STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, Governor

Board of Chiropractic Examiners
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Consumer Complaint Hotline (866) 543-1311
http://www.chiro.ca.gov

NOTICE OF PUBLIC MEETING - CORRECTED

GOVERNMENT RELATIONS COMMITTEE

July 17, 2008
Upon Conclusion of Public Relations Committee Meeting
State Capitol
Assembly Room 126
Sacramento, CA 95814

AGENDA

CALL TO ORDER

Approval of Minutes
- May 7, 2008

Public Comment

Discussion and Possible Action
- Status of Filling Vacant Positions

Discussion and Possible Action
- Format of the Meeting Minutes for Public Meetings

Discussion and Possible Action
- Review of Chiropractic Consultant Classification

Public Comment

Future Agenda Items

ADJOURNMENT

GOVERNMENT RELATIONS COMMITTEE
Jim Conran, Chair
Hugh Lubkin, D.C.

The Board of Chiropractic Examiners' paramount responsibility is to protect California consumers from the fraudulent, negligent, or incompetent practice of chiropractic care.

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BOARD OF CHIROPRACTIC EXAMINERS
MEETING MINUTES
Government Relations Committee
May 7, 2008
2525 Natomas Park Drive, Ste. 120
Sacramento, CA 95833

DRAFT

Committee Members Present
Jim Conran, Chair
Hugh Lubkin, D.C.

Staff Present
Brian Stiger, Executive Officer
LaVonne Powell, Senior Staff Counsel
Marlene Valencia, Staff Services Analyst

Call to Order

Mr. Conran called the meeting to order at 1:32 p.m.

Roll Call

Dr. Lubkin called the roll. All committee members were present.

Approval of Minutes

The committee accepted the minutes as complete through general consensus.

Board Member Use of State Issued E-Mail Accounts

Mr. Stiger stated that the Board Member e-mail accounts were established in the system and we are now waiting for an implementation date.

Mr. Conran asked if the Board Members would receive guidelines on the appropriate use of state issued e-mail accounts and available training. Mr. Stiger stated that the Board Members must adhere to the same guidelines and polices as state employees and that information would be forthcoming.

Dr. Charles Davis, International Chiropractic Association of California, asked if the Board Member e-mails messages are discoverable. Mr. Conran responded in the affirmative.

Dr. Davis asked if the Board Members having their own accounts would inhibit contact with the public. Mr. Conran said that was not the intent.

Status of Implementing the March 25, 2008 Bureau of State Audits' Recommendations and 60 Day Status Report

Mr. Stiger provided an update to the committee on the status of implementing the audit findings. Mr. Stiger said the implementation is on schedule and should be able to meet the due dates. Mr. Stiger stated he is working with committees to establish polices and procedures that will resolve most of the deficiencies.

Mr. Conran asked if we plan to share the status with the Legislature. Mr. Stiger stated he has not had that discussion with the Board Chair. Mr. Conran recommended that the status be shared with specific legislative committees to keep them informed.

Dr. Davis asked if the Board had sufficient staffing to respond timely to the Bureau of State Audits. Mr. Stiger said he will respond timely to the Bureau of State Audits regardless of the level of staffing.

Mr. Conran recommended that this status be placed on the website because the public has a right to know how the Board is doing.

Status of Implementing 2006 Sunset Review Report Recommendations

Mr. Conran provided an overview of the Sunset Review Process and its intent.

Mr. Stiger stated that the Board is schedule to be heard by the committee in 2010; however, all of the recommendations from the 2006 report have not been addressed. Mr. Stiger stated that issue #4 regarding the general fund loan has been resolved and issue #7 implementation of cite and fine is in the process of being resolved.

Mr. Stiger stated he wanted to make sure the Board was aware of the status and the workload necessary to address these issues.

Mr. Conran suggested that this subject be tabled until July when we are fully staffed.

Dr. Lubkin provided his perspective on the 2006 hearing which he attended.

Kristine Schultz, California Chiropractic Association, commented that one issue was to deal with B & P codes that may or may not pertain to Doctors of Chiropractic and asked if the Board planned to address these issues through regulation.

Mr. Stiger stated that the Board has not taken a position on this issue and we have presumed that the B & P code statutes apply to our licensees.

Dr. Davis, International Chiropractic Association of California, asked when the Board would receive questions from the committee to begin working on the report.

PUBLIC COMMENT

Dr. Davis asked if the Government Relations Committee will contact legislators regarding next year's budget. Mr. Stiger stated that the Legislative Committee handles those contacts.

ADJOURNMENT

Mr. Conran adjourned the meeting at 1:52 p.m.

DRAFT

Recruitment and Selection of Vacant Position Update
July 11, 2008

Classification	Date Advertised	Application Review	Interviews Conducted	Background Checks	Formal Offer	Start Date
Office Technician Cashier / Front Counter	04/11/08	Complete	Complete	Complete	05/01/08	05/05/08
Office Technician Licensing / CE	04/11/08	Complete	Complete	Complete	04/23/08	05/07/08
Staff Services Analyst Compliance Unit	04/11/08	Complete	Complete	Complete	05/29/08	06/26/08
Staff Services Analyst Compliance Unit	04/11/08	Complete	Complete	Complete	6/13/08	07/16/08
Staff Services Manager I Compliance Manager	04/11/08	Complete	Complete	Complete	05/27/08	07/07/08
Staff Services Manager I Lic/CE/Admin Manager	05/05/08	Complete	Complete	Complete	06/06/08	06/24/08
Sup. Spec. Investigator I Field Op. Manager	05/27/08	In Process	In Process			
Office Technician Policy / Admin	07/03/08	In Process	In Process			

Recruitment and Selection of Vacant Position Update
July 11, 2008
(Cont.)

Classification	Date Advertised	Application Review	Interviews Conducted	Background Checks	Formal Offer	Start Date
Spec. Investigator (3)	07/10/08					

MEDICAL BOARD OF CALIFORNIA
DIVERSION PROGRAM
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Diversion Committee

Hilton Los Angeles Airport Hotel
Pacific B Room
5711 West Century Blvd.
Los Angeles, CA 90045

February 1, 2007

Minutes

SAMPLE

Agenda Item 1 Call to Order

The Diversion Committee of the Medical Board of California (MBC) was called to order by Chair, Laurie Gregg, M.D., at 3:05 p.m. Notice had been sent to interested parties.

Members Present:

Laurie Gregg, M.D.
Richard Fantozzi, M.D.
Cesar Aristeiguieta, M.D.
Stephen Corday, M.D.
Shelton Duruisseau, Ph.D.

Staff and Guests Present:

Frank Valine, Program Administrator
Dave Thornton, Executive Director
Kimberly Kirchmeyer, Deputy Director
Rhonda Baldo, Staff
Terri Dukes, Staff
Julie D' Angelo Fellmeth, Center for Public Interest Law
Sandra Bressler, California Medical Association

Agenda Item 2 Approval of the November 2, 2006 Minutes

It was M/S/C (5-0) to approve the minutes of the November 2, 2006.

Agenda Item 3 Diversion Program Update

Program Status

Mr. Valine provided an update of the Diversion Program. He stated there are two Case Manager Supervisors, one located in Northern California and one in Southern California, who supervises 6 case managers. The case managers' case loads are between 32 and 38 participants. Mr. Valine stated that both Case Manager Supervisors have a case load of their own between 5 and 9 participants.

