Thursday, February 20, 2014

Michael Erickson, Ph.D., Board President called the open session meeting to order at 9:19 am. A quorum was present and due notice had been sent to all interested parties.

Members Present:
- Michael Erickson, Ph.D., Board President
- Miguel Gallardo, Psy.D., Board Vice-President
- Lucille Acquaye-Baddoo
- Johanna Arias-Bhatia
- Andrew Harlem, Ph.D.
- Jacqueline Horn, Ph.D.
- Nicole J. Jones
- Stephen Phillips, Psy.D., J.D.
- Linda Starr

Others Present:
- Antonette Sorrick, Executive Officer
- Jeffrey Thomas, Assistant Executive Officer
- Norine Marks, DCA Legal Counsel
- Gina Bayless, Enforcement Program Coordinator
- Lavinia Snyder, Licensing/Registration Coordinator
- Jonathan Burke, Administrative Services Coordinator
- Colette McDowell, Continuing Education & Renewals Coordinator
- Deborah Morales, Enforcement Analyst
- Ashley Castleberry, Enforcement Analyst
- Russ Heimerich, DCA Deputy Director of Communications
- Christine Lally, DCA Board and Bureau Relations Deputy Director
- Klint McKay, Deputy Attorney General
- Brian Skewis, DCA Budget Analyst
- Mike Gomez, DCA Deputy Director for the Division of Investigation Enforcement
Agenda Item #1: President’s Welcome and Report of Appointment

Dr. Erickson welcomed representatives from the Department and graduate trainees, followed by an introduction of attendees. Dr. Erickson then introduced and welcomed Antonette Sorrick as the newly appointed Executive Officer.

Agenda Item #2: Approval of October 24 – 25, 2013 Board Meeting Minutes

It was M (Starr)/S(Jones)/C to approve the October 24 – 25, 2013, Board meeting minutes with minor corrections.

Vote: 9-0

Agenda Item #3: Budget Report by Brian Skewis, Department of Consumer Affairs

Budget Liaison

Brian Skewis, the Department of Consumer Affairs’ (DCA) Budget Liaison for the Board, reported on the condition of the Board’s budget. He referred to the first document provided in the Board packets, and explained that of the Board’s roughly $4.5 million budget, approximately $3.9 million is considered non-discretionary. That includes personal services (permanent staff costs, per diem, and benefits) operating expenses (facilities, departmental distributed, examinations, enforcement, statewide prorate, credit card processing, etc.). Just over $600,000 is considered general operating expenses (overtime, temporary help, printing, postage, equipment, travel, maintenance contracts, etc.).

Mr. Skewis then referred to the second document, a simplified fund condition. It showed beginning balance, which carries over from prior years, total revenue (actual or projected, depending on the year), and finally the fund balance (sum of beginning balance plus revenue minus expenditures). If revenue and expenditures are realized, the Board will have a diminishing fund balance. However, that is less cause for concern than it seems upon initial review as the Board has a $7.5 million outstanding general fund loan and the Board traditionally underspends its budget. The general fund loan repayment is generally triggered at around a three-month reserve.

Mr. Skewis then referenced the final document provided in the budget session of the Board packets which goes into the under spending of the Board’s budget. It shows the prior year and year-to-date expenditures, budget allotment and projections to year-end. At this time, at the very bottom, it shows that the Board is set to revert about a million dollars for this year. In the event the program underspends its budget, the money is not removed from that program’s fund.

Dr. Horn inquired about discretionary spending and the Board’s ability to make decisions about how to spend any potential surplus discretionary funds. She gave an example of sending someone to a national psychology meeting, or something similar. Mr. Skewis indicated that, within the policies which provide guidelines regarding out-of-state travel and the like, it is a bottom-line budget, so any money that is reverted at the end of the year would be considered discretionary and can be re-directed to other line items. He reiterated that there are policies which may prove prohibitive depending on the circumstances.
Dr. Erickson inquired regarding the general guideline for repayment of the general fund loans. There have been conversations about whether to decrease or increase the fees to our licensees. He asked how the Board can tell if it’s time to look at reducing the fees. Mr. Skewis clarified that a program is not permitted to “drive their fund into the ground” in order to trigger general fund repayments. However, if you are historically spending less than you’re collecting, it would be appropriate to align your budget so that your revenue and expenditures are in line.

Dr. Gallardo asked about the amount the Board is charged by the State for the services it provides, and how it has changed over the past several years. Mr. Skewis indicated that it has increased. He went on to say that generally there are two line items that are affected when we are talking about services that are provided, outside of Board staff. The first is departmental services such as budgets, contracts, and facilities. The second is statewide pro-rata which includes Department of Finance, Department of General Services, State Controller’s Office, Employment Development Department, etc. Generally speaking, the cost of doing business in California has gone up. The costs of retirement, health benefits, etc. have increased.

Dr. Phillips requested clarification on the “second” type of services Mr. Skewis referred to. Mr. Skewis indicated that there is department distributed, meaning inside of DCA, and the statewide pro rata, for other items outside of the Department, as an example, the amount were paying the Attorney Generals’ Office (AG). Dr. Phillips inquired as to how that amount has changed over the past few years as it seems to have gone up rather rapidly and if the Board’s legal activity increasing or if the rate at which the AG’s office is reimbursed has increased. Staff agreed to follow up on this item.

Ms. Jones inquired about the procedure for instructing staff to look into decreasing the licensing fees. Dr. Gallardo stated that he understood that the Board is currently charging the statutory minimum. Mr. Skewis stated that legislation would have to be introduced and approved in order to reduce licensing fees and the Board would have to work with the Legislature for that to occur.

