark W. Baker, Ph.D., submitted two written comments in opposition of the proposed changes. He urged the Board to allow the MCEPAA to continue to certify providers in California. He stated that if the MCEPAA stops approving providers, his center would no longer be able to provide continuing education for California psychologists. The Board noted that Dr. Baker can continue to provide continuing education to California psychologists under the new regulations by obtaining APA approval. It was also noted that the proposed changes will bring California in line with the national standards for continuing education.

Marilyn S. Jacobs, Ph.D., submitted a written comment questioning why the American Board of Professional Psychology (ABPP) is being removed as an approved sponsor of continuing education. The Board pointed out that ABPP is also an approved APA provider, therefore, the courses offered through ABPP will still be accepted under the proposed changes.

Lourdes Price submitted a written comment requesting clarification regarding the proposed regulations and how it affects her standing as an MCEPAA approved provider. Ms. Kassis replied to Ms. Price's email and answered her questions. She also provided instruction to provide further comments for consideration by the Board.

Barbara W. Fass, Ph.D. submitted a written comment in support of the proposed regulations.

Cindy Martinez, Ph.D. submitted a written comment expressing her concerns about the cost of becoming an APA provider. The Board stated that they have taken the fees charged by APA into consideration and have determined that the costs are not prohibitive to continuing education providers in California compared to the fees that were being charged to become an MCEPAA provider. Dr. Martinez also submitted a written comment expressing her concerns that the proposed regulations will create a monopoly for APA and CPA, allowing them to charge whatever they want for continuing education courses. The Board stated that the proposed changes does not constitute a monopoly on the part of APA and CPA, and that these organizations have systems in place for approving providers and the fees that are charged for that service.

Prescribing Psychologists' Register, Inc. (PPR) submitted a written comment requesting that additional local and national continuing education providers, including PPR, be reconsidered for inclusion in the proposed regulations. PPR also requested that all current MCEPAA providers be included as accepted providers of continuing education in the proposed regulations. The Board noted PPR's request does not coincide with the range of the current proposal. The current proposal allows recognized national and state associations of psychologists to serve as approvers of continuing education providers rather than associations of psychologists with a single focus to serve as continuing education providers. The proposed regulations allow for such entities to apply to one of the identified approvers of continuing education providers rather than being singly identified by the board as a provider under the regulations.

Dr. Sherman stated that this proposal is a positive step in keeping up with the national standards. He noted that there were very few comments considering the number of licensees affected. He also commented that he is comfortable relying on CPA's expertise in recommending a January 1, 2013 implementation date.

Agenda Item #11 – Consideration and Adoption of Proposed Regulatory Language

Consideration and Adoption of Proposed Regulatory Language to Amend Title 16, California Code of Regulations Sections 1397.60 – 1397.7 – Continuing Education Requirements

It was M(McGhee)/S(Acquaye-Baddoo)/C to amend the language to extend the implementation date of the proposal to January 1, 2013 and to ensure that continuing education accrued prior to the implementation date under the current continuing education requirements will be accepted, and to issue a 15-day notice of modified text.

Vote: 6 – 0

It was M(Cadow)/S(McGhee)/C to delegate the authority to Executive Officer to adopt the regulations in the absence of any negative comments to the modified text.

Vote: 6 – 0

Agenda Item #12 – President's Report – Dr. Sherman

a) Monthly Meeting with Executive Officer

Dr. Sherman reported that he has been continuing to meet with the Executive Officer on monthly basis, either in Sacramento or Southern California, to discuss any issues that may arise. He stated that they are also in frequent contact by phone and email.

b) Additional Members for Board of Psychology

Dr. Sherman stated that he is pleased to have three additional members appointed to the Board, Michael Erickson, Ph.D., Miguel Gallardo, Psy.D. and Barbara Cadow, Ph.D. He noted that there is still one public member vacancy on the Board. He also stated that due to the addition of the new Board members and scheduling conflicts, the Board meeting had to be changed from November to December. However, he stated that he is excited to be able to go back to the committee structure starting with the next Board meeting now that we have additional Board members.

c) Committee Assignments

Dr. Sherman announced the following committee assignments:

Credentials Committee:
Dr. Rodolfa, Chair
Dr. Ericson
Dr. Gallardo

Examination Committee:
Dr. Rodolfa, Chair
Dr. Cadow

Enforcement Committee:
Ms. Acquaye-Baddoo, Chair
Mr. McGhee
Dr. Cadow

Legislation Committee:
Ms. Vazquez, Chair
Ms. Acquaye-Baddoo
Dr. Erickson

Continuing Education Committee:

Dr. Gallardo, Chair
Dr. Cadow
Ms. Vazquez

Outreach and Consumer Education Committee:
Mr. McGhee, Chair
Dr. Gallardo
Ms. Acquaye-Baddoo

Contemporary and Emerging Issues Committee:
Dr. Erickson, Chair
Dr. Rodolfa

d) Other Informational Items

Dr. Sherman reported that he continues to participate in the Department's teleconferences. During these teleconferences, the Director, Board Presidents, Bureau Chiefs, etc. discuss a variety of issues such as budget crisis issues, licensing reforms, employment trends and health care reform. He stated that it is his goal during these discussions to make certain that the psychological health needs of California consumers are met.