Quarterly Quality Review Report

Mr. Valine reported that 18 physicians contacted the program during the second quarter. A total of 48 physicians contacted the program in fiscal year 2006/2007. Six of the 18 physicians were not practicing medicine at the time they contacted the program. Four physicians began the evaluation process for formal participation by completing their initial interview. Three physicians were ineligible for the program and 4 physicians were not interested after they did an intake interview. Six of the physicians were board referrals, and 12 were self referrals.

Mr. Valine reported on the program's response time from the time a physician contacts the program until seen by the DEC. He reported that the times may vary because it is not unusual for a physician to enter the program immediately, however it could be a delay in scheduling them for a DEC. Upon entering the program the physician is immediately put into the random drug generator (RDG), and within days they are attending group meetings, assigned to a case manager and begin testing.

Twenty physicians were released from the program this quarter, 11 were successful and 9 unsuccessful. Eight were board referrals and 12 were self referrals. Dr. Gregg request a column be added to the report to indicate whether or not unsuccessful releases were reported to enforcement.

Mr. Valine reported 4 physicians relapsed this quarter, 3 were board referrals, and 1 was a self referral. Each relapse case had a relapse narrative which indicated what happened to the physician and the method of detection of their relapse.

Collection System Manager's Report

Approximately 2,929 urines were collected this quarter of which 106 were positive. Of the 106 positives, 101 were either approved prescriptions or determined not to be a relapse, and 5 were deemed relapses. Negative dilutes tests were retested with no positives. Mr. Valine reported that a physician stops working whether or not it is a positive from an approved prescription or a deemed relapse.

Financial Status Report per 231 (Business & Professions Code 2343 (b))

Mr. Valine discussed the program's budget and accounted for all expenses and revenue for the quarter. Dr. Aristeiguieta asked if the unspent $41,000 in the Diversion's budget would go back into the program. Kimberly Kirchmeyer reported that the money would revert back into the Board's fund.

Diversion Program Matrix Update

There was a brief discussion on scheduling a special committee meeting or an extended meeting to discuss the diversion audit and Enforcement Monitor recommendations.

Mr. Valine reported on the 15 Enforcement Monitor's recommendations. Dr. Gregg requested that Issue 12 (develop criteria/regulations for a competency exam requirement for the Diversion Program participants) be an agenda item for the next committee meeting. Mr. Valine requested that Issue 13 (to consider a policy for mandatory "practice cessation" upon entry into the Diversion Program) also be an agenda item.

DEC Appointments/Re-Appointments

Mr. Valine asked the committee to approve two new Diversion Evaluation Committee (DEC) Members, Blaine Z. Hibbard, M.D. and Richard Prather, M.D. It was M/S/C (Gregg/Aristeiguieta) (5-0) to approve the new DEC members.

Mr. Valine asked the committee to approve four DEC members for re-appointment, Richard D. Diamond, DDS, Morris Gelbart, Ph.D., James Massman, M.D., and William Russ, DDS. It was M/S/C (Gregg/Aristeiguieta) (5-0) to approve the DEC re-appointments.

Status of Diversion Audit

Mr. Valine reported on the status of the Diversion Program audit, indicating there appear to be no major problems with the program.

Agenda Item 4 Diversion Advisory Council

Dr. Gregg discussed the proposed Diversion Advisory Council (DAC). The DAC would have seven members with representatives from the following organizations: 2 DEC members, 2 California Society of Addiction Medicine members, 1 board member and an alternate, 1 CMA member and an alternate, and 1 California Psychiatric Association member and a alternate. If approved by the board, the DAC structure will be included in legislation sponsored by the Board. The various organizations will be asked to submit nominations by April 1, 2007 and the DAC will be established at the April board meeting by the Diversion Committee. The DAC would make recommendations and provide clinical quality improvement advice on matters specified by the board or the committee's of the board. The DAC would comply with the open meetings act and

meetings would be scheduled within 30 days after a board meeting. The chair, elected by the council or his or her designee, will report back to the board, or committee of the board, at the

SAMPLE

regular scheduled meetings. It M/S/C (Fantozzi/Duruisseau) (5-0) to approve the establishment of the DAC.

Agenda Item 5 Public Comment

None

Agenda Item 6 Agenda Items for the next Committee Meeting

- Issues 12 and 13 of the Enforcement Monitor's Matrix

Agenda Item 7 Adjournment

Dr. Gregg adjourned the meeting at 3:50 p.m.

SAMPLE

STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
CALIFORNIA ACUPUNCTURE BOARD
444 North 3rd Street, Suite 260, Sacramento, CA 95814-0226
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Approved March 11, 2008
ACUPUNCTURE BOARD
MEETING MINUTES

Department of Consumer Affairs
Sacramento, CA

FULL BOARD MEETING
FRIDAY, November 2, 2007

SAMPLE

Members Present
Steven Tan, M.D., L.Ac., Chair
Kenny Cherng, L.Ac., Vice Chair
Adam Burke, L.Ac.
Cary Nosler, Public Member
Larry Yee, Public Member

Members Absent
Robert Brewer, Public Member

Staff Present
Janelle Wedge, Executive Officer
LaVonne Powell, Legal Counsel
Mary Howard, Administrative Coordinator
Cathy Hardin, Administrative Technician

Guest List on File

1. **Call to Order – Dr. Steven Tan, Chair**
Board Chair Steven Tan called the Acupuncture Board (board) meeting to order at approximately 8:45 a.m. Roll was taken and all members were present except Robert Brewer and Adam Burke. A quorum was not established at this time. Adam Burke arrived at approximately 9:15 a.m., at which time a quorum was established. All action items were bypassed until after Adam Burke was present.

2. **Chair Report – Dr. Steven Tan**
Board Chair Dr. Steven Tan had the following announcements: **1)** he asked that members of the public wishing to speak do so clearly and into the microphones, and that they adhere to the two minute limit when addressing the board; **2)** Peichin Cheng has resigned from the board; **3)** he has resigned from the board as well, this was his last meeting. He expressed his gratitude for his fellow board members, the staff, and the public who have participated in protecting consumers.

3. **Executive Officer's Report – Janelle Wedge**
Executive Officer Janelle Wedge had the following announcements: **1)** she presented Steven with a plaque recognizing his leadership to the board, dedication to the consumers of California, and contributions to the field of acupuncture; **2)** she introduced Cathy Hardin as the new Secretary for the board.

4. **Approval of Meeting Minutes**

a. **August 10, 2007**

The minutes of August 10, 2007 were reviewed.

CARY NOSLER MOVED AND LARRY YEE SECONDED THE MOTION TO APPROVE THE AUGUST 10, 2007 MEETING MINUTES. MOTION CARRIED UNANIMOUSLY.

b. **October 1, 2007**

The minutes of the emergency meeting on October 1, 2007, regarding the August exam results, were reviewed.

KENNY CHERNG MOVED AND ADAM BURKE SECONDED THE MOTION TO APPROVE THE OCTOBER 10, 2007 MEETING MINUTES. MOTION CARRIED UNANIMOUSLY.

c. **May 18, 2007**

The amended minutes of May 18, 2007 were reviewed.

ADAM BURKE MOVED AND CARY NOSLER SECONDED THE MOTION TO APPROVE THE MAY 18, 2007 MEETING MINUTES AS AMENDED. MOTION CARRIED UNANIMOUSLY.

