



**BOARD OF PSYCHOLOGY**

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**BOARD MEETING MINUTES**  
**Sofitel San Francisco Bay**  
**223 Twin Dolphin Drive, Grand Salon**  
**Redwood City, CA 94065**

**Friday, February 26, 2010**

The open session meeting was called to order by the President, James McGhee, at 9:02 a.m. A quorum was present and due notice had been sent to all interested parties.

**Members Present:**

James McGhee, President  
Richard Sherman, Ph.D., Vice-President  
Lucille Acquaye-Baddoo  
Emil Rodolfa, Ph.D.  
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  
Lavinia Snyder, Licensing/Registration Program Coordinator  
Denise Russell, Continuing Education/Probation Coordinator  
Valerie Riazzi, Licensing/Registration Analyst

**Agenda Item #1 – Closed Session**

The Board adjourned into closed session pursuant to Government Code section 11126(c)(3) to discuss and vote on disciplinary actions.

**10:30 A.M. – Open Session**

**Agenda Item #2 – Approval of November 13-14, 2009 Minutes**

It was M(Sherman)/S(Rodolfa)/C to approve the November 13-14, 2009, open session minutes with minor changes.

Vote: 5-0

**Agenda Item #3 – Director’s Report by Department of Consumer Affairs Representative**

Gil DeLuna, Senior Advisor for Board/Bureau Relations with the Department of Consumer Affairs (DCA), addressed the Board on behalf of Director Brian Stiger. Mr. DeLuna reported that the Director wanted him to pass the message along that DCA’s Chief Deputy Director, Bill Young testified before the Assembly Accountability and Administrative Review Committee a couple of weeks ago which required Boards to provide expenditure information in a very short period of time.

Mr. DeLuna stated that the director wanted him to express thanks to Mr. Kahane and to the Board's administrative staff for expediting this information for the legislature in a very timely manner. Mr. DeLuna stated that the Committee is now seeking additional data from the previous five fiscal years, and that the Department understands other important work suffers when resources have to be re-directed to these drills. Mr. DeLuna reported that with the information obtained, the Department was able to determine that DCA had a cost savings of approximately 39% from the previous fiscal year on some expenditures.

Mr. DeLuna reported that the length of time it takes to investigate and prosecute a licensee in violation of the law has recently raised some concerns. Mr. DeLuna stated that newspaper articles regarding the Board of Registered Nursing (BRN) highlighted systemic problems in the enforcement process of the DCA boards and bureaus, specifically within the healing arts boards. Mr. DeLuna reported that the Department developed the Consumer Protection Enforcement Initiative (CPEI), which is on the Board's agenda for discussion later today, in an effort to improve enforcement processes and reduce the time to prosecute licenses from 3 years to 12-18 months.

Mr. DeLuna provided a brief overview of the CPEI, and stated that the initiative focuses on three areas: administrative improvements; staffing and information technology (IT) resources; and legislation changes. Mr. DeLuna reported that Senator Negrete McLeod has authored SB 1111. He reported that the administrative improvements are listed in the document provided in the Board packets.

Mr. DeLuna reported on the identification of best practices among boards and bureaus obtained from surveys of other agencies and states to compile information on how to improve enforcement processes. Mr. DeLuna reported that DCA also formed an Enforcement Academy to share ideas and to develop and provide training for enforcement personnel. He explained that a lot of Boards and Bureaus do things differently and that this will help identify best practices that all boards and bureaus can use to help the effectiveness of our enforcement processes. Mr. DeLuna reported that DCA is establishing performance agreements with other state agencies (Office of the Attorney and the Office of Administrative Hearings) to negotiate Memorandums of Understanding (MOUs) in an effort to expedite our cases.

Mr. DeLuna reported that the Department is moving forward with a new licensing and enforcement database to replace an antiquated thirty year-old system. Mr. DeLuna stated that this new system will provide IT support needed to improve the process and will provide necessary tools to assist in reducing timelines. Mr. DeLuna reported that DCA has also moved forward with a proposal for additional staff for healing arts boards and will be doing the same for non-healing arts boards next year. Mr. DeLuna stated that the Department is looking into the concept of using non-sworn investigators as opposed to non-professional sworn investigators, and making some adjustments to staffing as appropriate. Mr. DeLuna stated that DCA has submitted a Budget Change Proposal (BCP) regarding staffing adjustments to the Governor's office.

Mr. DeLuna reported that the Department is requesting a letter of support for the CPEI from healing arts boards. Mr. DeLuna stated that the Department encourages boards to continue to monitor enforcement processing timelines, and to review the statistics and timelines.

Mr. DeLuna stated that, as required by SB 1441, the Substance Abuse Coordination Committee adopted 16 uniform standards to protect the public from substance abusing healthcare practitioners. Mr. DeLuna reported that the DCA Legal Office drafted language for those standards that they have determined will require legislation, and this language should be incorporated into a bill soon. On behalf of the Director, Mr. DeLuna urged the Board to support any legislation required to implement these guidelines and, if regulations are necessary, requested that proposed language be submitted

to the Board for approval at its next meeting to begin the rulemaking process, and to place an item on subsequent Board meeting agendas to allow the Board to review the progress of such implementation and to authorize the Board's Executive Officer to implement all legal standards that do not require additional legal authority.

Mr. DeLuna reported that SB 139, which became effective January 1, 2008, charged the Office of Statewide Health Planning and Development (OSHPD) to establish a healthcare workforce clearing house, and the information in the clearing house was to include data regarding the current supply of healthcare workers, the geographical distribution, the diversity of the workforce, and other information. Mr. DeLuna stated that the data will be used to identify education and employment trends within the healthcare profession and to determine the supply of healthcare workers. The Department is very supportive in working with the boards and OSHPD in obtaining the necessary information and is asking for the Board's assistance and cooperation in this matter.

Mr. DeLuna reported that the Director would like to emphasize utilizing public facilities to conduct board meetings. Mr. DeLuna stated that the Director also encourages webcasting of Board meetings and making Board meeting materials available online. Mr. DeLuna asked if there were any questions.

Ms. Vazquez asked if SB 1111 is similar to SB 294 and whether the Department is co-sponsoring SB 1111. Mr. DeLuna reported that the Department is not co-sponsoring SB 1111. He stated that he was not familiar with SB 294, but after reviewing the language included in the Board packet, he believes SB 1111 has similar language that should serve the purpose of SB 294, if adopted.

Ms. Vazquez asked if the uniform standards in SB 1441 were in a technical bill or if this is a separate process that doesn't involve the legislative process. Mr. DeLuna stated there are five or six items that will require legislation, and the others may require regulations or policy.

Dr. Charles Faltz, Director of Professional Affairs, California Psychological Association (CPA), thanked Mr. DeLuna for his presentation and for describing the DCA initiatives. Dr. Faltz stated that the activities of this Board, required by statute, are supported not by the General Fund but from licensing fees for psychologists. Dr. Faltz stated that they appreciate the concern about this Board saving money, but on the context of what Mr. DeLuna stated, it's not to lower licensing fees. Dr. Faltz stated that the statute expressly calls for all licensing fees to be used for the purpose of licensing, not to support the General Fund. Dr. Faltz stated that monies required for prudent management that are put into reserve are not being held in reserve; rather they are being borrowed by the State for use in the General Fund. Dr. Faltz stated that the first time this type of loan occurred, the Board had already approved regulations to dramatically reduce licensing fees due to enough monies held in reserve, and that this decision was then reversed when the State borrowed monies from the Board's reserves. Dr. Faltz stated that this means psychologists for many years now have paid more, not because of licensing costs, because of money being loaned to the General Fund. Dr. Faltz asked how the statutory concept is being honored that psychologist license fees are to be used for licensing, and how is shorting the Board money going to contribute to the resolution of the States General Fund fiscal situation? Mr. DeLuna thanked Dr. Faltz for his comments and stated that he would take his comments back to the Director for a response.