Ms. Sorrick asked for the trigger to have the Board look into decreasing the licensing fees. Mr. Skewis explained that the Board is subject to Business & Professions Code §128.5, which requires that the Board fund not have more than 24 months in reserve. He further indicated that we can look at historical expenditures and revenue and see what we can do to align that. Another consideration is to use a third-party vendor to do a fee audit. A contractor would come in and look at the services the Board provides and the processes and based on workload, the vendor would determine an “appropriate” figure for the licensing fees. Dr. Erickson suggested that perhaps the Board might want to consider that option though he is hesitant to recommend that the Board proceed with that right now without a compelling reason to do so. Dr. Horn agreed that it may be premature right now but perhaps in the future it could be a consideration to have a fee audit.

Ms. Sorrick suggested that staff could run a couple of scenarios for presentation at the May Board meeting. Dr. Harlem mentioned that it would be helpful to keep in mind that the perception of value of return for the fee for our licensees; it is greatly affected by the areas in which there have been struggles, such as licensing turnaround times. He feels
that there should be a focus on how more value can be delivered, and that the number of the fee is not so much the issue as the perception of the value.

Ms. Marks reported that a statutory change would be required to lower renewal fees from what they are now. Pursuant to Business & Professions Code §2987(d), the biennial renewal fee shall be $400 and the Board may increase the fee to an amount not to exceed $500. Dr. Faltz, Director of Professional Affairs for the California Psychological Association (CPA), commented that he had come away with a different impression than the way Ms. Marks summarized. He inquired about the presence of flexibility in the language of that statute.

Dr. Faltz then inquired about policies regarding budgeting and why the licensing fees collected by the Board and why they seem to be under the same restrictions as “general fund” monies. Mr. Skewis responded that the budget process is the same for all state agencies, regardless of whether they are special fund or general fund, that there are statutory or governmental policy guidelines set forth to all state programs.

Dr. Erickson thanked Mr. Skewis for his time and graciousness in answering questions.

**Agenda Item # 4: Public Affairs Report by Russ Heimerich, Department of Consumer Affairs Deputy Director of Communications**

Mr. Heimerich, Deputy Director of Communications, was asked to come give an overview of services they provide, both in general and what they’re currently providing to the Board. Mr. Heimerich stated that the Office of Public Affairs (OPA) does media relations, social media policies, webcasts, produces videos, etc. They have also been working with Ms. Sorrick on social media outreach to stakeholder groups, particularly licensees in an effort to provide information more efficiently. In addition, they have a couple of projects underway, including producing some videos for the application process.

There is also a publications design and editing group. Currently For Your Peace of Mind is being updated. The Consumer’s Guide to Healthcare Providers includes all the healing arts Boards. There are also a number of general DCA publications, including their “bestseller”, Who We Are & What We Do, which is a very good reference in terms of what DCA does, which includes all of the things that fall under the purview of DCA.

The Consumer Information Center (CIC) which is a call center that consists of about 30 people and another nine people in the correspondence unit. Board staff will be training CIC staff on answering some of the calls to free staff up to process applications.

Dr. Horn commented that she’s very glad to see that outreach is being done so that the process for applicants can be made easier.

Ms. Sorrick thanked Mr. Heimerich. He followed up by advising that he will leave some publications for the Board and will work with Ms. Sorrick to determine if there are any additional items that need updating.

Dr. Erickson thanked Mr. Heimerich.
Agenda Item #5: DCA Update by Christine Lally, Deputy Director of Board and
Bureau Relations, and Michael Gomez, Deputy Director of

Ms. Lally, Deputy Director of Board and Bureau Relations, on behalf of Director Brown, welcomed Ms. Sorrick as the new Executive Officer of the Board. She went on to remind everyone that the Annual Form 700, the Economic Statement of Interests, is due April 1st and advised that a reminder from the Department will be forthcoming. Additionally, Board member orientation training is being held on April 2nd at the SOLID (DCA’s training division: Strategic Organization, Leadership, and Individual Development) training center in Sacramento. This training is required to be taken within a year of appointment. Another session will be held in August in Southern California, if that is preferable.

Ms. Lally talked about new DCA Strategic Plan. Mr. Heimerich’s team was thanked for putting that together with the SOLID team. She further indicated that they really brought it to life and she feels it is an excellent example of the services the Department is able to provide. The strategic plan is also available on the Department’s Web site.

Dr. Erickson thanked Ms. Lally.

Mr. Mike Gomez, Deputy Director of the Division of Investigation Enforcement Programs, gave an update on passage of SB 304 which was the sunset bill for both the Medical Board of California (MBC) and the Veterinary Medical Board. Part of the bill requires that on July 1 of this year, the peace officers for both Boards will be transferred to the Division of Investigation (Division) at the Department of Consumer Affairs (Department). The Division is the general law enforcement of the Department and has the authority to investigate and prosecute any violation of any law administered by any of the boards and bureaus under the Department. This transfer will create a Health Quality Investigations Unit (HQIU). It will essentially be a seamless transition in that it creates a unit that provides the services that MBC currently provides to the Board of Psychology. There will not be a moving of staff or casework so that this is as least disruptive as possible. Part of the goal is to assess the cycle times of the actual investigations and the case management systems in terms of how they deliver services and how they work with the Attorney Generals’ Office. They’re currently revising their procedure manuals to comport to changes that the Division thinks needs to be made for the creation of HQIU, with the goal of making sure that cycle times are improved, not degraded, as well as improving the methodology of the way investigations are performed.

Dr. Faltz inquired as to specialization among the investigators. Mr. Gomez replied that the Division relies on each Board to train them on their specific Practice Acts along with the Attorney General’s Office as each Practice Act has their own nuances. The specialty is there. Ms. Sorrick added that the Board will still be using Expert reviewers, so that will not change. Mr. McKay clarified that everyone is staying at the same locations; their tasks, assignments and specialties will not change. They’re trying to make it very seamless. Only the supervisory umbrella will be changing.

Dr. Erickson thanked Ms. Lally and Mr. Gomez for their updates.
Agenda Item #6: Board Procedure Manual

Dr. Erickson explained that the draft of the Board Procedure Manual was provided as a hand carry item. He inquired if there was any discussion or comments about manual. Dr. Harlem suggested that this discussion be deferred until Friday so that the Board members could have an opportunity to review the draft. Dr. Erickson clarified that the question is if this is a good starting place for a manual which will be open to constant revision. He stated that the manual won’t be set in stone, but rather a work in progress. He then indicated that unless there was any concern, the matter would be deferred to the following day. No concerns were raised.