5. **Petition Pursuant to B&P code Section 4967(b)**

a. **Tom Fung**

Janelle Wedge reported that he has petitioned the board to have a new license issued, without having to retake the exam, based on his past experience. His license was cancelled on May 1, 2005 for failure to renew on or before April 30, 2002. He has maintained an acupuncture practice in Canada since his California license has become inactive. He has kept his Canadian license and professional association memberships up-to-date this entire time.

Steven Tan asked if a background check had been requested from the Canadian acupuncture oversight agency on Mr. Fung. Janelle explained that, at the time of his application for licensure in California, Mr. Fung would be LiveScanned, which is checked by Department of Justice and the FBI.

Kenny Cherng expressed concern that there is no evidence of continuing education in the past few years; the only records provided are proof of updated association memberships. Janelle believes that those memberships indicate completion of continuing education hours required by the professional association. At the request of the board, Janelle will verify that continuing education is a requirement for membership in the professional associations in Canada to which Mr. Fung belongs, and bring that information back to the next board meeting.

b. **Logan Hong**

Janelle Wedge reported that he has petitioned the board to have a new license issued, without having to retake the exam, based on his past experience. His license was cancelled on September 1, 2006 for failure to renew on or before August 31, 2003. Since then, he has completed an EMT training program, and has been employed as an EMT. Based on the information provided, he has not had anything to do with acupuncture since his license expired.

There was discussion of whether Mr. Hong should be asked for further information regarding his practice since 2003. Cary suggested that it is incumbent upon the petitioner to provide complete information with the initial petition to the board. A comment by the public agreed with this position.

CARY NOSLER MOVED AND KENNY CHERNG SECONDED THE MOTION THAT LOGAN HONG BE REQUIRED TO PASS THE LICENSING EXAMINATION, AND NOT WAIVE THAT REQUIREMENT, IN ORDER TO OBTAIN A NEW LICENSE. THE MOTION CARRIED BY THE FOLLOWING ROLL CALL: AYE – KENNY CHERNG, CARY NOSLER, STEVEN TAN, ADAM BURKE. ABSTAIN – LARRY YEE.

6. **Administrative Business – (Discussion/Action)**

a. **Budget Report**

Mary Howard provided the board with expenditure projections for FY 2007/08; the report showed that projections indicate a 22% surplus at the end of the fiscal year.

Mary also provided the fund condition, which is a projection of how the board's fund will look at the end of this fiscal year and the upcoming fiscal years. In summary, our budget is in good shape. There was discussion as to what happens to the money we don't spend and it was explained that it reverts to our fund at the end of the fiscal year and we need legislative authority to spend that money.

b. **Legislative Update**

Mary reported on the following bills:

AB 54 – health care coverage - No change since March 29; still in Assembly Committee on Health.

AB 636 – acupuncture - No change since April 10; still in Assembly Committee on B&P.

AB 865 – live customer service agents - No change since April 24; still in Assembly Committee on B&P.

AB 1025 – professions and vocations - Vetoed by Governor on October 13.

AB 1182 – reconstitution of BPPVE – similar to SB823; no information on DCA position on AB1182; there will probably be no further action until Legislature reconvenes in January.

AB 1525 – interim continuation of BPPVE provisions - bill was approved by the Governor and took effect July 1, 2007.

SB 136 – asian massage - No change since April 23; still in Senate Committee on B&P. Cary Nosler asked about the status of this bill, and Mary believes that the bill has died.

SB823 – reconstitution of BPPVE - amended August 20 and referred to Assembly Committee on Appropriations; DCA took an opposed position on the 7/2 and 8/20 version of the bill.

SB 840 – single payer health care coverage – Amended July 10 and referred to Assembly Committee on Appropriations; this bill was brought up at the last meeting, there was concern that acupuncturists are not considered primary care providers under this bill; there will probably not be further action on this bill until Legislature reconvenes in January. A member of the public voiced concern about acupuncturists not being included on the list of primary care providers in the bill. Legal Counsel, LaVonne Powell explained that because acupuncturists are not on that list, it may restrict acupuncturists' ability to practice as primary care providers. She recommended waiting and watching the progress of the bill, and possibly receiving some analysis from industry members.

SB 963 – regulatory boards - amended June 25 and referred to Assembly Committee on B&P. DCA has taken an opposed position on this bill and has indicated it is a two-year bill.

c. **Legislative Proposals (B&P Code)**

Section 4933 – change quorum from five to four – Mary Howard reported that the board initially wanted to change the board quorum from "five members" to "a majority of members". The department responded and asked that a specific number be used, rather than "majority". LaVonne explained that using the term "majority" can create confusion of what, exactly, constitutes a quorum.

KENNY CHERNG MOVED AND CARY NOSLER SECONDED THE MOTION TO ADOPT THE PROPOSED AMENDMENT TO SECTION 4933, STATING THAT FOUR MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM. THE MOTION CARRIED UNANIMOUSLY.

Section 4935 – make unlicensed practice of acupuncture a public offense instead of misdemeanor – Mary Howard reported that the department will not carry this amendment with its bill, so the board must decide whether to move forward with the change and finding someone else to carry the bill. LaVonne explained that the change makes it possible for the offense to be charged as either a misdemeanor or a felony, and it is easier to gain the interest of a district attorney if it is possible to charge the offense as a felony.

CARY NOSLER MOVED AND ADAM BURKE SECONDED THE MOTION TO ADOPT THE PROPOSED AMENDMENT TO SECTION 4935, MAKING UNLICENSED PRACTICE OF ACUPUNCTURE A PUBLIC OFFENSE, AND TO DIRECT THE EXECUTIVE OFFICER TO SECURE AN AUTHOR. THE MOTION CARRIED UNANIMOUSLY.

Adam Burke asked what the law is regarding illegal activity around the licensing exam. LaVonne believes that subversion of the exam is a felony, and other penal codes affect the ability to sentence for such an offense (bribery, theft, etc.). There was discussion of developing language to clarify the repercussions of subverting the exam. The board requested that staff bring language to the next meeting for further discussion.

Section 800 – add Acupuncture Board to Central Files of Licensees – Mary Howard explained that the department asked if the board wished to be included in this amendment which would add the board to B&P Code Section 800. Mary and LaVonne explained that this would be another way for the board to be notified of unprofessional conduct of acupuncturists.

ADAM BURKE MOVED AND CARY NOSLER SECONDED THE MOTION TO AMEND B&P SECTION CODE 800, AND ANY OTHER APPLICABLE SECTIONS UNDER THE 800S, AND TO DIRECT STAFF TO WORK WITH THE DEPARTMENT OF CONSUMER AFFAIRS. MOTION CARRIED UNANIMOUSLY.

7. **Education Business – (Discussion/Action)**

a. **Proposed Elimination of Tutorial Program – Survey Results**

Janelle Wedge presented a summary of responses to the Tutorial Program survey that was sent out on October 9, 2007 to former and current tutorial students. All respondents were in favor of continuing the program. Following is a summation of other written and oral testimony received regarding the possible elimination of the tutorial program, as well as a summation of board member comments. Copies of written testimony will be retained in the board's official meeting record and are available upon request.

