POLICY AND ADVOCACY COMMITTEE
MEETING MINUTES

Department of Consumer Affairs
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Monday, April 27, 2015

Agenda Item #1: Call to Order/Roll Call

Nicole Jones, Chairperson, called the meeting to order at 10:00 a.m. A quorum of the Committee was present and due notice had been sent to all interested parties.

Members Present:
Nicole Jones, Chairperson
Johanna Arias-Bhatia
Michael Erickson, PhD

Others Present:
Antonette Sorrick, Executive Officer
Jeffrey Thomas, Assistant Executive Officer
Kurt Heppler, Legal Counsel
Norine Marks, Legal Counsel
Jonathan Burke, Administrative Coordinator
Sandra Monterrubio, Enforcement Program Manager
Pamela McCrory, PhD, Los Angeles County Psychological Association

Agenda Item #2: Chair Welcome

Ms. Jones welcomed the Committee Members, and those in attendance both in person and via telephonic connection.
**Agenda Item #3: Public Comment for Items not on the Agenda**

There were no public comments.

**Agenda Item #4: Approval of Minutes: February 26-27, 2015**

Dr. Erickson requested a correction to the first paragraph of page 5 to insert the word “committee.”

Ms. Jones requested a correction to section 6 of page 3 to correct the spelling of the word “counsel.”

Ms. Jones referred the Committee to section 7 of page 4, stating that there were other comments made that are not reflected in the minutes. Mr. Burke stated he would review the recording of the meeting and insert all public comments.

It was M(Erickson)/S(Jones)/C to approve the minutes as amended.

Vote: (Aye - Arias-Bhatia, Erickson, Jones. No - none)

**Agenda Item #5: Review and Consideration of Proposed Legislation, Recommendations to Full Board**

**#5 a) Legislation Update and Review, Recommendations to Full Board**

**#5 a 1) AB 12 (Cooley) State Government: Administrative Regulations: Review**

Ms. Jones reported this bill would, until January 1, 2019, require each state agency to, on or before January 1, 2018, and after a noticed public hearing, review and revise the agency’s regulations to eliminate any inconsistencies, overlaps, or outdated provisions in the regulations, adopt the revisions as emergency regulations, and report to the Legislature and Governor, as specified. The bill would further require each agency to, on or before January 1, 2017, compile an overview of the statutory law the agency administers.

Mr. Burke reported the bill was read a second time in the Assembly, amendments were made to the bill, and it was re-referred to the Committee on Accountability and Administrative Review to be heard Wednesday the following week at 9 a.m.

Ms. Jones recommended the Board continue to watch AB 12.
#5 a 2) AB 19 (Chang) State Government: Regulations

Mr. Burke reported this bill would require state agencies to review all existing regulations annually for relevance, redundancy, and impact on the business community. The bill was read a second time, amended, and re-referred to the Committee on Jobs, Economic Development and the Economy.

Ms. Jones recommended the Board continue to watch AB 19.

#5 a 4) AB 259 (Dababneh) Personal Information: Privacy

Mr. Burke reported this bill would require an agency, if that agency was the source of a breach of a person’s personal information, to provide affected persons with identity theft prevention and mitigation services at no cost for not less than 12 months. The bill was referred to the suspense file.

Ms. Jones recommended the Board continue to watch AB 259.

#5 a 5) AB 317 (Maienschein) Health Care Professionals

Ms. Jones reported this bill was amended to apply only to the Veterinary Medical Board and no longer impacts the Board of Psychology.

Ms. Jones recommended AB 317 be removed from the Board’s watch list.

#5 a 7) AB 483 (Patterson) Healing Arts: Initial License Fees: Proration

Ms. Jones reported this bill was similar to AB 773; the Board of Psychology was amended out of the bill.

Ms. Jones recommended the Board continue to watch AB 483 for any future amendment that may include the Board of Psychology.

#5 a 8) AB 507 (Olsen) Department of Consumer Affairs

Mr. Burke reported this bill was amended to require the Department of Consumer Affairs provide an annual report on the functionality of the BreEZe system.

Ms. Jones recommended the Board continue to watch AB 507.

#5 a 9) AB 611 (Dahle) Controlled substances: prescriptions: reporting.

Mr. Burke reported that this bill would authorize an individual designated to investigate a holder of a professional license to apply to the Department of Justice to obtain approval to access information contained in the Controlled Substance Utilization Review and Evaluation System (CURES) Prescription Drug Monitoring Program regarding the
controlled substance history of an applicant or a licensee under the Department of Consumer Affairs for the purpose of investigating alleged substance abuse of a licensee. He informed the Committee that Board staff rarely accesses CURES and for that reason, the bill would have little to no impact on the Board.