Agenda Item #7: Introduction of Klint McKay, AGO Liaison

Ms. Bayless referred to Tab 7 of the Board package, which is a letter of introduction of the Board’s new Deputy Attorney General Liaison, Klint McKay, who was assigned to the Board in November. Ms. Bayless noted that Mr. McKay initially received his Bachelor’s Degree in psychology and continued with highlights from the introductory letter.

Mr. McKay indicated that he ran a law firm for about 15 years in Los Angeles and joined the Attorney General’s office in 2006 where he works with the Board of Psychology and the Medical Board. He was a psychiatric social worker and drove a cab for five years in Detroit, both of which were great preparation for practicing law.

Dr. Horn welcomed Mr. McKay and indicated that she was pleased to hear that someone with his background was working with us. Dr. Erickson echoed Dr. Horn’s comments.

Legislation Committee

The Legislation Committee met to discuss and formulate recommendations to the Board. See agenda item #8 for the Board’s discussion.

Enforcement Committee

The Enforcement Committee met to discuss and formulate recommendations to the Board. See agenda item #9 for the Board’s discussion.

Contemporary & Emerging Issues Committee

The Contemporary & Emerging Issues Committee met to discuss and formulate recommendations to the Board. See agenda item #10 for the Board’s discussion.

Continuing Education Committee

The Continuing Education Committee met to discuss and formulate recommendations to the Board. See agenda item #11 for the Board’s discussion.

Licensing Committee
The Licensing Committee met to discuss and formulate recommendations to the Board. See agenda item #12 for the Board’s discussion.

Outreach and Consumer Education Committee

The Outreach and Consumer Education Committee met to discuss and formulate recommendations to the Board. See agenda item #13 for the Board’s discussion.

The open session meeting adjourned at 5:29 pm.

Friday, February 21, 2014

Michael Erickson, Ph.D., Board President called the open session meeting to order at 9:08 am. A quorum was present and due notice had been sent to all interested parties.

Members Present:
- Michael Erickson, Ph.D., Board President
- Miguel Gallardo, Psy.D., Board Vice-President
- Lucille Acquaye-Baddoo
- Johanna Arias-Bhatia
- Andrew Harlem, Ph.D.
- Jacqueline Horn, Ph.D.
- Nicole J. Jones
- Stephen Phillips, Psy.D., J.D.
- Linda Starr

Others Present:
- Antonette Sorrick, Executive Officer
- Jeffrey Thomas, Assistant Executive Officer
- Norine Marks, Legal Counsel
- Gina Bayless, Enforcement Coordinator
- Lavinia Snyder, Licensing/Registration Coordinator
- Jonathan Burke, Administrative Services Coordinator
- Colette McDowell, Continuing Education Analyst

The Board adjourned into closed session pursuant to Government Code Section 11126(c)(3) to discuss and vote on disciplinary matters including stipulations and proposed decisions.

Agenda Item #6: Board Procedure Manual
The Board considered for possible ratification the Board Member Manual, as included in the hand-carry packet.

Dr. Gallardo mentioned that he noticed that the manual indicates that the Enforcement Committee chair must be a public member and was curious about the reason for that. Dr. Erickson responded that he thought it was so that the public would have some representation and oversight into the discipline of the profession. Dr. Horn stated that one of the things that she was told is that it potentially puts a psychologist who is chairing that committee in conflict.

Ms. Marks noted that she had found a typo at the bottom page 5; the Government Code Section should be 11120, not 1120.

Ms. Jones suggested that updates to the purpose of the licensing committee (as listed in the manual) might be a good topic of discussion at the upcoming strategic planning session.

Ms. Marks also noted that at the top of page 6 where closed session is referenced, the verbiage regarding “where public discussion may compromise the integrity of these subjects….” Should be removed as it sounds like that’s a limitation on closed session and there really is no such limitation. Dr. Erickson suggested deleting the rest of the sentence, beginning with “where.” Ms. Marks agreed.

It was M (Starr)/S(Jones)/C to ratify the Board Procedure Manual as submitted with minor amendments.

Vote: 9-0

**Agenda Item #8: Legislation Committee Report**

a) **AB 958 (Jones) or Successor Bill Requesting Access to Child Custody Evaluations be Obtainable by the Board**

Ms. Jones reported the following on behalf of the Legislation Committee.

AB 1843 is the successor bill to AB 958. It is a bill regarding access to custody evaluations. The committee would like to propose a motion to delegate staff and a licensed Board member to continue to participate in stakeholder meetings to convey the Boards’ desire to obtain reports in a more timely and advantageous way for staff to review enforcement cases.

The Board isn’t ready to take a firm position to support or oppose such an important piece of Legislation at this time given the complexity of the issue, but the committee would like to see a motion to delegate staff and a licensed Board member to continue to participate in discussions and be a part of the process.
Ms. Madsen, Executive Officer of the Board of Behavioral Sciences (BBS), indicated that they are the catalyst behind this bill and she wanted to be available to answer any questions and would like to thank the Board for their consideration of this issue, as it does affect the enforcement processes for both BBS and the Board of Psychology (BOP). She explained that their intent is to meet with their stakeholders and interested parties to hear their concerns and to develop language that achieves public protection and protection of licensees, as well as the individuals involved in these matters.

Ms. Jones summarized for Ms. Madsen the committee’s discussion, from the previous day, which focused around efficient access to the materials and confidentiality.

Ms. Madsen provided historical information in that in 2004 the law was revised in such a way that ended up excluding us (BBS and BOP) from having access to those child custody reports. Prior to this change, they were able to access the information, and they believe it was an unintended consequence. The courts rely heavily on the expert opinions of the licensees of BBS and BOP to determine the outcome of a family matter.