Testimony in favor of continuing the program

- Two letters were received from legislators in support of the program.
- Several members of the California Association of Acupuncture Tutorials testified, and presented letters from acupuncturists, acupuncture instructors, current, former, and potential tutorial students, and consumers, in favor of the tutorial program.
- Tutorial students feel adequately prepared for the exam.
- The program is a less expensive, and more flexible option for those wishing to become acupuncturists.
- Tutorial program adds diversity to the field of learning.
- The program provides more clinical training and more access to patients.
- Trainees and supervisors work one on one, learning is more personalized.
- Weaknesses can be strengthened by implementing proposed changes to the program.
- Discontinuation of the program is beyond the board's scope, and would require a change in state law.
- The program presents no additional cost to the board.
- Tutorial-trained acupuncturists cause no more harm to the public than other acupuncturists.
- It is unclear who will benefit from discontinuing the tutorial program.
- Tutorial programs can be an asset to small, rural communities.

Concerns with keeping the program

- After December 31, 2008, the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) will no longer accept tutorial programs as qualification for the national exam.
- In all other states, except California, the NCCAOM exam is required for licensure; tutorial students would be restricted to practicing only in California.
- Many of the recommendations for changes to the tutorial program (e.g.: allowing tutorial students to attend classes at acupuncture schools without having met prerequisites) are in violation of school accreditation standards.
- One (or even two) supervising individuals cannot cover the depth and breadth of information that is presented to students in an academic program.

- Licensed acupuncturists are recognized as primary care providers, and one-third of the hours in an educational program are designed to prepare students for this responsibility. This preparation may be significantly less in a tutorial program.

Board member comments

- The role of the board is not to promote, but to regulate the training of acupuncturists. The first responsibility of the board is to protect consumers by regulating the education of acupuncturists.
- It sounds as if tutorial advocates (like CAAT) could work with acupuncture schools to develop apprenticeship-type programs, or alternate methods of meeting the requirements for graduation from the schools.
- A surprisingly small number of students responded to the tutorial survey.
- An academic program can provide a valuable foundation from which to begin study with a mentor.
- Standardization of education, in order to encourage constant quality, has been a continuing trend in all fields of medicine, including acupuncture.
- The burden of responsibility and oversight on the part of the board staff may be too great to justify maintaining a program that serves only about 1% of students.
- The possibility of tutorial students being unable to practice in other states is a very real concern.
- In order for acupuncture to grow in credibility in the medical field, it is essential that the health care education for acupuncturists be of the highest recognized standard.
- The tutorial program does serve some students, and should not be discontinued at this time.
- Tutorial programs cannot present the scope of knowledge and experience that educational programs can.

Lavonne Powell explained that if the board votes to eliminate the tutorial program, legislation would be drafted that would repeal current language. The legislation would then be carried through the department or by finding an author, at which point there would be committee meetings in the Legislature and opportunities for further public comment. Once legislation passed, existing regulations would be repealed through a Section 100 regulatory change request.

CARY NOSLER MOVED AND ADAM BURKE SECONDED THE MOTION TO ELIMINATE THE ACUPUNCTURE BOARD'S TUTORIAL PROGRAM, WHICH IS FOUND IN SECTIONS 4940 AND 4941 OF THE B&P CODE, AND ANY OTHER RELATED STATUTES THAT INVOLVE THE TUTORIAL PROGRAM. THE MOTION CARRIED BY THE FOLLOWING ROLL CALL: AYE – ADAM BURKE, STEVEN TAN, CARY NOSLER. NO – LARRY YEE, KENNY CHERNG. ABSTAIN – NONE.

LaVonne suggested that a motion be passed to phase out the program, enabling current tutorial students to complete their program, as well as allowing those that have previously completed the program to compete in the examination process.

CARY NOSLER MOVED AND ADAM BURKE SECONDED THE MOTION THAT CURRENTLY APPROVED TUTORIAL STUDENTS HAVE FIVE (5) YEARS FROM THE DATE OF ELIMINATION OF THE PROGRAM, TO SUCCESSFULLY COMPLETE THE PROGRAM. THE MOTION CARRIED BY THE FOLLOWING ROLL CALL: AYE – ADAM BURKE, STEVEN TAN, CARY NOSLER, KENNY CHERNG. NO – LARRY YEE. ABSTAIN – NONE.

ADAM BURKE MOVED AND CARY NOSLER SECONDED THE MOTION TO DIRECT THE EXECUTIVE OFFICER TO DEVELOP LEGISLATION AND SECURE AN AUTHOR TO CARRY THE PROPOSED LEGISLATION. THE MOTION CARRIED BY THE FOLLOWING ROLL CALL: AYE – ADAM BURKE, STEVEN TAN, CARY NOSLER, KENNY CHERNG. NO – LARRY YEE. ABSTAIN – NONE.

b. School Review Report – The Atlantic Institute of Oriental Medicine

Johanna Chu Yen, the president of Atlantic Institute of Oriental Medicine (ATOM), was present at the meeting.

Janelle Wedge presented the board with the report on the facility review that was conducted by staff on October 22, 2007 of ATOM in Fort Lauderdale, Florida. The school is nationally accredited, and received its license under the laws of the State of Florida, on October 1, 1994. ATOM offers two required courses that are not within the scope of practice for California licensed acupuncturists: homeopathy and injection therapy. ATOM has removed these two courses from the requirements for California track students, and has instead added two alternative courses. The school meets all other California requirements.

CARY NOSLER MOVED AND KENNY CHERNG SECONDED A MOTION THAT THE BOARD ACCEPT STAFF'S RECOMMENDATION TO APPROVE THE ATLANTIC INSTITUTE OF ORIENTAL MEDICINE. THE MOTION CARRIED UNAMIMOUSLY.

c. Status of School Site Visits

Janelle Wedge presented the board with an updated status report on pending school applications and site visits. She noted that because the Education Coordinator, Nancy Molinar, will be leaving the board within the next two weeks, Janelle will be assuming these duties for the time being.

Adam Burke asked that there be some kind of recognition presented to Nancy for her service to the board.

d. Proposed Language from Jack Miller, Pacific College of Oriental Medicine Regarding Amendments to CCR section 1399.434(h) – Clinical Training

Tom Haines presented proposed language developed by Jack Miller, revising 1399.434 to allow 100% clinical training in acupuncture programs not owned and operated by an approved school and only up to 25% under specified conditions. Steven Tan expressed his belief that Mr. Miller's language is very close that which is needed to update the regulations.

Mr. Haines also brought up a question regarding the board's description of externship and internship. LaVonne Powell believes that there is no conflict between the schools' and the board's definitions, and will bring back a clearer answer to the next board meeting.

Adam Burke requested that a minimum number of hours of supervised needling be specified in this proposed language. He also requested that the term "East Asian medicine" be used rather than "Asian medicine", which can include other Asian medicines (ayurveda, Persian, etc.). Language should also specify the qualifications of anyone acting as a "supervisor".

LARRY YEE MOVED AND CARY NOSLER SECONDED THE MOTION TO HAVE STAFF WORK WITH JACK MILLER TO REVISE THE PROPOSED LANGUAGE AS SUGGESTED AND DEVELOP REGULATORY LANGUAGE TO BRING TO THE NEXT BOARD MEETING. THE MOTION CARRIED UNANIMOUSLY.

e. Proposed Language from Elizabeth Goldblatt (ACTCM), Regarding

1. Out of state students – At the last meeting, the board agreed to this change in principal, and requested some new wording for the requirements. Elizabeth Goldblatt presented proposed language developed by ACTCM, to change the requirements for CALE applicants.