Dr. Sherman stated that the Board is normally comprised of nine members, and is now operating at a quorum-only level. Dr. Sherman stated that because of hardships, as the Board experienced last fall when one of the Board members was unable to meet, he believes it would be more cost effective to have a quorum plus at least one additional member. Dr. Sherman stated this could actually save the Board money by not causing the Board to reschedule a Board meeting at the last minute due to

a lack of quorum. Mr. DeLuna stated that this request seems reasonable and that he will see what he can do to help the Board out in this respect.

Dr. Doris Penman, Past President of CPA, stated she agrees with Dr. Faltz's comment regarding licensing fees being used solely to support licensing activities and not the General Fund. She also addressed the issue of Board membership raised by Dr. Sherman. She stated that she believes that having a quorum-only membership also means that psychologists are not appropriately represented on the Board. Dr. Penman stated the Board is down to two licensed psychologists, which is not optimum for an effective Board where psychologists are being represented. Dr. Penman stated that this along with the 15% reduction of staff due to furloughs is causing delays in business operations simply because the Board is not adequately staffed because of these cuts. Dr. Penman stated that she would like to see a nine member board, and would like to see licensing fees being used for the regulation of the profession and not for supporting the general fund.

Mr. McGhee thanked Mr. DeLuna for coming and requested that Ms. Marks explain the process the Board is now using for Committee Reports before the moving on to other agenda items.

Ms. Marks stated that until a couple of meetings ago, the Board operated on the first day of the Board meeting as committees. Each committee would meet in a small group and then report back its recommendations to the full Board on the second day. Ms. Marks explained that because the Board is now at quorum-only, and there are only two licensed members and one fairly new member, the Board agreed to restructure the meeting format in an effort to best utilize everyone's talents and to allow all members the benefit of the experience of licensed members and also exposure to the experience of the long time public members. Ms. Marks stated that rather than doing break out groups by the committees, all agenda items will be discussed and acted upon by the full Board, rather than the Board listening to a committee report on the following day, and acting by adopting the recommendations of each committee.

Ms. Marks stated that she believes there is some concern about a possible decrease in the amount of interaction between the Board members and the public. On behalf of the Board members, Ms. Marks stated she would encourage everyone to engage in the same type of dialogue that the Board would have in the committee structure. Ms. Marks stated that in addition to using everyone's talents, the hope is that the meetings will be more efficient while we operate at minimum capacity. Ms. Marks reminded everyone that although agenda items are grouped together by topic, it is not a committee report and that each item will be handled separately and public comment is welcome before the Board takes action on a specific agenda item.

#### **Agenda Item #4 – Continuing Education**

##### **a) Strategic Plan Progress Report**

Dr. Sherman reported that the strategic plan is ongoing.

##### **b) Continuing Education Statistics**

Dr. Sherman requested further clarification concerning the continuing education noncompliance report. Ms. Russell explained the structure of the report and how to interpret the statistics provided.

**c) Review and Approval of Draft Regulation Language – Continuing Education Provider System (Title 16, California Code of Regulations Sections 1397.60-1397.71)**

Dr. Sherman reported that a working group consisting of himself, Mr. Thomas, Ms. Marks, Ms. Russell, Ms. Kassis, Ms. Snyder and Dr. Jo Linder-Crow met on January 20, 2010, regarding the draft continuing education language. Dr. Rodolfa was unable to attend due to a death in his family. The meeting was publically noticed. The Board continued to discuss the entities that will be approved as continuing education providers.

Dr. Sherman reiterated the previous meetings consensus concerning the phasing out of MCEPAA and what entities would be responsible for provider approval. After extensive review, considering oversight and consumer protection, the Board feels the best option would be to approve APA, CME, and CPA.

Public comment:

Steve Arthur, Ryokan College, would like to Board to consider approving more business classes, as they relate to psychology. Mr. Arthur feels there is a business management gap in training.

Dr. Sherman acknowledges that business education is very important but feels the Board would like to keep the coursework more in line with consumer protection verses business management.

Norine Marks, Staff Counsel, would like to reiterate that topics and subject matter for continuing education coursework must be pertinent to the practice of psychology and must have a relevance or direct application to a consumer of psychological services.

Michael Berger representing Prescribing Psychologist Register (PPR), would like the Board to make available prior accepted applications for continuing education providers. Mr. Berger feels the PPR application is clear and they are requesting recognition as an entity to perform accrediting function. Mr. Berger would like a formal letter, requesting clarification, drafted to PPR and copied to himself.

Dr. Jo Linder-Crow, Executive Director of the California Psychological Association, commented that the current regulations state that someone can receive continuing education credit for taking and/or teaching a regionally accredited post doctorate level course. Dr. Linder-Crow commented that the Board might want to maintain the option for regionally accredited schools for attendees and instructors.

The Board voted to approve draft language 1397.61 (d)(1) and set for hearing. Dr. Rodolfa stated that he wanted to research language in proposed sub section (D) regarding approved schools and continue this discussion after lunch recess.  
M(Rodolfa), S(McGhee)

Dr. Rodolfa reported that, at this time; the best option would be to delete sub section (D) for consistency with other states, and motion to set for hearing.

The Board voted to approve draft language for hearing notice and to delete subsection 1397.61 (d)(1)(D) and make any other necessary changes to make the regulations consistent with this deletion and make effective January 1, 2012 thus affecting licensees who license expires after 12/31/2011.

It was M(Rodolfa), S(Sherman)/C to notice the language for hearing.  
Vote: 5-0

### **Agenda Item #5 – Legislation**

#### **a) Strategic Plan Progress Report**

Ms. Vazquez thanked staff for completing detailed information included in the report. Ms. Vazquez updated the Board on the progress of the Board's work on regulations and legislation.

#### **b) SB 294 (Negrete McLeod) – Healing Arts**

Ms. Vazquez reported that SB 294 proposed a couple of changes to expand functions of nurse practitioner's and other healing arts boards, and would have appointed an enforcement monitor. Ms. Vazquez stated that it appears the bills author has introduced a similar bill, SB 1111, last week that our guest speaker Mr. DeLuna from DCA highlighted in his report this morning. Ms. Vazquez indicated that the Board still needs to review the language and determine how it will impact practice. Ms. Vazquez reported that since the intent of this legislation was transferred to a new bill, the Board will now be reviewing SB 1111.

#### **c) Legislative Update on Other Bills**

Ms. Vazquez reported that other bills of interest included AB 48 regarding the Bureau for Private Postsecondary Education (BPPE), and SB 599 regarding Workforce Development. Ms. Vazquez reported that both bills have been chaptered, and became law effective January 1, 2010.

Ms. Vazquez stated that the legislature just had their bill introduction on February 19<sup>th</sup>, a week ago from today, and there are approximately 1400 bills that have recently been introduced. Ms. Vazquez reported that the Board will look at bills of interest to bring back to the next meeting for review.