Ms. Jones recommended the Board continue to watch AB 611.

**#5 a 6) AB 848 (Stone) Alcoholism and Drug Abuse Treatment Facilities**

Mr. Burke reported this bill would authorize an adult alcoholism and drug abuse recovery or treatment facility to allow a licensed physician and surgeon or other health care practitioner, including a psychologist, to provide incidental medical services to a resident of the facility at the facility premises under specified limited circumstances. The bill passed out of the Assembly Business and Professions Committee and to the Health Committee.

Dr. Erickson asked if the language expands the settings in which a psychologist could provide and bill for services.

Ms. Jones requested staff provide an analysis to address Dr. Erickson’s question and recommended the Board continue to watch AB 848.

**#5 a 20) SB 52 (Walters) Regulatory Boards: Healing Arts**

Mr. Burke reported this bill would make minor non-substantive technical changes to the healing arts provisions of the Business and Professions Code relating to the display of a license. The bill was re-referred to the Rules Committee on January 15.

Ms. Jones recommended the Board continue to watch SB 52.

**#5 a 21) SB 128 (Wolk and Monning) End of Life**

Mr. Burke reported this bill would establish the End of Life Option Act in California, modeled after Oregon’s Death with Dignity Act that was enacted in 1997. The bill would allow a mentally competent, terminally ill adult in California in the final stages of their disease to request medication from a physician to assist suicide.

Ms. Jones recommended the Board continue to watch SB 128.

**#5 a 22) SB 130 (Roth) Mental Health**

Ms. Jones reported this bill would make technical non-substantive changes related to mental health services.

Mr. Burke reported the recipient of those services includes veterans; the bill would be heard the following day by the Senate Veterans Affairs Committee.
Ms. Jones recommended the Board continue to watch SB 130.

**#5 a 23) SB 259 (Bates) Health Care Professionals**

Mr. Burke reported this bill would make a non-substantive change to current provisions of the Health Care Professional Disaster Response Act. The non-substantive changes would not have a direct impact on the Board or psychologists.

Ms. Jones recommended the Board continue to watch SB 259.

**#5 a 24) SB 272 (Hertzberg) California Public Records Act: Local Agencies: Inventory**

Mr. Burke reported this bill would mandate reporting and disclosure information for local agencies.

Ms. Jones recommended the Board continue to watch SB 272.

**#5 a 17) AB 1279 (Holden) Music Therapy**

Mr. Burke reported this bill was amended to include language requiring licensure to practice music therapy.

Ms. Jones recommended the Board watch AB 1279.

**#5 a 10) AB 618 (Maienschein) Parole: Primary Mental Health Clinicians**

Mr. Burke reported this bill addresses the materials a parolee may request relative to a parole hearing and who can conduct a psychological evaluation but has no impact on the Board directly.

Ms. Jones recommended the Board watch AB 618.

**#5 a 3) AB 85 (Wilk) Open Meetings**

Mr. Burke reported this bill would revise the definition of a state body subject to the Bagley-Keene Open Meeting Act as an advisory body consisting of less than three members. Existing law permits an advisory body of two to meet without having to notice the meeting by preparing a notice and agenda, posting and distributing that agenda, and preparing subsequent meeting minutes. He informed the Committee that the Board currently has standing committees comprised of less than three members that have no authority to make decisions, but rather analyze issues presented to the committee and make recommendations to the full Board. This bill would require that meetings of those 2-person ad-hoc committees be publicly noticed. Mr. Burke stated that any meeting involving formal action by a state body should be open to the public; however, an advisory body has no authority to act on its own and must present any findings and
recommendations to a larger body in a public meeting for formal action. He suggested the Committee recommend the Board take an opposed position.

It was M(Erickson)/S(Jones)/C to recommend the Board oppose AB 85.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 6) AB 333 ((Melendez) Healing arts: Continuing Education

Mr. Burke reported that this bill would allow a Board licensee to earn continuing education credit for participation in a course that instructs the proper use of an automated external defibrillator, or that results in the licensee becoming a certified instructor of cardiopulmonary resuscitation. He stated that while beneficial, there is no relevancy between the proposal and the practice of psychology.

It was M(Erickson)/S(Arias-Bhatia)/C to recommend the Board oppose AB 333.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 11) AB 705 (Eggman) – Exempt Settings

Mr. Burke reported that this Board-sponsored bill would ensure employees in exempt settings are working towards licensure as psychologists by the Board.

It was M(Erickson)/S(Arias-Bhatia) to recommend the Board support AB 705.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 12) AB 773 (Baker) – Expiration of License/Birth Date Renewal Legislation

Mr. Burke reported that this Board-sponsored bill would establish that all psychologists’ initial license periods are 24 months.