   There was discussion of the appropriate wording for "acupuncture/Asian medicine", so that it is possible to accept degrees that might contain alternate wordings. LaVonne Powell recommended using the language that the U.S. Department of Education uses, which is "acupuncture and oriental medicine".

   Public concern was voiced that there will not be sufficient educational oversight for out of state schools under the new wording.

CARY NOSLER MOVED AND KENNY CHERNG SECONDED THE MOTION TO SEEK LEGISLATION TO ALLOW THE BOARD TO ACCEPT FOR LICENSURE CANDIDATES WHO MEET CAB REQUIRMENTS AND WHO HAVE GRADUATED FROM AN INSTITUTION OR PROGRAM IN THE USA THAT HAS ACHIEVED ACCREDITATION OR CANDIDACY BY A SPEICALIZED ACCREDITING AGENCY RECOGNIZED BY THE U.S. DEPARTMENT OF EDUCATION AS AN AUTHORITY FOR THE QUALITY OF EDUCATION AND TRAINING IN ACUPUNCTURE AND ORIENTAL MEDICINE. THE MOTION CARRIED UNANIMOUSLY.

ADAM BURKE MOVED AND CARY NOSLER SECONDED THE MOTION TO CONFORM OTHER SECTIONS OF THE CURRENT CODE TO THE NEW REQUIREMENTS. THE MOTION CARRIED UNANIMOUSLY.

Public concern was voiced that board staff are not qualified to review medical education transcripts. LaVonne explained that there are subject matter experts to whom the board can address questions regarding applicants' transcripts.

KENNY CHERNG MOVED AND ADAM BURKE SECONDED TO CONTINUE TO HONOR APPROVAL OF OUT OF STATE SCHOOLS THAT ARE CURRENTLY APPROVED BY CAB, AND TO ELIMINATE CAB APPROVAL OF ANY FURTHER OUT OF STATE SCHOOLS. THE MOTION CARRIED BY THE FOLLOWING ROLL CALL: AYE – STEVEN TAN, KENNY CHERNG, ADAM BURKE, CARY NOSLER. NO – NONE. ABSTAIN – LARRY YEE.

2. Foreign trained applicants – Elizabeth Goldblatt presented proposed language submitted by ACTCM, which creates equivalent language for out of state and foreign trained applicants' education requirements.

   The board agreed with the concept of the language, but felt that the wording is not quite right.

   LaVonne suggested that foreign trained requirements be separated from out of state requirements in the code, and that further research be done regarding the education program approval requirements of other countries.

ADAM BURKE MOVED AND CARY NOSLER SECONDED THE MOTION TO SEPARATE REGULATIONS REGARDING FOREIGN TRAINED APPLICANTS FROM THOSE REGARDING OUT OF STATE APPLICANTS, AND TO KEEP THE CURRENT FOREIGN TRAINED APPLICANT REGULATIONS THE SAME AT THIS TIME. THE MOTION CARRIED BY THE FOLLOWING ROLL CALL: AYE – STEVEN TAN, KENNY CHERNG, ADAM BURKE, CARY NOSLER. NO – NONE. ABSTAIN – LARRY YEE.

f. **Limitation of Transfer Credit or Challenge Exam for Tai Qi/Qi Gong Courses**
   Tom Haines explained that only 50% of Tai Qi/Qi Gong transfer credits can be accepted at acupuncture schools, and since those two areas fall into the same subcategory of requirements, transfer students frequently have to repeat training. Because many transfer students have extensive experience in these subjects, it was requested that an exception be made to allow 100% of transfer credit or challenge exam credit for these courses.

   The board was concerned that such an exception would set a precedent to request further exceptions for courses in other subcategories. The board suggested placing Tai Qi/Qi Gong in a broader category where 100% of transfer credit could be accepted.

ADAM BURKE MOVED AND LARRY YEE SECONDED THE MOTION TO MOVE SECTION 1399.434(b)(2)(D), EXERCISE THERAPY, INTO SECTION 1399.434(b)(1)(A), ORIENTAL MEDICINE PRINCIPLES AND THEORY. THE MOTION CARRIED UNANIMOUSLY.

g. Review of Five Year License Requirement for Clinical Directors and Supervisors

There was a request from the public to create a process that would allow persons with a specified number of years' experience outside of acupuncture (e.g., registered nurses) to serve as clinic supervisors for training programs.

Public comment expressed support for the current five year requirement, as it promotes stronger acupuncture teaching ability on the part of the supervisor.

The board agreed that the five year requirement is not excessive or limiting, and creating exceptions only causes potential for more problems in regulation.

h. Continuing Education Credit for CME Courses

Janelle Wedge presented a letter from a member of the public, requesting that the board allow CME courses to be applied toward continuing education credits.

Public comment expressed concern that CE courses do not have the same level of content and educational value as CME courses.

LaVonne Powell explained that the current regulations only allow board approved providers to offer continuing education courses, and that the trend among healing arts boards is to change that requirement so that non-approved providers would have the potential to offer courses that would apply to acupuncture continuing education.

The board agreed with the spirit of such change and the need for improvement in the acupuncture CE courses, but believes that this issue requires more discussion and research before any legislative change is proposed

8. Examination Business

a. August 7, 2007 Licensing Examination

Janelle Wedge provided the results statistics from the examination. The public requested that statistics for first-time takers be broken out, and Janelle explained that the database cannot provide those statistics, but she has done them by hand for some schools.

LaVonne Powell reported that the investigation of the August 2007 examination found some anomalies relating to the pass rate, but no evidence was found that there was subversion of the examination.

The public expressed concern over examination security, and the board reminded the public that it is their responsibility to report to the staff or board members any information they might have regarding possible subversion of the exam.

There was a discussion regarding the relative merits of ways to improve the security of the exam, including increasing the size of the question bank, computerizing the exam, retiring old questions, working with the national exam to share questions, etc.

The board requested that an educational committee meeting be scheduled to continue discussing this issue.

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9. Enforcement Business

a. Use of the Title Doctor

Based on the discussion at the last meeting, the board had decided that the most practical solution to this problem was to educate the public about what the various designations mean.

Steven Tan expressed concern that the wording regarding OMDs in the webpage material is inaccurate and misleading. The board requested that staff change the paragraph regarding OMDs to reflect the historical context of the degree, and the fact that it was solely a "California authorized" degree.

Elizabeth Goldblatt provided copies of the Oregon laws regarding the use of the title "Doctor", for the board's information.

LaVonne Powell recommended that the board develop language to change the acupuncture board law to reflect the requirements they deem necessary for use of this title, so that BPPVE will have a reference to use when developing their own regulations.

b. Enforcement Case Report

Janelle Wedge presented the board with an enforcement update and breakdown of complaints by category, indicating that between July 1, 2007 and October 24, 2007, there were 42 complaints received.

10. Set 2008 Acupuncture Board Meeting Dates and Locations

The board selected the following dates for 2008:
January 31, 2008 – Examination and Education Meeting, San Francisco
March 11, 2008
May 29, 2008
September 9, 2008
December 9, 2008

11. Election of Officers for 2008

Larry Yee nominated and Cary Nosler seconded the nomination of Adam Burke as Chairperson for 2008. The nomination carried unanimously.

Larry Yee nominated and Adam Burke seconded the nomination of Kenny Cherng as Vice Chairperson for 2008. The nomination carried unanimously.