Public Comment:

Dr. Doris Penman, former President of CPA asked in regards to the BPPVE bill whether the Board would be required to have a say in graduate programs, and whether AB 48 will overwrite AB 400. Dr. Penman indicated that the minutes from the prior meeting indicate that clarification would be provided.

Dr. Penman also asked whether the Board has any information or an update on Sunset Review for the Board.

Ms. Marks stated that Dr. Penman's question regarding AB 48 was addressed at the last meeting and that some provisions of AB 400 were part of the former Reform Act, which was sunsetted on June 30, 2007. Ms. Marks stated that the provisions that were included in the Education Code that were part of the Reform Act were sunsetted; and there were also provisions within the psychology licensing law that are still in existence. Ms. Marks reported that any of the provisions from AB 400, including disclosure requirements for prospective students of approved schools, which were included in the Reform Act, would have sunsetted.

Dr. Penman stated that the disclosure requirements were part of AB 400. Ms. Marks explained that AB 400 was the legislation that added these provisions into the Reform Act and that is what has sunsetted.

Dr. Charles Faltz, Director of Professional Affairs, California Psychological Association (CPA) stated that as he understands, AB 400 amended part of the Education Code and also amended part of the Business and Professions Code and that most of the provisions of interest and concern are actually still intact in the Business and Professions Code.

Ms. Marks stated that the provisions from AB 400 that amended the B&P Code to define which degrees from approved schools would meet the qualifications for licensure are still part of the psychology licensing law, but that the provisions that required approved schools to provide prospective students certain disclosures were part of the Reform Act and those were sunsetted under the Education Code that contained BPPVE requirements.

Mr. Kahane reported that in response to Dr. Penman's question regarding Sunset Review, Mark Ridley-Thomas prior to leaving the legislature was working to come up with a better process rather than doing the same thing every year or year and a half. Mr. Kahane stated that since Mr. Ridley-Thomas has left the legislature, the Board has not received a request to report or heard anything else and that the Board is still waiting for further information regarding this review.

Ms. Vazquez asked whether there have been conversations about the implementation of AB 48 and how that may or may not impact Board operations.

Mr. Kahane stated that yes, he would be meeting with Joanne Wentzel, Interim Acting Chief for BPPE and that she has a folder of issues brought forward from various Boards and Bureaus to determine what can be incorporated into their regulations. Ms. Marks stated that emergency regulations for BPPE went into effect on February 1, 2010.

Dr. Penman stated that there was one piece of legislation recently introduced which would take away the power of the legislature to renew Boards after their sunset date, and transfer the power to a global commission that would oversee all state departments.

Dr. Charles Faltz stated he would like to address some of the general issues regarding SB 294. Dr. Faltz stated that some licensing Boards perform very well, some so-so, and some not so well; and for all interested parties' best interest the focus on solving problems should be on solving the problems and not having a bill that would regulate and solve problems where problems don't exist. Dr. Faltz stated that this Board has passed all reviews with flying colors, and that CPA hopes that whatever legislation comes forth would not disrupt things that are working well.

Dr. Faltz stated that some concepts being discussed have to do with the availability of patient records, and that he understands and endorses availability of records especially during discipline review. Dr. Faltz stated his concern is having records available when one or more parties do not wish to have their records released, and he hopes that the Board will be concerned with the consumers they are serving so that there is no relaxation of their rights.

Steve Arthur, Ed.D., Ryokan College, stated that it is very important that the issue regarding AB 400 is cleared up, and that Joanne Wentzel won't give a direct answer. Mr. Arthur stated that because he noticed with the disclosure agreement which they have been having their students sign since 2000, is a little different than the one BPPE has proposed, they don't want to be in violation for not using the form the legislature has or the form that the Board of Psychology has. Mr. Arthur stated there are other issues within AB 400, such as change of location, change of ownership, etc., that need clarification and that he has been unable to get any direction.

Ms. Marks stated that with regards to the requirements that an approved school must offer a doctoral degree in psychology and have approval from BPPVE on or before July 1, 1999, and the institution has not since that time had a new location, is contained in Business & Professions Code Section 2914(g) and is still in effect. Ms. Marks stated that with respect to the disclosures, it is her understanding that these provisions were contained in the Reform Act that sunsetted.

## **Agenda Item #6 – Examination**

### **a) Strategic Plan Progress Report**

The plan continues to be ongoing.

### **b) Examination Statistics**

The examination statistics data is fairly consistent with previous reports reviewed at prior Board meetings. The EPPP first time pass rate is consistently higher which is consistent with the national data. Nothing stands out for the CPSE data. The CPLEE however shows the pass rate for first timers are lower which is surprising according to Dr. Rodolfa because the CPLEE is designed for licensed practitioners who have been licensed for five or more years. Dr. Rodolfa wonders if these applicants are studying before taking the CPLEE.

### **c) Review of California Code of Regulations, Title 16, Division 13.1, Articles 4 and 6**

Dr. Rodolfa recommended amending Section 1388 (f) of the California Code of Regulations to add a limitation to the number of times a candidate can take the CPSE exam. The amendment would read; "An applicant who does not pass the CPSE or the CPLEE will not be eligible for further examination until six months have passed from the last test date"

M(Rodolfa)/S(McGhee)/C to amend Section 1388(f) to read as above.

Vote: 5 – 0

No other clean up items for Section 1388.

M(Sherman)/S(Acquaye-Baddoo)/C to approve language and notice for hearing

Vote: 5 – 0

Section 1389 reconsideration of examinations had minor clean-ups. Ms. Marks recommended amending section 1389 (a) to read: "There shall be no reconsideration of the grade score received on the EPPP, on the CPSE or on the CPLEE."

M(Sherman)/S(Acquaye-Baddoo)/C to approve language and notice for hearing.

Vote 5 – 0

Section 1392 Psychologist fees. Dr. Rodolfa stated that the fees for exams and applications have remained constant for a long time and asked if the Board should consider updating those fees. No comments were given.



Section 1392 title was amended to Psychologist Application and Licensing Fees. In addition, staff was instructed to include the following: "Fees for the Examination for Professional Practice in Psychology are paid directly to the vendor."

M(McGhee)/S(Sherman)/C to approve the language with minor changes and notice for hearing

Vote 5 – 0

Public Comment:

Dr. Faltz stated that there is an inadvertent loophole in the licensing renewal process when someone lets their license cancel and ten years later wants to reapply for licensure with only having to take the CPSE exam. Dr. Faltz asked the Board to look into requiring a certain amount of CE to ensure that they remain current in the field of psychology. It was suggested to add this issue on the agenda for the next Board meeting.

### **Agenda Item #7 – Credentials**

#### **a) Strategic Plan Progress Report**

Plan is still ongoing. No specific comments.

#### **b) Satisfaction Survey Results**

In general the survey results are positive. Some of the items receive limited responses and expressed concern about the length of time it takes staff to respond to requests for information and expressed concern about the effect of the furloughs on staff responses. Dr. Rodolfa encouraged staff to respond the best they can within established timeframes. He emphasized that in general applicants are satisfied with the service being provided and thanked the staff for their hard and effective work.

Dr. Rodolfa recommended deleting "in person" under question number one because the number of times an applicant contacts the Board in person is very rare.

#### **c) Review of Proposed Changes of California Code of Regulations, Title 16, Division 13.1, Article 1 (General Provisions), Article 2 (Applications) and Article 3 (Education and Experience), Article 5 (Registered Psychologists) and 5.1 (Psychological Assistants)**

Dr. Rodolfa was unable to review this item due to a death in his family and requested to place this item on the agenda for the next Board meeting to allow more time to review the extensive document.