It was M(Arias-Bhatia)/S(Jones)/C to recommend the Board continue to support AB 773.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 13) AB 750 (Low) – Business and Professions: licensees

Mr. Burke reported this bill would allow the Board to establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of a profession or vocation.

It was M(Jones)/S(Erickson)/C to recommend the Board support AB 750.
#5 a 14) AB 796 – (Nazarian) Health Care Coverage: Autism and Pervasive Developmental Disorders

Mr. Burke reported that this bill would modify the definition of “qualified autism service professional” and “qualified autism service paraprofessional” to allow insurance coverage for types of behavioral health treatment other than applied behavior analysis (ABA). Staff reviewed this bill as it relates to SB 479. Under SB 479, ABA practitioners would be licensed and regulated. Under AB 796, there would be no regulatory oversight of the practitioners. For that reason, staff suggested the Committee recommend the Board oppose AB 796.

Dr. Erickson asked if a letter detailing the reason(s) for the Board’s position would be sent to the bill’s author. Mr. Burke informed him Board staff would send such a letter to the author.

It was M(Erickson)/S(Arias-Bhatia)/C to recommend the Board oppose AB 796.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 15) AB 832 – (Garcia) Child Abuse: Reportable Conduct

Mr. Burke reported that this bill would provide that “sexual assault” for reporting purposes does not include consensual sodomy, oral copulation, or sexual penetration, unless that conduct is between a person who is 21 years of age or older and a minor who is under 16 years of age.

It was M(Erickson)/S(Arias-Bhatia)/C to recommend the Board support AB 832 if amended to read:

“Sexual assault” for the purposes of this article does not include voluntary conduct between minors of a like age in violation of Section 286, 288, or 288a unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 18) AB 1374 (Levine) Submission of Supervised Professional Experience/Fee (Business and Professions Code Sections 2903 and 2914(c))

Mr. Burke reported that this Board-sponsored bill would address the way the Board receives Verification of Experience forms and removes the “for a fee” language from the definition of a psychologist’s scope of practice.
It was M(Erickson)/S(Arias-Bhatia)/C to recommend the Board continue to support AB 1374.

Vote: (Aye – Arias-Bhatia, Erickson, Jones. No – none)

#5 a 19) AB 2198 (Levine) Suicide Prevention

Mr. Burke informed the Board that this bill would require certain mental health professionals to complete a training program in suicide assessment, treatment, and management. Governor Brown vetoed the bill stating that California has an extensive regulatory scheme that aims to ensure that California physicians, psychologists and counselors are skilled in the healing arts to which they have committed their lives. Rather than further legislating in this field, the Governor asked licensing boards to evaluate the issues which were raised in AB 2198 and take whatever actions are needed.

Mr. Burke reported that a survey was sent to graduate programs to determine the type of training psychologists receive in this area. The Board received only 15 responses to its survey. It was determined that the survey was not asking questions in the best way to the appropriate audience; psychologists do not receive training in this field during the graduate stage but more so at practicum internships. The survey was re-evaluated and an improved survey was sent to internship directors, clinical internship directors, and practicum locations. The Board is now receiving much more thorough responses that verify psychologists do receive a significant amount of training in the area of suicide prevention as they progress towards licensure. DCA is taking the lead in determining ways to address any potential gaps in mental health provider knowledge in the area of suicide prevention. This information, once finalized, will be shared with the Governor’s Office. The complete survey will be shared with the Committee at its May meeting.

Ms. Jones questioned how the work is being communicated by the Board and DCA, and asked if the results could be posted on the Board’s website.

#5 a 25) SB 479 (Bates) Healing Arts: ABA

Mr. Burke reported this bill would establish the Behavior Analyst Act, vest the Board with the power to enforce the Act, require in part that a person apply for and obtain a license prior to engaging in the practice of behavior analysis, and establish educational, training and application requirements. The bill would also create an advisory committee, and revise the membership of the Board of Psychology.

Ms. Jones recommended the Committee take no action, allow the ABA Task Force the opportunity to meet in two days to review and consider the bill, and bring the matter to the full Board at its May meeting.
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#5 a 26) SB 800 (Senate Business, Professions, and Economic Development Committee) Regarding Submission of Supervised Professional Experience (Business and Professions Code Section 2914(g))

Mr. Burke identified this as the Board’s Omnibus legislation. The Board adopted a support position at its February meeting. The Assistant Executive Officer will testify in support of this bill on this date.

It was M(Erickson)/S(Arias-Bhatia)/C to recommend the Board continue to support SB 800.