12. Public Comment Period

Public Comments were received from the following individuals as items for the board to consider at a future meeting.

Ron Zaidman requested that the board not move Tai Qi/Qi Gong into the Oriental Medicine Principles and Theory category, because it disrupts the logic of the categories set forth in the regulations.

Hugh Morison requested that two board meetings be held in Southern California in 2008.

Benjamin Dierauf requested the statistics regarding first-time exam takers be made available to help applicants prepare. Janelle Wedge explained that the database is unable to generate that information, and the only current information has been calculated by hand. Benjamin also directed the board's attention to ACAOM's first draft of standards for the first professional doctoral program in Acupuncture and Oriental Medicine. He recommended that the board review the standards and address weaknesses in the requirements.

13. Adjournment

The meeting adjourned at approximately 1:15 p.m.

SAMPLE

Board of Behavioral Sciences

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BOARD MEETING MINUTES
February 15-16, 2007

Mission Inn Hotel
3649 Mission Inn Avenue
Riverside, CA 92501

Thursday, February 15

MEMBERS PRESENT
Victor Law, Chair, Public Member
Gordonna DiGiorgio, Public Member
Judy Johnson, LEP Member
Renee Lonner, LCSW Member
Victor Perez, Public Member
Karen Roye, Public Member
Dr. Ian Russ, MFT Member
Howard Stein, Public Member
Joan Walmsley, LCSW Member

MEMBERS ABSENT
D'Karla Leach, Public Member

STAFF PRESENT
Paul Riches, Executive Officer
Mona Maggio, Assistant Executive Officer
Steve Sodergren, Program Manager
George Ritter, Legal Counsel
Christy Berger, Legislation Analyst
Justin Sotelo, Regulatory Analyst
Christina Kitamura, Administrative Assistant

GUEST LIST
On File

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FULL BOARD OPEN SESSION

Victor Law, Board Chair, called the meeting to order at 9:05 a.m. Christina Kitamura called roll and a quorum was established.

I. Chairperson's Report

Mr. Law made a change to the agenda. Since Judy Johnson, Consumer Protection Committee Chair, would be arriving late, agenda item V on the report of the Consumer Protection Committee was switched with agenda item VIII.

State of California
State and Consumer Services Agency
Arnold Schwarzenegger
Governor

Mr. Law introduced a newly appointed Board member, Renee Lonner, LCSW member. Ms. Lonner introduced herself and gave a brief background. Ms. Lonner provides management consultation for Robert T. Dorris & Associates. She also owns a small private practice. Ms. Lonner served as past-president of the California Society for Clinical Social Work and also served on the American Board of Examiners in Clinical Social Work.

Board members, staff and legal counsel introduced themselves.

II. Executive Officer's Report

A. Personnel Update

Paul Riches reported on the new hires that took place since the last Board meeting. Michelle Eernisse joined the BBS in December filling the vacant MFT evaluator position. Karrmynne Williams joined the BBS in December filling the vacant Cashier position. Cynthia Finn joined the BBS in January filling the vacant Office Assistant position in the Administration Unit. There is one remaining vacant position that is under recruitment, which should be filled within the next 30-45 days.

B. Examination Update

Mr. Riches announced that the Department of Consumer Affairs (department) unsealed the bids and issued an intent to award the testing contract for the entire department to Psychological Services Inc. (PSI). PSI is a mid-sized examination firm in Southern California. The contract award has been subject to a protest and that protest process is under way at this time. The department is under strict timelines, and their intent is to have a new vendor in place buy June 1, 2007.

C. Miscellaneous Matters

Mr. Riches reported that the Director of the Department of Consumer Affairs (DCA) has resigned and has been appointed to the San Diego Regional Airport Authority. Mr. Scott Reid began his first day this week as Chief Deputy Director for DCA. This position had been vacant since last summer. Mr. Reid is a former Deputy Cabinet Secretary for Fred Aguiar, the Schwarzenegger Administration, and he was also the Undersecretary for the State Consumer Services Agency when Fred Aguiar was the Secretary for the State Consumer Services Agency.

III. Approval of November 16-17, 2006 Board Meeting Minutes

Correction on page 17, item XVII, second paragraph, first sentence: change *Joan* to *Ms. Walmsley*.

Correction on page 17, item XVII, fourth paragraph, third sentence: change *Paul* to *Mr. Riches*.

GORDONNA DIGIORGIO MOVED, HOWARD STEIN SECONDED, AND ALL CONCURRED TO APPROVE THE NOVEMBER 16-17, 2006 BOARD MEETING MINUTES AS AMENDED.

IV. Report of the Communications Committee

A. Review and Possible Adoption of Board Logo

Joan Walmsley reported on the Communications Committee. The Committee met on January 10, 2007. The Committee recommended that the Board review and select a Board logo from the designs provided by BP Cubed.

After a brief discussion, the Board was asked to adopt a Board logo.

DR. IAN RUSS MOVED, VICTOR PEREZ SECONDED, ALL CONCURRED ON ADOPTING THE BOARD LOGO EUREKA PMS 295 & 1245.

Ms. Walmsley reported on the following items discussed at the Communications Committee meeting:

- The committee conducted a review of progress on achieving the strategic objectives under Goal 1.
- Lindle Hatton of Hatton Management Consultants provided a presentation on the Board's Strategic Planning Process.
- The Committee reviewed the first drafts of the Marriage and Family Therapist and Licensed Clinical Social Worker Student Handbooks. Some minor changes were made, and it was adopted.
- The Committee reviewed the results of the Customer Satisfaction Survey. Overall satisfaction has increasingly improved.

Ms. Walmsley commended Sean O'Connor, Outreach Coordinator, and his effectiveness in the outreach program.

Mr. Riches added the outreach program is overbooked. The requests are exceeding the capacity to address them. The goal is to spread the Board's presence out to as many schools as possible, as well as leaving time in the remainder of Mr. O'Connor's schedule to perform other duties. Mr. Riches encouraged Board members to attend any of the outreach presentations.

B. Strategic Plan Update

Ms. Walmsley reported on the Customer Service Satisfaction Survey, stating that overall satisfaction is improving.

Ms. Walmsley reported on Student Outreach Coordinator and commended Sean O'Connor and his outreach efforts.

Mr. Law reported on an outreach event he attended with Mr. O'Connor. He suggested that each Board member attend an outreach event and meet the people who are attending these events.

Mr. Law moved agenda item VIII in place of agenda item V. Agenda item V was moved to proceed agenda item VII.

SAMPLE

VIII. Report of the Marriage and Family Therapist Education Committee

Dr. Ian Russ, Committee Chair, reported on the status of the Committee, explaining that the Committee is holding meetings throughout the state to explore the rewriting and the reorganization of the curriculum for marriage and family therapist (MFT) licensure. The MFT curriculum, among the three licenses that the Board regulates, is the only one with specific content requirements mandated by law. The other curricula have other sources, so the Committee is looking at it in the context of the MHSA, the wishes of Department of Mental Health (DMH) and the changing demographics of the state of California. All of these meetings involve vigorous discussions with stakeholders.

The last meeting of the Committee was held in conjunction with the Southern California Consortium. Many programs in Los Angeles County, including colleges and institutions, met together and had an open debate regarding the curriculum. At the top of the debate were the following questions:

- What role the "recovery model" plays in delivering services in community mental health centers?
- Is it really just a rewrite of old models or is it something unique?