#### **d) Discussion Regarding Licensing of Psychologists Practicing in Non-Mental Health Areas and the Barriers to Accruing Supervised Professional Experience**

A task force meeting was established two meetings ago to find a better system for GAP psychologists. A follow-up discussion with the executive director of CAPIC was conducted on February 18, 2010. Dr. Rodolfa stated some GAP psychologists have expressed concerns regarding how difficult it is to become licensed and how the Board's regulations are focused on clinical service rather than GAP services. Dr. Rodolfa emphasized that if the Board is to license GAP psychologists the Board must take a hard look at the regulations and the potential barriers

for those psychologists. Another follow up meeting will be set to explore these issues and then present the results of this discussion to the Board at the next quarterly meeting.

#### **e) Review Supervision Agreement Form**

This form is on the agenda due to the experience the Board had six months ago with approximately 100 supervisors and supervisees. There are a number of individuals who did not understand the purpose of the supervision agreement form which created a great deal of concern for those individuals accruing hours.

Dr. Rodolfa recommended adding: "The purpose of this agreement is to ensure that both the supervisor and supervisee understand the laws and regulations related to the accrual of supervised professional experience."

Dr. Rodolfa also suggested that once the agreement form is completed, the supervisor should submit the form directly to the Board. Dr. Sherman stated that this seems like a reasonable procedure.

Ms. Snyder stated that there is a system in place to maintain supervision agreement forms that are submitted to the Board in advance of an application for licensure. Staff retain the information in one filing system and when the trainee applies for licensure that information is pulled and matched with the application.

Dr. Sherman stated that he is surprised to note that there are a number of supervisors and supervisees that do not read the form. To prevent future problems perhaps adding the above statement on the form for clarity or requiring submission prior to accrual of hours may ensure that things are being done properly.

Public Comment:

Dr. Doris Penman thanked the Board members for putting this topic on the agenda for discussion. Her question pertained to supervision agreement form, the educational plan and whether the educational plan is the primary focus or meeting the regulations or both. Dr. Rodolfa responded that he believes it is for both and explained that the purpose is to have the supervisor and supervisee agree on the broad structure as well as understand the laws.

Dr. Sherman commented that some plans for private practice setting were considered real model plans while other plans require additional information. Having a redacted sample plan would be good; however, the Board could end up with the possibility of 500 of the same plans. However, if people don't know what they need to do then the Board needs to provide some guidance.

Dr. Rodolfa also commented that he and Dr. Sherman have started to review plans in advance to help speed up the review process for people seeking experience. The committee has reviewed 55 plans and Dr. Rodolfa agreed that some plans are well thought out and provided clarity for the supervisee while other plans require additional information. The purpose of the plan is to require supervisors to think about their plan for supervision and provide supervisees some structure.

Dr. Sherman suggested adding a statement on the form that psychological assistants in private practice setting will require prior approval of their supervision plan prior to the accrual of hours. He also added that the "professional title" on the form should be clarified.

Dr. Rodolfa recommended to delete the anticipate completion date on the form. However, Dr. Sherman requested to retain the date because it shows a beginning and an end date of the training.

Dr. Rodolfa also suggested combining the goals, objectives, part I, II and III on a separate page. He also stated that at the last Board meeting a suggestion to allow the training director to sign the supervision agreement form for organized programs that are members of CAPIC or APPIC or accredited by the APA. Dr. Penman agreed that this was an excellent idea.

Dr. Erica Myer of the Los Angeles County Psychological Association asked the Board for some guidance concerning the issue on the backdating of the supervision agreement form. Mr. Kahane stated that the backdating of the supervision agreement will be addressed in the Executive Officer's Report, agenda item 11(f).

Dr. Penman recommended that any Board changes should be disseminated to psychologists across the state on a regular basis.

Staff were directed to develop language to amend Section 1387(b)(10) of the California Code of Regulations to clarify and streamline the requirements. This will be reviewed at the next meeting.

**f) Discussion Regarding Considerations for Prospective Psychology Students of Approved Schools**

The Board is concerned that some approved schools were not following requirements of AB400 and one of the requirements of AB400 was to alert potential students to the limitations of a degree from an approved school. This document was drafted to provide information (disclosure) to students.

Dr. Rodolfa mentioned that at the last Board meeting, an attorney from one of the approved school gathered some data to present to the Board including numbers of applications to the Board and asked the Board to investigate available data. Dr. Rodolfa provided an overview of the approved school pass rates for the EPPP and the CPSE in 2008.

For the EPPP the pass rate for licensure candidates from approved schools was 30%. Out of 112 applicants 34 passed and 78 failed. The national pass rate for the EPPP was 76% and 83% for first time test takers. For the CPSE, out of 58 applicants 32 passed and 26 failed with a 55% pass rate. Dr. Rodolfa expressed concern about approved school pass rates. He encouraged that approved schools provide notice of their own statistics to students applying for admission.

He emphasized that this notice will provide students information about one of the limitations to attend an approved school. Dr. Rodolfa stated that he supported the idea of having students sign a document that informs them of the limitation when going to an approved school such as difficult becoming licensed in other jurisdictions. A Board statement regarding this issue will require additional revisions and will be placed on the next agenda.

**Public Comment:**

Dr. Steve Arthur commented that Ryokan College has graduates who are licensed in Vermont and Connecticut. He also stated that licensure requirements for each State and in Canada changes all the time and varies all the time and that he notifies their students that a degree from an approved school does not travel well. Dr. Rodolfa indicated that the basic educational requirements in almost all jurisdictions have not changed in quite a long time.

Dr. Penman stated that the list of approved schools on the Board's website is outdated. She hopes that once communication has been established with the Bureau for Private Postsecondary Education a revised list would be made available.

**g) Discussion Regarding Board of Behavioral Science Recovery Model for Education**

Dr. Sherman stated that this recovery model outlines BBS' educational requirements in detail. It was suggested at the last Board meeting to add this issue on the agenda for the next Board meeting. Dr. Rodolfa and Dr. Sherman have reviewed the information and had no comments to provide.

**h) Status Report on Applicant Credentials Reviewed by the Credentials Committee Since the November 13-14, 2009 Board Meeting**

Dr. Sherman stated that the task for reviewing plans was inherited by the committee from a previous Board member. It was determined that each license member would review each SPE plan and realized at the last Board meeting that waiting to review these plans on a quarterly basis causes a delay for trainees in accruing hours.

It was decided at the last Board meeting, to have Ms. Snyder independently send each plan to Dr. Sherman and Dr. Rodolfa for review on an ongoing basis. However after reviewing these plans for the past three months, Dr. Sherman and Dr. Rodolfa both agreed that some plans are well written and well thought out and that having staff send these plans to the committee seems an unnecessary use of time and resources. To help streamline this process, Dr. Sherman recommended having staff review and approve the plans and only send those plans that are questionable to the committee for review.

**Agenda Item #8 - Enforcement**

**a) Strategic Plan Progress Report**

Ms. Vazquez reported that the strategic objectives are ongoing.

**b) Enforcement Statistics**

Ms. Vazquez referred the Board to the enforcement statistics in the agenda packets. She stated that Board staff provided additional statistics regarding complaints received by type and various sources including those initiated internally. Dr. Sherman pointed out a spike in the number of complaints received in Fiscal Year 08/09 regarding fraud. Ms. Bayless stated the spike is directly related to complaints regarding the issue of backdating supervision agreement forms.