Currently, if a party has a complaint about the way a child custody report was prepared, the Court directs them to file a complaint with the appropriate licensing Board. For a period of time, the consumers were providing the enforcement staff with the reports in question but now it’s come about that pursuant to 3025.5 of the Family Code, we (BBS and BOP) aren’t allowed to have it, nor are the parties permitted to provide it to us. If the parties do provide it, the court considers it unwarranted disclosure which opens the parties to possible sanctions from the Court.

This situation is causing the consumers to feel they are in a “Catch 22” where the Courts, which are overburdened, are instructing them to come to the licensing Board who is then advising them that they don’t have the legal authority to review the report in question. The end result of this is a lot of frustrated consumers because they can’t seem to get anywhere. There are specific entities (the Court, the parties, someone representing the child, etc.) that have access but they aren’t allowed to disseminate it without it being considered an unwarranted disclosure and possibly be subjected to sanctions.

Currently, the mechanism for the Boards to receive a report would be to subpoena the Court and to do so, good cause must be demonstrated. BBS has made attempts and were denied. BBS had taken in several complaints about this one particular individual. They conducted an investigation, which revealed that there were potential violations of law. Their expert determined that there were some ethical and statutory violations, so the matter was referred to the Attorney Generals’ Office. The complainant and the licensee both provided the confidential report to enforcement staff. BBS ended up spending close to $100,000, and that individual is still practicing because they weren’t able to use the report in question and the entire case was built around that report.

Dr. Harlem asked Ms. Madsen some clarifying questions. Ms. Bayless indicated that BOP’s Deputy Attorney General has advised that BOP can use the report if it is provided to the Board and that BOP has used such reports successfully in disciplinary matters.
Ms. Madsen indicated that she has directed her staff not to accept the evaluations as they have been given contradictory advice. She has set up a meeting on March 7th and has extended an invitation to Ms. Sorrick. The intention is to try to find language everyone can live with, while looking at the process not the outcome. The proposed law also gives licensees an opportunity to defend themselves.

Dr. Erickson inquired about the objections that licensees typically raise with regards to providing the report. Ms. Madsen emphasized that they are simply trying to adhere to their mandate which is to investigate allegations of unprofessional conduct of their licensees. BBS deals with confidential matters every day and are extremely respectful (of what?). Minors are never identified in a pleading document, other than by a single initial or “party 1” or some other confidential manner; they’re never disclosed publicly. Where there is behavior that is unethical or biased, as a public entity, BBS and BOP should have the ability to access the reports.

Ms. Sorrick clarified that the committee would like the Board to participate in the stakeholder meetings and be a part of crafting the language in an effort to make the process expeditious and efficient. Dr. Harlem indicated that the Board wants to help address the problem, with everything on the table. Ms. Jones noted that the committee had engaged in a great deal of conversation and had not agreed to a specific mechanism, but had agreed it was important for the Board to be at the table to be a part of the discussion.

Ms. Madsen reiterated that she would welcome the Boards’ attendance and participation in the meeting on March 7th, which will be held at the DCA building.

Dr. Faltz expressed his disappointment about the misstatements made in this effort. Ms. Madsen responded that his organization had been invited to participate in the March 7th stakeholders meeting and she looks forward to further communication with him.

Dr. Faltz continued with comments regarding concerns about organizations that are urging people to file false complaints and he hopes that this is part of the discussion.

Ms. Madsen responded that the various Boards are very aware of why they get a complaint – somebody’s unhappy – and there may be organizations advising people to file a more compelling complaint. However, she has 100% confidence in her enforcement staff, as she’s sure the BOP does of theirs, to vet those reports and find the facts. Evidence must be clear and convincing to demonstrate either that a violation of the law occurred or a violation of the law did not occur. No other judgments are made. If an erroneous report is received, it is closed accordingly.

Ms. Jones reiterated that the Legislation Committee is asking, and the motion has been seconded by Dr. Phillips, that the Board would delegate a member of the staff and a licensed Board member to participate in a stakeholders meeting to convey the Boards’ desire to ensure efficient and advantageous access to the materials for licensing. The Committee has not agreed on an actual mechanism for enforcement purposes.

It was M (Jones)/S(Phillips)/C to delegate staff and Board members to attend the stakeholder meeting and convey the Board’s desire to obtain reports in a more expeditious way.
Vote 9-0

Discussion ensued regarding who would represent the Board for the upcoming stakeholders meeting. It was agreed that Dr. Phillips and Ms. Jones will represent the Board in these matters.

b) Senate Business and Professions Omnibus Bill Proposal

The Omnibus Bill Proposal relates to changes in the psychology licensing law related to fictitious name permits, posting of notice to consumers, basically changing our address and contact information, as well as changes regarding initial renewal and delinquency fees.

The recommendation from the Legislation Committee was that the Board approve the bill proposal as was presented and written by staff.

It was M(Jones)/S(Horn)/C to approve the bill proposal as was presented and written by staff.

Vote: 9-0

c) Legislative Status Report & 2014 Legislative Calendar

Ms. Jones indicated that she will not, for sake of time, read through all of the bills. She would like to acknowledge staff for the great summary provided in the Board books. There is a summary of all bills that were chaptered into law, two of which will be highlighted in the spring newsletter, SB 127 and SB 666 to provide information to stakeholders. There was also a summary of bills that were not passed. No action was necessary but the summaries were provided for informational purposes.

d) Any Other Bills of Interest

None

e) Public comment for Items Not on the Agenda

None

Agenda Item 9: Enforcement Committee Report

a) Enforcement Report

Ms. Acquaye-Badoo referenced to tab 9 in the Board packets and deferred to Ms. Bayless to provide a summary.