Vote: (Aye – Erickson, Arias-Bhatia, Jones. No – none)

#5 b) Update regarding the California Child Abuse and Neglect Report Act (CANRA) and Mandated Reporting – Penal Code Sections 261.5, 288 and 11165.1

Mr. Burke reported that the Board asked for an opinion from the Attorney General to determine whether oral copulation and sodomy between minors of like age is reportable. Assemblymember Garcia forwarded the request for the official opinion. It is anticipated that an official opinion may be completed by the summer.

#5 c) Regulation Update and Review Recommendations to Full Board

#5 c 1) Title 16, CCR Section 1397.12 – Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

Mr. Burke reported the Rulemaking File had been submitted to the Department of Consumer Affairs for review. A 15-day notice to modify the language was subsequently noticed to address inconsistent language relative to the authority to suspend a license rather than ordering a cease practice. The language will be presented to the Board in May for approval. The Rulemaking File will then be resubmitted to DCA for review prior to submission to Agency, Department of Finance, and the Office of Administrative Law.

#5 c 2) Title 16, CCR, Sections 1388, 1388.6, 1389, 1392 – Examinations, License Requirements and Waiver of Exemption. Reconsideration of Examinations, Psychologists Fees

Mr. Burke reported that the Rulemaking File has been submitted to the Director of the Department of Consumer Affairs for approval, then it will be submitted to Agency. Once approved by Agency, a formal request for an expedited review will be prepared and filed with the Office of Administrative Law.

#5 c 3) Title 16, CCR, Sections 1397.60, 1397.61, 1397.62, 1397.67 – Definitions, Continuing Education Requirements, Continuing Education Exemptions and Exceptions. Renewal after inactive or Delinquent Status
i) Discussion and Review of Comments Received During the 15-Day Notice Period

Mr. Burke reported that at its February 26, 2015, public hearing, the Board voted to modify the proposed amendments to raise the cap of traditional continuing education coursework from 18 hours to 27 hours per renewal cycle. 671 public comments were received to the modifications. 622 (93%) of the comments disagreed with the 27-hour cap and requested the continuation of 36 hours of traditional continuing education courses. 32 (5%) of the comments were not related to the second modified language. 16 (2%) of the comments were supportive of the proposed modifications. 1 comment suggested a 30-hour cap.

The Committee questioned whether the matter was to be brought to the full Board for direction at its May Board meeting. Ms. Marks clarified that the Board could either adopt the modifications as noticed explaining why it was rejecting the public comments, or it could make further modifications with another 15-day notice to accommodate the public comments. She asked the Committee if it wanted to make a recommendation to the Board one way or the other.

Ms. Arias – Bhatia excused herself from the remainder of the meeting.

It was M(Erickson)/S(Jones)/C to bring the public comments and staff summary to the full Board for its review and consideration.

Vote: (Aye – Erickson, Jones. No – none)

Ms. Jones requested the categories in the summary be further broken down into areas of concern/objection.

#5 c 4) Title 16, CCR, Section 1380.5 – Filing of Addresses

Mr. Burke presented proposed amended regulatory language to allow a licensee to provide an address of record that differs from the current mailing address, and to require a licensee to report to the Board his or her electronic mail address, specifying that a change must be reported to the Board within 30 days of such change.

It was M(Erickson)/S(Jones)/C to recommend the Board approve for public hearing the proposed amendment as follows:

§ 1380.5. Filing of Address.

(a) Each person holding a license as a psychologist shall file with the board his or her address of record, which shall be used as the mailing address for the licensee and shall be disclosable to the public proper and current mailing address, and shall report immediately to the board at its Sacramento office any and all changes of address, giving both his old and new address. The licensee may provide a post office box number or other alternative address as his or her address of record, if a post office box number or
other alternative address is used as the address of record, however, the licensee shall also provide a physical business or residential address for the Board's internal administrative use, and not for disclosure to the public.

(b) Each applicant and licensee who has an electronic mail address shall provide to the Board that electronic mail address and shall maintain a current electronic mail address, if any, with the Board.

(c) Within 30 days after a change of any address above, the applicant or licensee shall report to the Board any and all changes, giving both his or her old and new address(es).

(d) Failure to comply with the requirements of this section may subject the licensee to citation or administrative action.


Vote: (Aye – Erickson, Jones. No – none)

**Agenda Item #6: Recommendations for Agenda Items for Future Committee Meetings**

There were no recommendations for agenda items for future Committee meetings.

**Agenda Item #7: Adjournment**

Ms. Jones adjourned the meeting at 1:04 p.m.

[Signature]

Chair

Date: 1/6/14