**c) Consumer Protection Enforcement Initiative (CPEI)**

Ms. Vazquez stated the CPEI was discussed earlier during the Director's Report provided by Gil DeLuna. Ms. Vazquez states it was nice to hear further details regarding the progress of the initiative and future plans for improvement. Ms. Vazquez stated there are three components of the initiative; administrative improvements, staffing/IT resources, and legislative changes. She further stated that SB 1111 contains many of the proposed enforcement changes necessary for the improvements outlined in the CPEI.

Ms. Bayless stated that through the process of development of a new enforcement model Board staff has reviewed all enforcement processes to identify process improvements. Process

improvements have been implemented and all enforcement procedure manuals have been updated to reflect current processes. Ms. Bayless stated Board staff developed enforcement process guidelines to clearly establish expected processing times for specific procedures.

Ms. Bayless stated Board staff will be reviewing the probation monitoring procedures for improvements related to the new standards for monitoring substance abusing licensees.

Ms. Vasquez stated the Department of Consumer Affairs (DCA) goal is to reduce the overall processing time from 24-36 months to 12-18 months. Ms. Vazquez asked how the furloughs are effecting our processing times because it appears that although we are subject to the furlough we are expected by DCA to reduce our processing times. Ms. Bayless stated that we have had to take a close look at our process to identify what is essential and what can be eliminated to streamline the process. Ms. Bayless further stated that due to the furloughs we are balancing our resources to focus on processing our cases in a timely manner. Board staff will be looking at developing a complaint prioritization policy to further assist staff in identifying priority complaints.

Ms. Bayless reported that DCA recently developed and implemented a new enforcement reporting tool to further enhance the overall monitoring of our enforcement processes and processing times. The creation of the new reporting tool allows enforcement staff to track all stages of complaints so we can identify which stage of the complaint process needs improvement. BOP staff provides a monthly report to Paul Riches, Deputy Director for Enforcement and Compliance. Mr. Riches will be overseeing Board compliance with the Consumer Protection Enforcement Initiative.

Dr. Rodolfa requested statistics on current cases to see what type of complaint volume staff handles on a month-to-month basis.

Ms. Vazquez asked if DCA has established a timeframe full implementation of CPEI. Mr. DeLuna stated the target date is October 2014.

#### **d) Director's Consumer Protection Article**

Ms. Vazquez referred the Board to the consumer protection article prepared by DCA Director Brian Stiger.

#### **e) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees (SB 1441 )**

Ms. Vazquez reported that as a result of SB 1441 new standards have been developed to ensure appropriate monitoring of substance abusing licensees. The uniform standards are included in the Board books for review and consideration.

Mr. DeLuna stated that several of the standards will require a legislative change for implementation. The standards requiring a legislative change are 2, 8, 9, 10, 14, and 15.

Ms. Vazquez stated Mr. Kahane is on the Substance Abuse Coordination Committee and participated in the development of the standards. Dr. Sherman stated the drug testing frequency appears excessive in requiring 104 drug test per year for the first year and a minimum of 50 drug tests per year for each subsequent year of probation. Dr. Sherman requested additional information regarding the basis for the frequency specifically which data was utilized to establish this standard.

Mr. Kahane stated that the BOP is participating in a department wide drug testing contract. Ms. Bayless stated the contract should be in place by July 1, 2010. The new contract will require the vendor to provide an automated process for random drug testing and result reporting.

Dr. Jo Linder-Crow asked what type of science was relied upon for establishing the frequency of drug testing.

Dr. Charles Faltz stated it appears there was a coordination committee and a staff working group where 15 Boards were represented. Dr. Faltz asked what the rationale was to exclude psychologist from the discussion regarding substance abuse.

Dr. Sherman stated that as a Board that includes licensed professionals he is surprised they were not invited to participate or recommend professionals who are experts in the field of substance abuse.

Mr. Kahane stated he would obtain additional information regarding this issue to be presented at the next Board meeting.

Ms. Vazquez stated that the standards have been adopted and that at this point we are looking at the process for implementation of the standards or is there still an opportunity to influence the development of the standards. Ms. Marks stated that the standards have been adopted but several will require legislation. Ms. Marks further stated it is now up to the individual Boards to determine how it can implement the remaining standards.

Ms. Vazquez asked if there were any public comments pertaining to any of the enforcement topics discussed. No additional comments were received.

## **Agenda Item #9 - Contemporary and Emerging Issues**

### **a) Discussion Regarding Telepsychology**

Ms. Acquaye-Baddoo thanked staff for being in the forefront of this issue, and asked Mr. Kahane to share information that is moving forward regarding this issue. Ms. Acquaye-Baddoo reported that the Board would have a guest speaker at our next meeting to share more information on this subject. Mr. Kahane stated that at Dr. Sherman's recommendation, he has asked Dr. Carol Falender to speak at the Board's next quarterly meeting in May. Mr. Kahane reported that information on Telepsychology is provided in the board packet which includes links, resources, and guidelines. Dr. Sherman stated that Dr. Falender is well versed in issues regarding providing supervision and therapy via means other than in person.

Dr. Rodolfa stated that one of the concerns regarding telepractice is if a psychologist is practicing Telepsychology and a patient files a complaint, what board investigates and disciplines the licensee? Dr. Rodolfa also wondered where the psychologist must be licensed and where the psychologist or consumer is located? Dr. Rodolfa stated that it makes no sense that the psychologist has to be licensed in the jurisdiction where the consumer is located, as Canada considered. Dr. Rodolfa stated this issue has many ramifications, and the Board will have to keep track of a great deal of information as this issue develops.

### **b) Discussion of Webcasting of Board Meetings**

Ms. Acquaye-Baddoo deferred to Robert. Mr. Kahane stated that he is checking into webcasting the May meeting, which will be held in Costa Mesa. Mr. Kahane stated that the Department is trying to get to the point where each Board meeting will be webcast to provide an archived record of the meeting, rather than detailed minutes as we do now.

The Board concluded this meeting at 5:12 p.m., and recessed until February 27, 2010 at 9:00 a.m.

### **Saturday, February 27, 2010**

The open session meeting was called to order by the President, James McGhee, at 9:10 a.m. A quorum was present and due notice had been sent to all interested parties.

#### **Members Present:**

James McGhee, President  
Richard Sherman, Ph.D., Vice-President  
Lucille Acquaye-Baddoo  
Emil Rodolfa, Ph.D.  
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  
Lavinia Snyder, Licensing/Registration Program Coordinator  
Valerie Riazzi, Licensing/Registration Analyst

### **Agenda Item #10 – President’s Report – Mr. McGhee**

#### **a) Informational Items**

Mr. McGhee stated that the Board has talked in past about how they may want to do workshops, etc. with the California Association of Mental Health Boards and Commissions. Mr. McGhee reported that he is the President of this Association, and that they will be meeting in Oakland in June 2010. Mr. McGhee stated that he wanted to let the Board know in case they have an interest in participating, and that this will be his last meeting as President of the Association.

Mr. McGhee stated that since the Board only has a quorum, people’s schedules are busy, things happen, and at any given time with five members, conflicts happen. Mr. McGhee asked the Board to consider starting their meeting on Fridays at 1:00 p.m., at least in our temporary situation. Mr. McGhee stated that when a new governor takes over in January 2011, appointing Board members will not likely be a top priority given the economy, and the Board may still be functioning on a quorum only basis for quite a while.