Ms. Bayless indicated that an Enforcement overview had been provided in the Board packets. Ms Bayless reported that going live with BreEZe staff is continuing to work with BreEZe staff to complete improvements and resolve issues. Currently, reports are not available in BreEZe but are in development and should be available in the next several months. The statistics provided were gathered manually by staff. Until reports are
available in BreEZe the performance measures statistical data will not be posted on
DCA’s Website.
Ms. Acquaye-Badoo welcomed Ashley Castleberry as a new Enforcement Analyst and
thanked Ms. Bayless for all of her hard work.

b) Public comment for items not on the agenda

None

It was M(Acquaye-Badoo)/S(Erickson)/C to accept the Enforcement Committee’s report
and the recommendations contained therein.

Vote: 9-0

Agenda Item 10: Contemporary & Emerging Issues Committee Report

a) Review American Psychological Association (APA)/Association of State and
Provincial Psychology Boards (ASPPB) Guidelines for the Practice of
Telepsychology

Dr. Harlem reported that items a and b are very closely related, so they would be
generally discussed together. Both items relate to the emerging practice area of
telepsychology and being able to guide and inform our stakeholders as to the various
practice and regulatory issues involved in that area.

It was reported that there was follow up from the previous meeting where we had
agreed to post a link on our Web site to the recently published APA/ASPPB Guidelines
for the Practice of Telepsychology. Those guidelines are aspirational. The link has been
posted to the Board’s Web site and the Committee would like to encourage all of our
stakeholders to refer to them. The Committee also discussed that the topic of
telepsychology will be discussed at the upcoming strategic planning session.

Dr. Erickson asked for direction regarding what to do in the event a licensee inquires
about this issue. Dr. Harlem responded that, as he understands it, at this time, as there
is no regulatory language, the only thing to do at this time is to direct people to the
guidelines. ASPPB is in the process of drafting language and once those are complete,
the Board should be able to shape those to fit California. However, there could still be
unprofessional conduct. So while the methodology is not regulated, it is still under the
jurisdiction of the Board as the practice of psychology.

b) Update Regarding Review of Association of State and Provincial Psychology
Boards (ASPPB) Draft E.Passport Guidelines established by the ASPPB Task
Force on Telepsychology

This item pertains directly to the regulatory language that ASPPB is in the process of
finalizing. Dr. Horn has been involved in that process so she gave an update to the
Committee. The first item in development is what is being referred to as a compact
between states which will allow for telepsychology practice and then the second is an
E,Passport for individual practitioners to apply for. Dr. Horn explained that the intra-
jurisdictional language is being worked on and will be much simpler. However, model language for an inter-jurisdictional compact is also being pursued. ASPPB is considering these items in development to be model language.

c) Discussion Regarding the California Child Abuse and Neglect Reporting Act (CANRA) and Mandated Reporting - Penal Code Sections 261.5, 288, and 11165.1

Dr. Harlem explained that there have been parties that have interpreted the current law that sodomy and oral copulation among minors should be treated differently in terms of mandated reporting. He reported that the BBS attorney opined that there was no distinction between those acts and therefore no need to seek a change in CANRA. The Board has been asked whether they will adopt that interpretation of the law. Dr. Harlem thanked Ms. Marks for her time in researching this issue. There are a lot of secondary sources that do interpret the law to require differential treatment and as such, there is an area of confusion.

Ms. Marks indicated that she agreed with the opinion of BBS counsel but there is a great deal of history of secondary sources that conflict with the opinion of BBS counsel. Therefore, she expressed concerns about putting that message out there, because the reporting requirements are in the Penal Code, not in this Boards’ licensing law, so there may be other implications for changing the message, such as being practitioners becoming potentially criminally liable for failure to report. She expressed the safest course would be to seek an AG opinion to confirm what BBS counsel has opined. At that point, there would be more legal support to tell practitioners about the opinions on CANRA, as an AG opinion would likely be given great weight if someone were to be charged with a misdemeanor for failure to report.

Ms. Helms, Legislative Analyst for BBS, reported that they had the issue come before them starting last February. There was concern that some individuals had interpreted the law that it required reporting for certain sexual acts and not others. BBS sought a legal opinion and also obtained input from different legislators’ offices. The consensus was consistent with the opinion of BBS counsel. Ms. Madsen indicated that she would be very interested in reviewing any AG opinion on this issue and emphasized that consistency is key, especially when talking about mandated reporting.

Dr. Phillips commented that one of the reasons this is a particularly sensitive issue is because the popular interpretation of CANRA has been having a differential impact in the enforcement of child abuse reporting as it relates to sexual minority youth as opposed to other youth and this has been a real concern in the community of mental health professionals that serve sexual minority youth.

Dr. Harlem asked Ms. Madsen if she shared the concern about criminal prosecution in the absence of an AG’s opinion. Ms. Madsen agreed that she believed it was a valid concern. She believed we’re all here to try to do the right thing and she wants to make sure that all constituents are informed. If there is a missing piece of information that might provide that much more clarity, then she would absolutely disseminate it, as it is so important.
Ms. Marks agreed with Dr. Harlem that a motion will be required to request an opinion 
from the AG regarding CANRA, as it will require the expenditure of funds. Discussion 
ensued regarding the Board requesting the opinion directly from the AG’s office or 
asking a legislator to request the opinion.

It was M(Harlem)/S(Jones)/C to request an opinion from the AG about the interpretation 
of CANRA as it pertains to whether there is a distinction between sexual acts for minors 
in terms of mandated reporting.

Vote: 9-0

d) Public comment for items not on the agenda

None

It was M(Harlem)/S(Phillips/Starr)/C to accept the Contemporary & Emerging Issues 
Committee’s report and the recommendations contained therein.