The DMH and the MHSA have made it very clear that those who work in the mental health departments need to know and understand that model.

Mr. Riches and Dr. Russ have collected articles and studies regarding the recovery model, and there is a lot of reading about it as cohesive model. The next part of the debate is how much is a process issue and how much is a content issue; and how much should be taught in people's placements, versus in the classroom, and the role it will have within the curriculum.

The overall issue is that students need to be prepared to go into go into community mental health agencies as well as into private practice. In all of the discussions so far, everyone is in agreement that there needs to be an increase in cultural competency. Some concerns have been raised such as: 1) there is not enough emphasis on the culture and demographics in California, and 2) there is not enough emphasis on non-traditional methods of treatment that might be culturally specific and incorporating that into the program.

There is a need to include consumers of mental health in the decision-making. Dr. Russ stated that he is in the process of setting up a meeting with consumers of mental health in March at Pepperdine University.

Dr. Russ also spoke with Ellen Sachs, a law professor at USC who is noted in the United States and around the world in her writings in mental health law. She has had schizophrenia since she was 16 years old, and she is willing to consult with the Committee regarding her experiences, and the needs and the understanding from the consumer to the practitioner.

The next meeting of the Committee is with the Northern California Consortium in March.

Part of the meeting is for the group to look at where the proposal is at, critiquing, structuring, and balancing out the issues. It's a complicated issue because we also have to deal with structuring. For example, are we going to require a certain number of units in a specific area and control institutions? Or are we going to determine the overall requirements and allow curricula to be based on the school's philosophy and culture and make sure that content is incorporated appropriately? Schools are already doing that. Schools have content that must

be covered, and then they show what classes cover that content. There are areas such as cultural competency that would be covered across more than one course. The question is then, should the course requirements be specified or should that be left up to the institution? The Committee is trying to figure out how to balance out those issues.

Mr. Riches informed the Board members and public that the next meeting will be held at Golden Gate University in San Francisco on Friday, March 9th and will begin at 10:00 a.m. Immediately following the Committee meeting will be a meeting of the Northern California Consortium of MFT programs.

VI. Presentation by Donna DeAngelis, Executive Director of the Association of Social Work Boards regarding licensure examinations.

Donna DeAngelis could not attend to make the presentation. Roger Kryzanek, President, Board of Directors of Association of Social Work Boards (ASWB), gave an introduction and presentation to the Board regarding the social work licensure examination including development of the examination, review and approval of the exam.

Mr. Kryzanek expressed ASWB's desire for California to become a member. ASWB is composed of 59 members: 49 states, the District of Columbia, the Virgin Islands, and eight Canadian provinces. ASWB's by-laws state that its members must use the ASWB's examination. The exam program is currently utilized by 49 states which makes it much easier for a person to get licensed in one state and move to another state without taking another exam. California left ASWB and began administering its own exam. Mr. Kryzanek explained that it affected those who became licensed in California, moved to other states and applied for licensure in those states.

The reason why ASWB exists is for public protection, to make sure they have qualified professionals and gives consumers a place to go when they have a complaint.

ASWB administers 25,000-27,000 exams annually. The exam is a computer-based program. They contract with the American College Testing, Inc. (ACT). ACT has nine test sites in California.

ASWB has conducted four practice analyses since it started using the exam program. The most recent analysis was completed in 2003. ASWB has five different levels of the exam. The Clinical examination would be the appropriate exam for California. The exam is multiple choice, consists of 170 items on the exam, 20 of which are pretest items.

- *Associate* – Appropriate for paraprofessional social workers. This level uses the Bachelor's examination with a lower pass point.
- *Bachelors* – Appropriate for those who hold a Bachelor's degree in Social Work.
- *Masters* – Appropriate for those who hold a Master's degree in Social Work (MSW).
- *Advanced Generalist* – Appropriate for those who hold a MSW with a minimum of two years of post-degree experience in non-clinical practice.
- *Clinical* – Appropriate for those who hold an MSW with a minimum of two years of post-degree experience in clinical practice. This would be the examination evaluated for possible use in California for LCSWs.

ASWB is concerned about legal defensibility of the exam, validity and reliability. Defensibility relies on reliability and validity. The practice analysis ensures validity. Reliability is achieved

through item writing and maintenance. ASWB interviews and hires item writers. Item writers submit their items, and consultants review and edit the items. If the items are approved, they are sent to the exam committee. The committee reviews the items and content, completes final edits and language clean up. The committee also approves versions of the exam before it goes online. At any given time, there are three versions of the exam online. Each version stays online for four months and then rotated. After a version has been used for 4-5 years, it is taken offline completely and those items are retired.

VII. Discussion and Possible Action to Review the National Examination for Licensure as a Clinical Social Worker

Dr. Russ asked what the BBS would gain by joining ASWB. Mr. Kryzanek replied that BBS would be part of the entire system, sharing information on best practices, and participating in the developing the various services of products that ASWB provides.

Dr. Russ asked what social workers in California would ose, other than portability, if BBS did not join ASWB. Mr. Kryzanek responded that portability would be the biggest downside.

Dr. Russ asked how BBS participation can count for the particular cultural issues; how does California compare to other states in the cultural issues; does ASWB collect information on those cultural differences; and how does ASWB measure whether or not those difference are significant.

Mr. Kryzanek responded that other states also believe that they have unique cultural characteristics. New Mexico has legislation that requires in addition to the national exam, one has to pass an exam testing knowledge on diversity. Canada has some of the same concerns as California.

Dr. Russ asked if there is a supervising group who is trained in test development, developing the exam, supervising the process, performing the measurements, and if so, what is their training.

Mr. Kryzanek responded that ASWB contracts with ACT for psychometrics. ASWB has all the resources of ACT available to them. ACT is available in assisting and ensuring that the process is sound and has all the necessary components. Ultimately, the board of directors and Mr. Kryzanek are responsible for ensuring that consultants, item writers, and individuals on the exam committee represent all the experience and knowledge that ASWB wants to have in place.

Ms. Roye asked how ASWB ensures that ethics and integrity are being observed.

Mr. Kryzanek responded that ASWB has a judiciary responsibility to its members and the consumers, the practitioners taking the exam, and the regulatory bodies that this process is working. An independent expert in the field of testing was hired to review the entire exam program. This review will be conducted on a regular basis.

Ms. Roye asked how ASWB protects the integrity of those exam questions when exam questions are developed outside and filtered back in.

Mr. Kryzanek responded that the item writer will develop exam questions at their home or office, and submits them to a consultant. The consultant will send it back for edits if necessary.

After the necessary edits, the consultant will forward to the exam committee. These items are sent through secured mail. Once ACT receives the exam items, only only a few people handle them.

Dr. Russ inquired on the costs for the Board to evaluate this.

Mr. Riches replied that there would be the costs with assembling subject matter experts and one Board member on that committee and retaining the services of a psychometrician. OER does not have the capacity to take on this additional work. It may be approximately $10,000 - $20,000 to begin the contract, and pay the costs of travel. This would involve the experts traveling to ASWB and addressing security concerns on transferring exam data and exam items. BBS has the resources in the upcoming fiscal year.

Ms. Roye asked how ASWB encourages diversity and cultural sensitivity?

Ms. Kryzanek responded that ASWB represents diversity through the diverse selection of members of its board. The exam is based on information they receive from practitioners.