Mr. McGhee reported that the California Psychological Association (CPA) is having their 2010 convention in April, and encouraged Board members who are planning on attending to get signed up.

Mr. McGhee stated that an earthquake occurred in Chile this morning and that he believes there may be a need for the Board or CPA to look at the need to consider the possibility of psychologists going to Chile, or possibly Hawaii if a tsunami hits.

Mr. McGhee stated that while in Sacramento last week, reading the Sacramento Bee, there was an article regarding childhood obesity and that Michelle Obama is making this a priority. Mr. McGhee stated that the Board may want to look at doing either a workshop or training in a joint

sponsorship with CPA regarding obesity. Mr. McGhee stated that this issue could be very important for consumers.

Mr. McGhee asked if there were any public comments.

Dr. Faltz stated that he is glad Mr. McGhee brought up the issue about the strength of the Board, or lack thereof, and stated that it is clear that workload exists for members who function basically as volunteers. Dr. Faltz stated that he hopes that the administration understands what can and cannot get done operating in this fashion. Dr. Faltz stated that just by not having committee meetings, and having the whole board act as a committee is really creating a major problem that should not be tolerated. Dr. Faltz encouraged the Board to become very active in seeking not just one more member, but a full complement of members. Dr. Faltz stated that he sees it as a very serious problem and hopes the Board takes action and makes it part of their agenda to get this Board up to full strength.

Mr. Kahane stated that because it comes from the top down in the form of executive orders he has limited power over these decisions and that the CPA may have a stronger voice. Mr. Kahane stated that he will look into it again. Dr. Faltz thanked Mr. Kahane and stated that he is encouraging the Board itself to step up and take action to address this issue. Mr. Kahane clarified that these matters are addressed by the Board and himself, and that he will give it another shot.

Ms. Vazquez stated that she has been considering reaching out to her appointing authority (Senate) to let them know the situation. Ms. Vazquez stated that there is added pressure knowing that if you have a family emergency, you can literally disrupt state operations.

## **Agenda Item #11– Executive Officer’s Report – Mr. Kahane**

### **a) Staff Update**

Mr. Kahane reported on staff updates and Board operations. Mr. Kahane reported that staff continues to excel under less than optimal circumstances within the furlough scenario. Mr. Kahane thanked staff, especially Gina and Linda, for their excellent work on all daily directives coming from Agency and the Department on the Consumer Protection Enforcement Initiative (CPEI), budget, and related issues. Mr. Kahane explained that work on daily directives and executive drills, usually with a COB deadline, continually require research and justification for previous expenditures on assorted spreadsheets and templates, for accountability to the Department, the Legislature, and the Executive Branch.

Mr. Kahane reported that the latest drill requires that we provide expenditure data for meetings and events for the last five years. Mr. Kahane stated that these drills take hours away from our daily duties.

Mr. Kahane stated that staff is adapting well to all changes in enforcement and licensing resulting from the backdating scenarios.

Mr. Kahane also noted under the new CPEI, as of now, the Board was allocated three positions (1 AGPA and 2 on-site psychologists for internal complaint review). Mr. Kahane stated that when these new hires start working depends on the continuing fiscal emergency. Mr. Kahane stated that it was determined that the Board will need to keep the expert review program based on volume, but that this should reduce the timeline for the disposition of many cases by having two psychologists on site.



## **b) Budget Update**

Mr. Kahane discussed our budget and reported we are within our financial targets with respect to sound fiscal Board health, operating expenses, and reserve. Mr. Kahane stated we have successfully met our 15% reduction in personnel services.

## **c) Board Operations**

This report is included above in Mr. Kahane's report titled "Staff Update".

## **d) Bagley-Keene Open Meeting Act Amendment Update**

Mr. Kahane deferred this discussion to Norine Marks, Senior Staff Counsel. Ms. Marks reported that a brief summary of the change is included in the board packet. Ms. Marks explained the act changed as of January 1, and that prior law said that you can't use any communication or technology to develop a collective concurrence (i.e. use it to make a decision), and it now states that you cannot use any series of communications to discuss, deliberate, or take action on any item.

Ms. Marks stated that she understands that it is difficult because everyone wants to use their time as efficiently as possible with the amount of work that needs to be done, and asked the Board to be aware of the limitations on a "series of communications". Ms. Marks explained that when discussing an issue between two people, one of the questions a member should ask before responding is, who else have you talked to about this?

Ms. Vazquez asked how many individuals it takes to establish that serial communication has occurred. Ms. Marks explained that it is the majority of the state body, and urged the Board to keep in mind this majority includes committee discussions. Ms. Marks explained that this can be confusing with the current Board structure, but would encourage members to consider who else has the person they are talking to about this, talked to. Ms. Marks stated that rather than count how many members have discussed a particular issue, members should be mindful that merely discussing issues, even if when a decision has not been developed, could be a violation of the act.

Dr. Sherman gave a hypothetical example to clarify what constitutes a violation. Dr. Sherman asked if when the Executive Officer sends an email notice that amendment to Bagley Keene became effective 1/1/10, and the Board Members discuss, would it be a violation.

Ms. Marks replied no, and explained it's not an issue within the authority of the Board. Ms. Marks explained that if Mr. Kahane sent an email regarding the enforcement program, writing back "thanks" would not be violation because this is not discussing the substance of the program. Ms. Marks noted alternatively, if a member replied to all asking "what does this mean to the enforcement program, and do we need to change regulations, or amend disciplinary guidelines," this would very likely be a violation. Ms. Marks summarized by stating a violation could occur when a majority of members of the Board or a committee discuss issues within the jurisdiction of the Board.

Dr. Linder-Crow stated that it sounds like the Board can't do anything in between face-to-face meetings. Dr. Linder-Crow stated that when CPA and the Board were working together on planning an outreach multicultural program there was a small planning group that had conversations via email, and asked whether this would fall under the new amendments.

Ms. Marks stated that it doesn't sound like those discussions involved an issue within the jurisdiction of the Board. Ms. Vazquez noted that Mr. Kahane limited this discussion to two Board members. Mr. Kahane stated that he would still feel comfortable having these discussions under the current act since it was involving an outreach program rather than discussion of a subject matter within the jurisdiction of the Board.

Dr. Penman stated she would like to ask a question regarding Enforcement. Dr. Penman stated that at yesterday's meeting the Board indicated that they did not have a tracking system for enforcement, such as statistics to show how long it takes to enforce an action. Dr. Penman asked how it was determined there was a need for one AGPA and two psychologist positions.

Mr. Kahane stated the length of time was tracked, and the number of positions we received was determined based on data the Board provided. Mr. Kahane stated that based on a directive from the Department, a determination was made on how many people would be allocated to each Board to meet the 12 – 18 month timeframe by 2013 based on certain figures (i.e. the number of complaints, and resolutions to those complaints, etc.).

Dr. Penman, asked if the DCA determined what the need was. Mr. Kahane stated that the number of positions was based on statistics and information provided by the Board.

Dr. Sherman asked Mr. Kahane for a more detailed description of these positions.

Dr. Faltz asked if there was anything in the amendment to the Bagley-Keene Open Meeting Act that would limit input from a member of the public to a Board member. Ms. Marks replied no.