Vote: 9-0

Agenda Item 11: Continuing Education Committee Report

a) Continuing Education Statistics

Dr. Gallardo referred to Tab 11, item a, in the Board packets for statistics, which 
reported the internal audits that have been conducted through a new process that was 
implemented January 1 of 2013. This has been a transition from the MCEPAA 
(Mandatory Continuing Education for Psychologists Accrediting Agency) process to 
licensees maintaining their own CE records each renewal cycle. Most folks are in 
compliance. At the last Board meeting, about 5% of licensees were being audited, with 
the target being 10%. At this time, the target is being met. There are approximately 700 
renewals per month, so 10% is about 70 licensees per month being audited. The 
percentage of those who pass is really high. Some of the reasons they’re not in 
compliance is that they may be missing the “live” hours, or their certificates are 
insufficient. For the most part, they are responding but there are some folks who need 
second reminders. They tend to follow up once they’ve received that second notice. The 
auditing process has been fairly effective and the target that was set when this was 
implemented is being met.

b) Discuss Implementation of AB 1588 (Atkins) – Military Duty Licensees: Fees 
and Continuing Education

Ms. Marks presented draft language for the Board to consider, regarding AB 1588, 
which was the bill that allows a licensee called to active military duty to request a waiver 
from the renewal requirements. Ms. Marks indicated that many of the other Boards have 
also struggled with this, due to the complexity of the issue. This would be part of the 
language already being worked on, on page 12 [section 1397.62(a)] of the CE/CPD 
regulations, upon discharge and return, or reactivation, pursuant to section 114.3 of the 
Code, or renewal, as applicable, the Board shall grant an exemption to a psychologist 
who documents, in writing, that during the renewal period prior to their reactivation, or
renewal, he or she was called to active military duty. Such a psychologist shall be exempt from accruing the equivalent of 1.5 hours of continuing education for each month he or she was on active military duty and for two months following his or her discharge.

The Board agreed to defer the CE aspect of this issue to the next meeting with potential scenarios to be provided by staff.

The fees were also discussed, with a consensus that pro-rating the fee made the most sense when the relevant statutes and regulations were read together. Dr. Harlem expressed his concern that if these two aspects of this issue were not considered together, it might create additional confusion.

c) Review and Approve Modifications to Draft Language Regarding Continuing Education/Professional Development/Cultural Diversity Training Regulations

Dr. Gallardo referred to the packet of hand-carry items, and indicated that some language was added to the draft continuing professional development (CPD) guidelines. One of the changes was to change the dates from 2013 to 2016. This process will likely take a couple of years. Some language was added regarding first-time renewals in section 1397.61(a), in the second paragraph to address that particular issue. There was also a change to the pro-ratio on page 12, section 1397.62(a)(1), which is also related to item b on the Board’s agenda. This may need to be further modified depending on the decisions made with relation to AB 1588 implementation. Also, on page six, sections 1397.61(b) and (c), to eliminate confusion and provide more structure, the Committee decided to put a four hour minimum to both the law and ethics and the cultural diversity/social justice requirements. The four hours do not have to come from any specific category or method (i.e. a traditional continuing education [CE] course), but of the 36 total hours, eight need to come from law and ethics and cultural diversity/social justice. The licensee will be able to specify how they have met each of those requirements on the verification logs.

Additionally, the Committee made some changes to the matrix (pages seven and eight). Some of the feedback received indicated that some licensees may be more privileged in having more viable options to accrue their hours under the proposed CPD model. In practice, some licensees may only be able to use areas C10 (Sponsored CE), and A3 (Professional Activities) and A4 (Conferences/Conventions), which would mean they could only get 31 units and still need five more which could be quite challenging. In response to this discussion, the Committee changed the maximum hours on A3 (Professional Activities) from nine to 12 hours and A4 (Conferences/Conventions) from four to six hours. With these changes, if a licensee only had those three options, they could accrue all 36 required hours.

Dr. Horn commented that she feels it important that the Board not be unfair depending on area of practice. If a licensee isn’t your typical practicing licensee and isn’t an academic (who may be using psychology but not delivering direct services), but want to maintain their license, are they going to be disadvantaged? Dr. Phillips responded that he believed those folks should still make a concerted effort to maintain their professional development if they wish to maintain their license. Dr. Harlem expressed that in order to stay current in the field the Committee wants them to be more involved. They may have
to reach further out of their regular routine to do so. Dr. Erickson indicated that he believes that the sample guidelines developed by ASPPB allow 75% of the hours to be “traditional CE” and he believes that we're trying to promote a new way of thinking as it pertains to CPD. Dr. Gallardo summarized that it seems clear that everyone believes they should have to stay current and meet the unit requirements and that we do want to have licensees push themselves in new ways to do so. Further discussion ensued regarding the new requirements being a challenge for some licensees. Ms. Marks reminded everyone that renewing as inactive is always an option, and just because someone is not engaging in the delivery of psychological services right now, doesn’t mean that won’t change at any moment.

d) Public comment for items not on the agenda

None

It was M(Gallardo)/S(Jones)/C to approve noticing the language as approved by the CE Committee.

Friendly amendment to the motion, by Gallardo (S-Jones): under section A3 (Professional Activities), include program development and evaluation, and relevant administrative activities in service of psychology and/or mental health.

Vote 9-0

It was M(Starr)/S(Jones)/C to delegate to the Executive Officer to make any technical, non-substantive changes.

Vote: 9 – 0

It was M(Gallardo)/S(Acquaye-Baddoo)/C to accept the Continuing Education Committee’s report and the recommendations contained therein.

Vote: 9-0

Agenda Item 12: Licensing Committee Report

a) Examination Report

Ms. Snyder stated that the value entered for the Number of First Timers that passed for the month of March 2013 was entered incorrectly. The Board instructed staff to correct this value.

b) Satisfaction Survey Results

Due to the backlog in Licensing, the satisfaction survey results and comments have room for improvement. Improvements in the processing times are already being reflected in the comments received since this information was compiled (approximately three weeks prior to the Board meeting). It is hoped that the satisfaction results will also begin to turn around as the processing times improve.
c) Initial Application Timeframe

As of the Board meeting, processing times for psychologist license applications was at
approximately 13 ½ weeks, psychological assistant applications at 3 weeks and
registered psychologist applications at 4 ½ weeks. Ms. Snyder added that we still have
a vacant position in licensing which Ms. Sorrick hopes to have filled by the beginning of
March. Filling the vacancies will help decrease the processing times as additional staff
is trained and can process the applications.

d) Discussion of Supervised Professional Experience – Proposed Statutory and
Regulation Changes to 2914 (c) and 1387 (b) (10)

Previously the Board had given staff the authority to take a look at Section 1387 (b) (10)
and Section 1387 (b) (11) the Board expressed its desire to amend that motion to give
staff the authority to combine those sections so as there were no repeats, and create
one section, and proceed with a statutory change to 2914 (c) regarding the verification
of experience form.