Dr. Sherman thanked Mr. Kahane and his staff for doing such a great job in these less than optimal conditions.

Dr. Sherman took a few moments to acknowledge the recent passing of Doris Penman, Ph.D.

Agenda Item #13– Executive Officer's Report – Mr. Kahane

a) Staff Update

Mr. Kahane reported that the hiring freeze continues. He noted that the Board has an Enforcement Technician position open due to resignation, which we are not allowed to fill under Governor Schwarzenegger's recent order. He stated that this position is 25 percent of our enforcement team. The positions acquired for the Consumer Protection Enforcement Initiative are also unable to be filled at this time, for the same reason. In addition, the Associate Governmental Program Analyst position for that program was changed to limited term only.

b) Budget Update

Mr. Kahane noted certain budget issues which have been dealt with by the Board staff, also reminding the Board that another 2.4 million dollars was taken from our special fund reserve this year to augment the state's general fund. The Board continues with a four-month reserve for operating expenses, reduced from six months per direction from the budget analysts at the Department of Consumer Affairs. Mr. Kahane explained in order to accommodate the latest budget exercise and not lose any employees, we had to downgrade the positions in the Consumer Protection Enforcement Initiative (CPEI) program yet to be implemented.

c) Contracts for Subject Matter Experts and Consultants

Mr. Kahane informed the Board of the new individual contract requirements regarding enforcement experts and subject matter experts.

d) Board Operations

Mr. Kahane discussed that licensing times are being reduced now that everyone has returned. The enforcement times are constantly improving, due to internal procedural and process changes and meeting DCA standards. He stated that staff cubicles were reconfigured in order to accommodate the new authorized CPEI positions. Due to the hiring freeze and prior to learning these positions were limited term, another configuration would have been done.

e) 2011 Revised Calendar

Mr. Kahane presented the 2011 calendar for Board review.

f) Outreach Update

Mr. Kahane stated consumer and professional outreach has been extremely limited due to department restrictions for most events including in-state travel. The Board will submit a request for the Executive Officer to attend the ASPPB conference in April 2011. Dr. Rodolfa stated that he hopes that Board members will be included in the request to attend the ASPPB conference. Mr. Kahane, Mr. Thomas and Dr. Sherman will be speaking at the Iranian Psychological Association Meeting in January.

g) Other Informational Items

Mr. Kahane noted other-informational items of interest to the Board. Legal and Admin are checking on the media rules for the Board's upcoming Twitter site. The BOP update will be a living document on-line. We will be sending postcards requesting e-mail addresses and telling them to access the on-line BOP update. It is still awaiting review and formatting. The Executive Officer and the Assistant Executive Officer attended a session regarding the two proposals for the Breeze project. This will automate and track many of our manual processes for Licensing and Enforcement.

Agenda Item #14 – Regulations Update, Review and Action as Necessary

a) Proposed Amendments to Title 16, California Code of Regulations Section 1391.1 – Psychological Assistant Limitation of Registration Period

Ms. Kassis reported that the regulation changes became effective on October 23, 2010 and limits the registration period for a psychological assistant to a maximum term of six years (72 months). She stated that a notice of this change has been posted on the Board's website and will be inserted into psychological assistant renewals as well.

b) Proposed 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 the rulemaking file has been completed and is currently being reviewed. She stated that the deadline for the submission of this file to the Office of Administrative Law is December 24, 2010.

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

The Board reviewed draft revisions to the above articles.

It was M(McGhee)/S(Acquaye-Baddoo)/C to defer sections 1387(b)(10) and 1387.3(a) back to staff to work with Dr. Rodolfa to revise the language as needed.

Vote: 6 – 0

It was M(Rodolfa)/S(Erickson)/C to incorporate the language for sections 1391.5 & 1391.6 adopted by the Board during yesterdays Credentials discussions (agenda item 6d) into Article 5.1, Psychological Assistants.

Vote: 6 - 0

It was M(Rodolfa)/S(Erickson)/C to defer section 1390.3 back to staff to work with Dr. Rodolfa to revise the language to allow for interim supervisors for registered psychologists, consistent with the language that was drafted for registered psychological assistants.

Vote: 6 – 0

Agenda Item #15 - Public Comment on Items Not on the Agenda

Candace Young, Ph.D. stated that this will be her last meeting as the official representative of the Los Angeles County Psychological Association. She stated that she hopes that she has been successful in facilitating communication between the board and Los Angeles psychologists. Dr. Sherman thanked her for her contributions to the Board meetings.

Agenda Item #16 – Recommendations for Agenda Items for Future Board Meetings

None.

The board adjourned into closed session pursuant to Government Code section 11126(c)(3) to discuss and vote on disciplinary matters at 11:27 a.m.

Richard Sherman PhD

Richard Sherman, Ph.D.
President

2-18-2011
Date