#### **e) Outreach Update**

Mr. Kahane reported that Mr. Thomas and Ms. Snyder presented at Airport Marina Counseling Center by LAX on Jan 11, 2010.

Mr. Kahane reported that he and Mr. Thomas presented a program regarding board laws at the Iranian Psychological Association in Los Angeles on Sunday Jan 17, 2010. Mr. Kahane reported that those in attendance received two continuing education units for the 2-hour talk on the Board. Mr. Kahane stated that the presentation was well received and they are requesting the Board attend and present at least once a year.

Mr. Kahane stated that the Board looks for more presentations in the coming quarter in addition to our usual attendance at all professional organization events. Mr. Kahane stated that the Board's in-state travel and attendance is also coming under tremendous scrutiny now based on the number of persons, where, when and how. Mr. Kahane stated the Board hopes to obtain approval for a booth at both CPA and APA this year.

Mr. Kahane reported the Board of Psychology Update articles are being submitted, and that he expects a spring 2010 publication by the end of March.

#### **f) Backdating of Supervision Agreement Form – Issue Update**

Mr. Kahane reported that out of the approximately 150 applicants who have responded to the Board inquiry for explanation, the Board has allowed 90% of the applicants' hours. Mr. Kahane reported that the Board continues to evaluate responses to inquiries as they are received. Mr. Kahane reported that those who were denied did not meet the requirements for compliance

under any scenario. Mr. Kahane stated the Board will be using various revisions, and methods of communication to ensure clarity on the supervision agreement forms.

Dr. Rodolfa stated that the Board discussed at the last meeting that the Executive Officer would send a notice to supervisors and supervisees about mitigating circumstances, and asked whether this occurred. Mr. Kahane stated no, that it would have been more confusing since we had just begun receiving responses to the first letter, and responses from additional follow-up. Mr. Kahane stated that due to the volume of responses, and the number of total problems, staff determined a second follow-up was not needed. Dr. Sherman asked if staff had the number of applicants who failed to respond. Ms. Snyder replied not at this time, staff would need to research.

Dr. Linder-Crow thanked the Board for their consideration of this issue after the discussion at previous board meetings. Dr. Linder-Crow stated that as an update, she wanted to thank Dr. Penman who spent many hours putting together very detailed information explaining the situation and providing options, so that CPA could widely distribute the information to graduate training programs, training supervisors, and Dr. Faltz put the article in the CPA bi-monthly newsletter. Dr. Linder-Crow stated she wanted to thank the Board for their willingness to take a look at this issue, and also thanked Dr. Penman and Dr. Faltz for distributing this information widely.

Dr. Penman thanked the Board for their response to this situation. Dr. Penman stated that the way the initial letter was worded sounded very final, and it wasn't specific about what someone could do. Dr. Penman asked the Board to consider alternative ways that information could be relayed, and that she hopes a second communication could be forthcoming at least to those individuals who haven't responded.

Dr. Sherman stated that he believes the Board has been gracious to make sure that everyone was given an opportunity to demonstrate they had the opportunity to provide additional information and clarify their initial submission. Dr. Sherman stated that if we can find out the number of individuals that haven't responded, the Board should go the extra mile to contact them again.

Mr. Kahane stated that staff would need to determine exactly who has not responded, and that he believes those who were contacted have the responsibility to respond as opposed to avoiding the issue totally and questioned how far the Board wants to go to be sure each person responds.

Dr. Rodolfa stated that in some ways he agrees with Mr. Kahane, and that candidates seeking licensure need to be held accountable. Dr. Rodolfa asked how far the Board goes when they've already gone the extra mile to help trainees and supervisors. Dr. Rodolfa stated there should be some limit of what the Board needs to do in this situation, and applicants should have all received the Board's letter asking for clarification. Dr. Rodolfa stated that if 20-25% had not responded, perhaps the Board should reach out one more time. Dr. Rodolfa stated that this was an unfortunate situation, but that it highlighted the concern that supervisors are not doing what the regulations say, and that is problematic.

Dr. Linder-Crow stated that CPA is planning to require information about the supervision agreement form to be included in the supervision courses offered by CPA.

Dr. Charles Faltz asked if the Board could determine how many individuals did not respond to the Board's invitation to provide additional information. Dr. Faltz stated that he believes it was CPA's communication that prompted the flood of responses, and that the applicant's impression

was that there wasn't any recourse. Dr. Faltz stated that CPA would be happy to send something out again if the Board identifies who hasn't responded.

Dr. Sherman stated that he also wants to commend Dr. Penman for her work on this issue.

Ms. Vazquez asked what the Board can do for next steps. Mr. Kahane stated he would find the data, and if it's statistically worth spending time on, we can follow up.

Ms. Marks stated that this might be a good subject for Dr. Sherman's BOP Update article.

Ms. Acquaye-Baddoo stated that she wants to commend staff for their work moving the information forward, and that she believes that the content of information provided encouraged people to contact the office. Ms. Acquaye-Baddoo stated that she agrees applicants should have the responsibility and accountability to respond.

Mr. Kahane thanked Lavinia Snyder for her excellent interpretation on these cases and follow through based on these discussions and has done an outstanding job working with enforcement to be sure that when appropriate candidates are able to accrue hours involved in this situation.

#### **g) Other Informational Items**

Mr. Kahane reported that the Board is looking into webcasting for the May meeting, embracing as much technology as possible. Discussion followed.

Mr. Kahane reported that the Board will ask Dr. Carol Falender to attend the next Board meeting to discuss Telepsychology issues.

Mr. Kahane reported that the Board will be transitioning from Lotus Notes to Outlook, and Linda is taking the lead on this project which is known as the MADEO project.

Mr. Kahane reported that Board elections will be held in May. Discussion followed.

Mr. Kahane reported upcoming meetings must consider state facilities as a first option before paying for rental in a hotel.

Mr. Kahane reported that he continues to meet with Mr. McGhee, and thanked Mr. McGhee for his time.

#### **Public Comment:**

Dr. Faltz stated that he would like to comment on the emphasis to use of state facilities for Board meetings. Dr. Faltz stated that he is concerned with the outcome of these types of decisions and that it should be possible to predict how much it would cost overall for this Board and for consumers to have access. Dr. Faltz stated that he hopes that before going through an exercise, by having a costly meeting inconvenient to the public at a state facility, to do it ahead of time, and that the way these meetings are currently planned makes the most sense and provides access to the public. Discussion followed.

## **Agenda Item #12 – 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 stated that there has not been a lot of activity since the last meeting, mostly due to executive drills. Ms. Kassis reported that the Board held a public hearing on this matter at the September Board Meeting and at that time the Board voted to issue a 15-day notice of modified text. Ms. Kassis reported that the Board reviewed those comments received in response to the 15-day notice at the November Board Meeting, and directed staff to move forward with the rulemaking process. Ms. Kassis reported that part of what was needed to complete the rulemaking file was the minutes from these discussions, and now that those have been approved, this package can progress. Ms. Kassis explained that once our staff counsel reviews the package, the Department has 30 days to review, and then the Office of Administrative Law (OAL) has 30 days to review. Ms. Kassis reported once the file is approved by OAL, the regulations would take effect 30 days upon filing with the Secretary of State. Ms. Kassis reported that the earliest these regulations would take effect would be 90 days or more. Ms. Kassis reported that these regulations would limit psychological assistants' registration period to six years.