It was M(Horn)/S(Phillips)/C to accept the changes.

Vote: 9:0

e) Discussion of Supervised Professional Experience Plans in Private Practice
Settings -- Proposed Regulation Changes to 1387 (b) (11)

This item was discussed in item (d), above.

f) Discuss Limitations of Exemption Period Granted Under Business and
Professions Code Section 2910 and Welfare & Institutions Code Section
5751.2

The Committee recommends that the Board direct staff to look at the history of Exempt
Settings as well as the number of complaints received from exempt settings and provide
additional information at the May Board meeting.

The Committee discussed redefining the Board’s policy for assessing if a person needs
an accommodation due to English not being the applicant’s first language. Staff has
been instructed to contact Office of Professional Exam Services (OPES) to specifically
ask about specific English proficiency exams that they might be aware of or use, and to
get any recommendations regarding how much time to add to the exam.

The Board wants to evaluate how we’re assessing if a person needs this or not. Staff is
going to take a look at this and look at what other Boards are doing.

Dr. Harlem voiced that he believes this is a very important issue in this state in
particular. The way this is currently being decided is confounding immigration status
with English proficiency. He thinks the way to determine the need for such an
accommodation is the use of TOEFL (Test of English as a Foreign Language) or an equivalent measure. Perhaps evidence of prior accommodation, such as through the applicant’s school, would be something to consider. If someone has been schooled in English, there should be evidence of that person having used an accommodation previously. Another option, rather than, or in addition to, extra time, an applicant may be allowed to use a bilingual dictionary.

h) Licensing Action Plan – Proposed Improvements to the Licensing Process

Provided in the Board packets was a Licensing Action Plan. The Plan was presented for informational purposes only. Improvements to the licensing unit includes: Statutory changes, regulatory changes, filling vacancies, using DCA call center for general licensing questions, updating forms/publications, and increasing outreach and education.

i) Public comment for items not on the agenda

None

It was M(Horn)/S(Erickson)/C to accept the Licensing Committee report and the recommendations contained therein.

Vote: 9-0

Agenda Item 13: Outreach and Consumer Education Committee Report

a) Discuss Upcoming Strategic Planning Session

Ms. Arias-Bhatia reported on the upcoming Strategic Planning session. Board members and staff have participated in meetings and interviews. Information is being compiled and the meeting will be held in Riverside in March. The final plan should be available for the Board to adopt at the May meeting.

b) Social Media Update

The Board now has a Facebook page as well as a Twitter account. Our stakeholders are encouraged to like the Board’s Facebook page and follow the Board on Twitter.

c) Web site Changes/Additions

New Web site is in development and is expected to go live on March 1st.

d) Newsletter

The newsletter is also expected to be distributed in March. The newsletter highlights the current Board members. The last time a newsletter was published was in 2011. Board members were encouraged to submit articles.

e) Stakeholder Meetings
An update on stakeholder meetings was provided in the materials. Executive Officer Sorrick met with Ed Howard, Senior Counsel for Center for Public Interest Law on 12/12/13. Sorrick and President Erickson met with California Psychological Association on 1/10/14.

f) Public comment for items not on the agenda

None

It was M(Arias-Bhattia)/S(Phillips)/C to accept the Outreach & Consumer Education Committee’s report and the recommendations contained therein.

Vote: 9-0

**Agenda Item #14: Bagley Keene Open Meeting Act Training**

Ms. Sorrick introduced Ms. Anita Scuri as a retired Supervising Senior Counsel with the Legal Affairs Department of the Department of Consumer Affairs. She joined DCA in 1978 after practicing general civil law, and retired July 1, 2012. She is a graduate of Hastings School of Law and specializes in state privacy and public records law, the rulemaking process and the Open Meetings Act.

Ms. Scuri began by thanking the Board for the opportunity to aid them by providing a refresher on the duties and responsibilities of Board members under the Open Meetings Act.

Bagley Keene is a state law that was inspired by the Brown Act, which covers local governments. Bagley Keene governs the meetings of a state agency and requires openness, access and input from the public. The Open Meetings Act imposes three duties on you as a Board, both collectively as a body and individually. Those duties are:

- to provide adequate notice of meetings that will be held (typically done by staff and they are aware of the requirements),
- to conduct meetings in open session except where you’re authorized to meet in closed session (there is a very specific list of exceptions), and
- to provide the public with an opportunity to comment.

The rationale for these duties is to enable members of the public to have meaningful input. What we’re really talking about here is transparency and the public’s right to participate. Ms. Scuri quoted Government Code section 11120, which states “the people, in delegating authority, do not give the right to their public servants the right to decide what’s good for the people to know and what is not good for them to know.” That is, in a nutshell, why you have the Open Meetings Act; people have the right to participate in the decision-making process and to know what was going to be discussed. The legislature has authorized closed sessions for specific matters; primarily (as applicable to the Board of Psychology):

- disciplinary matters,
- preparing, approving, or grading examinations,
- pending litigation,
- matters affecting personal privacy, and
- the appointment, employment, dismissal or evaluation of an Executive Officer.

What goes on in closed session stays in closed session. Ms. Scuri used a fictional Board to illustrate some common troublesome scenarios with the Open Meetings Act. Ms. Scuri then provided a brief history of Bagley and Keene.

Board members may communicate with staff as much as they want, provided they aren’t using staff as an intermediary to communicate with other Board members, and as long as there was not a majority of either the full Board or any given committee. Additionally, Ms. Scuri recommended that if there was an “informational” e-mail to be sent out, that it would be advisable for the Executive Officer, rather than the Board President, to author that e-mail. Discussion ensued regarding availability of locations as listed on the official agenda for any meeting.

The Board members thanked Ms. Scuri.

**Agenda Item #15: President’s Report**

a) Discussion Regarding Strategic Planning

Arrangements have been made for the location, travel, facilitators, etc. Dr. Erickson expressed that he is confident that the Board will get a lot accomplished at the upcoming strategic planning meeting.

b) Committee Assignments

Dr. Erickson explained that it was discovered that, as the Board now full, with nine members, and four members being assigned to each Committee, it became a quorum issue with the President sitting on each Committee as an ex officio member. He expects the Committee organization to be discussed at the Strategic Planning meeting which he hopes will resolve this issue. Dr. Erickson went on to express his opinion that he believed the way the Committee meetings were held at this meeting proved to have more lively conversations and he believes everyone is pleased with the results.

c) Meeting Calendar and Locations

The next meeting will be held at the Pepperdine West L.A. Campus. Dr. Gallardo explained that the campus is very close to LAX.

d) Other Informational Items

Dr. Erickson indicated that he had been asked to mention as a reminder that each Board member should take a look at whether they’ve completed all the required training. If anyone is unsure about where they stand on that, or what is required, they may check with Ms. Sorrick, Ms. Crosby, or Ms. Isadore.

Dr. Erickson stated that the Form 700 is due by April 1st.
Recently, Ms. Sorrick and Dr. Erickson met with Dr. Linder-Crowe of CPA. He felt it was a great chance to connect. There is a hearing at the Capitol, that he has been asked to attend as a Board member, and it has to do with fake service dogs, and whether they’re a problem or not, over which there is quite a bit of controversy. The Legislative hearing was scheduled for February 24, 2014. The Senate Business, Professions, and Economic Development Committee sent out a background paper that laid out the issues, including the medical issue of prescribing service dogs.

Director Brown holds a conference call quarterly with Board Presidents and Executive Officers. Topics include BreEZe, travel claims, and the like.

As everyone knows, the Board has a new Executive Officer. Dr. Erickson and Ms. Sorrick have been meeting an hour or two most weeks and he feels they have been very productive, in terms of looking at agenda items, handling problems, etc.

**Agenda Item #16: Regulation Update, Review and Action, as Necessary**

**a) Regulations Status Report**

Ms. Sorrick referred to the Regulations tab in the Board packets. The information is as of January 24th. Amending articles 1 through 6 has been on the table since 2011 and Ms. Sorrick requested it be given a fresh perspective. She recommended that staff revisit and have the Board review at a following meeting.

**b) Proposed Amendments to Title 16, CCR, Section 1397.12 – Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**

The draft language for the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines has been included in the hand carry packet, agenda item 16(b). Ms. Sorrick stated that she sat down with Ms. Bayless, Mr. Thomas, and Ms. Marks and went through the entire document. The changes made as a result of that meeting are laid out in the corresponding memo. No other substantive changes have been made in the document itself. Ms. Marks indicated that the majority of the changes were for consistency and grammar.

The changes that are considered substantive are:

- Formerly term 5, on page 16, “Notification to Employer” has now been moved to be a standard term and condition instead of an optional term and condition. It’s become term 14; which is the first standard term and condition on page 24.
- Changed language of the exam, if the exam will be required, it was changed from the CPSE to the CPLEE since that is what the Board will be doing.
- Substituted EPPP for the CPSE as an optional term, if the basis for discipline involved a serious deficiency in the body of knowledge required to be minimally competent to practice.
- Require respondent to undergo a clinical diagnostic evaluation within 30 days of the effective date of the decision, instead of the 20 days that it had been, so it’s consistent with the rest of the language.
- Language removed regarding SOCE (sexual orientation change efforts) as a challenge to the statutory language is pending Supreme Court appeal.
Ms. Sorrick indicated that a motion to move forward (and set for hearing) with the language as presented, and give the EO authority to make any non-substantive changes was needed. Erickson – so moved. Seconded by Jones. Vote 9-0. Motion carried.

c) Proposed Amendments to Title 16 CCR, Sections 1388, 1388.6, 1389, & 1392 – Examinations

The Board approved draft language in October 2013. Ms. Sorrick indicated that she took a look at it and made some minor grammatical changes. The modifications can be found in the hand carry packets.

Ms. Sorrick asked for a motion to approve the language and delegate authority to the EO to make any non-substantive changes and notice for hearing. Erickson – so moved. Seconded by Phillips. Dr. Horn moves to amend the motion that was on the table to take out the scaled test reference "of 500" and replace with “the scale score as recommended by ASPPB” (in case that changes). Amendment seconded by Erickson. Vote: 8-0. Amended motion carried.

Agenda Item #17: Executive Officer’s Report

a) BreEZe Update

Ms. Sorrick briefly discussed BreEZe go-live and working closely with DCA to work out the kinks; staff is in constant communication with them as it BreEZe functionality is a top priority.

b) Organizational Update

A copy of current organizational chart was included in the Board packets. New staff reported as hired were: Ashley Castleberry, in Enforcement, and Audrey Watkins and Rob Loyola in Licensing. Both of the Licensing Analysts are Permanent Intermittent employees. Also, Jon Burke joined the Board as the new Administrative Services Coordinator. The Board is working on filling the SSA position in licensing and hope to have someone in that position by early March. The 24th of February is the final filing date for the PTII (Program Technician II) vacancy in the licensing unit. The Board had also been approved for three SSA’s in licensing through the BCP process. DCA reported that job announcements for the BCP positions could be posted pending approval of the budget by the legislature

c) Selection of a New Board Logo

The Board discussed selection of a new logo. The top three staff favorites were presented and the Board voted on the staff favorite. Web site, materials and other collateral will in the future reflect the new logo.
Agenda Item 18: Recommendations for Agenda Items for Future Board Meetings

None.

The Board adjourned at 4:03 p.m.

President

Date