### **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 this package was to amend Section 1381.7, 1381.8 and 1381.9, for Disclosure of Discipline and Criminal Convictions. Ms. Kassis reported that these amendments are regarding licensees not previously fingerprinted electronically. Ms. Kassis reported that the Board held a public hearing on this matter at the November Meeting and at that time the Board voted to issue a 15-day notice of the modified text. Ms. Kassis stated that there were 10 comments received in response to the 15-day notice, and that the majority of those comments (7 out of 10) were procedural questions. Ms. Kassis stated that typically the Board doesn't need to respond to procedural questions but that they are included here to provide an example of the types of questions the Board has been receiving. Ms. Kassis stated that staff will provide more detailed information to licensees upon implementation. Ms. Kassis discussed comments and requested feedback on those questions the Board needed to address.

Ms. Kassis directed the Board to a procedural comment received by Dr. Bragg. Dr. Bragg stated that he was licensed 1980, and is asking if there is an easy rule to know if he is required to be fingerprinted.

Ms. Kassis reported that in response to Dr. Bragg's comment, the regulation language states that this requirement will be a condition of renewal and it would be implemented after June 30, 2010. Ms. Kassis reported that anyone renewing on or after July 1, 2010, after the regulations are implemented, would receive notification of the requirements at the time of renewal.

Dr. Rodolfa asked whether psychologists have fingerprints on file, or will we inform licensees whether or not their fingerprints on file. Ms. Kassis deferred to Ms. Marks to respond.

Ms. Marks stated that the Board ask psychologists at the time of renewal about this issue. Ms. Marks explained that there will be a question on the renewal application that reads, "If you believe your fingerprints are on file, check the box." Ms. Marks stated that the Board knows at what point they started fingerprinting applicants, and at what point they started using Live Scan (electronic fingerprinting). Ms. Marks stated that initially if the licensee has a good faith belief

that he or she has been fingerprinted, they can check the box responding, "Yes I've been fingerprinted."

Dr. Rodolfa stated that he knows he submitted his fingerprints on hard cards, and asked if this means his fingerprints are on file. Ms. Marks stated that the Board will work with the Department of Justice (DOJ) to scrub their list, at some point after one to two renewal periods once everyone has had a chance to respond, and make the determination of whether or not an electronic record exists. Ms. Marks reported that once a determination has been made that a licensee's fingerprints are not on file electronically, they will be asked to go be Live Scanned.

Dr. Sherman stated that he thought the hard cards would not be acceptable. Ms. Marks stated that initially they would be okay for the Board to make a determination; since the DOJ has scanned some of those cards into their electronic database, the Board would need to compare their list with DOJ to determine whether or not an electronic record exists. Ms. Marks reported that licensees who have been hard card printed and just want to get it over with can go be live scanned; otherwise they can wait until they are instructed by the Board to do so. Ms. Marks stated that the Board does know when they started fingerprinting, therefore they can say if you were licensed prior to a specific date you will need to go get fingerprinted. Mr. Thomas also noted that there was also a period of time that the Board was only requiring fingerprints for DOJ and not the FBI, and therefore there are different phases of our fingerprint process. Mr. Thomas stated that we will work with licensees to obtain compliance and use our resources to make a determination. Ms. Marks clarified that at a minimum the Board could say if you were licensed prior to specific date you would need to go get Live Scanned, and then it will build after that once the Board is able to compare data with DOJ.

Dr. Faltz stated that just because this Board was not directly fingerprinting applicants does not mean a licensee does not have fingerprints on file with the DOJ or FBI. Ms. Marks clarified that licensees' fingerprints must be on file for the Board of Psychology and this information cannot be shared with any other agency and unique identifying codes represent the agency entitled to receive background information.

Ms. Kassis directed the Board to the comment received from Dr. Kern-Jones, which is also procedural, asking that we work with licensees whose prints are difficult to obtain, and requested that their current license remain active until the processing is complete and while additional fingerprints are submitted and processed. Ms. Kassis stated that procedurally live scan results are reported with record information received or with a rejection. Ms. Kassis stated that the Board works with the applicant to obtain quality prints and these regulations are not intended to penalize anyone in any way rather an effort to ensure that we have fingerprints on file for all licensees.

Dr. Rodolfa stated if a person is making a good faith effort to submit their fingerprints, this would not affect their license. Ms. Kassis responded correct.

Ms. Kassis directed the Board to the comment received from Dr. Schwartzburd. Ms. Kassis reported that the Board addressed this comment at their last meeting in regards to the reportable fine limit of \$300.00 that must be disclosed. Ms. Kassis stated that based on the language in subsection (c), the fine threshold of \$500.00 refers to omitting traffic infractions not involving alcohol, a dangerous drug, or a controlled substance. Ms. Kassis reported that the Board voted to raise the fine threshold to \$500.00 based on certain traffic infractions that may be more than \$300.00, that do not involve alcohol, dangerous drugs or controlled substances. Ms. Kassis stated that Mr. Schwartzburd has provided an additional comment in response to the change included in the 15-day notice that Board needs to further address.

Dr. Rodolfa stated that just because the Board requires disclosure doesn't mean that action will be taken against the licensee, the Board must first determine whether the violation is substantially related to the practice of psychology. Ms. Marks stated that this individual is taking exception to even having to disclose the information, and that this is the only negative comment received and the Board would have to accept or reject.

Ms. Marks stated that as someone licensed by the Board by definition, they would have to give up some privacy by disclosing the matter. Ms. Marks stated that the Board talked about raising the limit from \$300 to \$500 because of red light violations, etc, and that the amount was not arbitrary, rather it was the amount the Board believed was the minimum number that would require a response from a psychologist. Ms. Marks stated that it is within the purview of the Board to reject the comment and adopt the regulation as previously modified, or to make some further decision in terms of doing another modification.

M(Sherman)/S(Vazquez)/C Vote 5 - 0 to adopt the proposed regulations for Sections 1381.7, 1381.8 and 1381.9 as noticed in the modified text.

M(Vazquez)/S(Sherman)/C Vote 5 – 0 to delegate the authority to the Executive Officer and Staff Counsel to make any non-substantive, technical changes as necessary.

Ms. Marks pointed out to Dr. Faltz, in response to a question that he asked yesterday, that this is where the language was included that says a license that has been expired for three years is automatically cancelled.

### **Agenda Item #13 – Public Comment on Items Not on the Agenda**

Steve Arthur, Ed.D., Ryokan College, provided information to the Board containing figures that he got from an AB 48 new performance fact sheet. Mr. Arthur stated that the data for accredited schools reflects that very few people over 30 years old attend, and alternatively, the data for approved schools reflects very few people under 30 years old attend. Mr. Arthur stated that 74% of their students obtain licensure. Mr. Arthur stated that he wants to change the perception here from California being the only state has state approved schools that provide psychologists, and reframe it to say that California gives an opportunity to this segment of the student population. Dr. Rodolfa asked of the 91 students what percent of your graduates is this over the course of time, and how representative is this data. Mr. Arthur responded that they sent out of 800 questionnaires to students and alumni, as required by AB 48, and spans a few years. Dr. Sherman asked if the 74% of the 91 students includes MFTs and Psy.D. Mr. Arthur responded yes.

### **Agenda Item #14 – Recommendations for Agenda Items for Future Board Meetings**

No recommendations were submitted.

It was M(Sherman)/S(Rodolfa)/C to adjourn the open session meeting.

Vote: 5 - 0

The open session meeting adjourned at 10:50 am.

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James L. McGhee  
President

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Date