Janlee Wong, Executive Director of the National Association of Social Workers (NASW), stated that California is excluded from the national loan repayment program for Social workers, because one of the criteria for that program is the national exam. On the cultural diversity issue, the statistics that the current Board aggregated is comparable to those of ASWB. Mr. Wong addressed the need of qualified social workers in California. He encouraged the Board to investigate the information to make an informed decision.

DR. IAN RUSS MOVED TO PURSUE AN INVESTIGATION ON THE ASWB EXAM, AND ALSO RECOMMENDED JOAN WALMSLEY TO BE ON THE INVESTIGATORY COMMITTEE. VICTOR PEREZ SECONDED, AND THE BOARD CONCURRED TO PURSUE AN INVESTIGATION ON THE ASWB EXAM.

V. Report of the Consumer Protection Committee

A. Recommendation #1 – Amend Business and Professions Code Sections 4980.01 and 4996.14 Regarding Exempt Practice Settings

Mona Maggio presented the Committee's recommendation to the Board, and provided background, history, and the Committee's discussion.

The Committee recommended that the Board sponsor legislation to amend Business and Professions Code Sections 4980.01 and 4996.14 to standardize exempt settings between the Licensed Clinical Social Worker (LCSW) and Marriage and Family Therapist (MFT) statutes.

The LCSW and MFT statutes specify certain types of organizations, referred to as "exempt settings," whose employees are not required to have a license or a registration in order to perform clinical social work or marriage and family therapy within the scope of their employment. These exempt settings have been listed in statute from the time the Board began licensing clinical social workers in 1968. This statute has remained the same throughout the years. Two types of exempt settings were listed in the MFT statute when the Board began licensing MFTs, also in the late 1960's. These were institutions

both nonprofit and charitable, and accredited educational institutions. Governmental agencies were later added to the list of exempt settings in the MFT statute.

The MFT statute is somewhat narrower and better defined, and has been used as the basis for the proposed language. The proposed changes would remove the following as exempt settings in the LCSW practice act:

- Family or children services agencies
- Private psychiatric clinics
- Nonprofit organizations engaged in research and education

There are several reasons to standardize exempt settings. The scopes of practice for MFTs and LCSWs are very comparable. For purposes of administrative simplicity, standardization and better-defined exemptions would be very helpful. Additionally, most exempt settings require licensure anyway for reimbursement reasons. This proposal would also enhance consumer protection by requiring licensure for persons in additional settings.

Mr. Wong stated that he was curious as to why a survey was not conducted, polling those who will be removed from the exempt settings.

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists (CAMFT) supported the proposed change.

DR. RUSS MOVED, KAREN ROYE SECONDED AND THE BOARD CONCURRED TO AMEND BUSINESS AND PROFESSIONS CODE SECTIONS 4980.01 AND 4996.14 REGARDING EXEMPT PRACTICE SETTINGS.

B. Recommendation #2 – Amend California Code of Regulations Section 1887.2 Regarding Exceptions to Continuing Education Requirements

Ms. Maggio presented the recommendation and provided background, history, and the Committee's discussion.

Section 1887.2 of Title 16, Division 18 of the California Code of Regulations sets forth continuing education (CE) exception criteria for Marriage and Family Therapist and Licensed Clinical Social Worker license renewals.

Subdivision (a) of the regulation sets forth the 18 hours of CE requirement for initial licensees, while subdivision (b) sets forth the CE exemption for those whose licenses are in inactive status.

However, in reviewing the language under subdivision (c), staff has recommended changes in order to clarify and/or better facilitate the request for exception from the CE requirement process.

- Adding language requiring that a written request for exception be submitted to the board a minimum of 60 days prior to the expiration date of the license
- Adding language stating that, if approved by the board, a request for exception shall be valid for only one renewal period

- Similar to subdivisions (c)(1) and (c)(2), adding language under subdivision (c)(3) requiring that a licensee or immediate family member had a disability for at least one year in order to be granted an exception
- After the "disability" definition under subdivision (c)(3), adding additional language that defines "major life activities" and "substantially limiting impairment"
- Adding language requiring that an explanation of how the disability substantially limits one or more major life activities be provided
- Adding additional clarifying language

Staff has also drafted a request for continuing education exception form in order to better facilitate the request process.

The Committee recommended that the Board review the proposed regulatory language and request for exception form and provide preliminary approval so that staff may pursue the regulatory change process.

Benjamin Cauldwell, American Association for Marriage and Family Therapy (AAMFT), asked how often do requests for exception to the CE requirement come to the Board. Ms. Maggio replied that staff receives many requests for an exception to CE requirements. Many of those requests are from individuals who are disabled or are a caregiver of a disabled family member.

Ms Riemersma supported the recommendation and added that many therapists are reluctant to put their licenses on inactive status, even if they are not able to practice.

Mr. Perez expressed his concern regarding the language "at least one year," stating that it was inflexible and excessive. Mr. Perez suggested a shorter period of time, such as six months.

Dr. Russ agreed with Mr. Perez.

After some discussion, Christy Berger suggested that if the idea was to shorten the period to six months, then that period must take place within the second year of the renewal period instead of the first year of the renewal period.

Ms. DiGiorgio motioned to accept Ms. Berger's recommendation, and Mr. Stein seconded. Mr. Perez and Dr. Russ opposed the motion.

Further discussion and clarification took place.

VICTOR PEREZ MOVED TO ACCEPT THE PROPOSED LANGUAGE WITH AN AMENDMENT TO SECTION 1887.2(C)(3) FROM ONE YEAR TO NINE MONTHS. JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO ACCEPT THE PROPOSED LANGUAGE AS AMENDED.

C. Strategic Plan Update

Ms. Maggio reported that the enforcement unit held its first training in January for Subject Matter Experts (SME). Forty-one licensees from all thereof the professions were invited and 35 of those individuals attended. A representative from Division of Investigation (DOI) and from the Attorney Generals Office attended. Both gave an overview of the SME's responsibilities to the Board and the administrative hearing process. Staff gave an

overview of the complaint process. Two of four enforcement analysts completed the National Certified Investigator Training (NCIT) through the Counsel on Licensure, Enforcement, and Regulation (CLEAR). Enforcement staff is stepping up to work the in-house investigation since DOI is unable to work the cases in a timely manner. The goal is to hold the training program for the SMEs on an annual basis.

D. Enforcement Statistics

Mr. Riches gave a brief overview of the enforcement statistics.

E. Examination Statistics

Mr. Riches gave a brief overview of the examination statistics.

The Board adjourned for lunch at 12:05 p.m.

The Board reconvened at 1:02 p.m.

FULL BOARD OPEN SESSION -- PUBLIC HEARING ON PROPOSED AMENDMENTS TO REGULATIONS

IX. Regulations subject to proposed amendment:

Amend Section 1887.2 – Exceptions From Continuing Education Requirements

Amend Section 1887.3 – Continuing Education Course Requirements

Victor Law, Board Chair, went on the record for the Regulatory Hearing at 1:02 p.m. A quorum of the Board was present. Mr. Law explained that the purpose of the public hearing was to gather oral or written statements and arguments relevant to the regulatory actions proposed by the Board. The regulatory proposals were filed with the Office of Administrative Law and were noticed. Copies of the proposed regulations were sent to interested parties.

Mr. Law stated that the purpose of this proposal was to reduce limitations with respect to the maximum amount of continuing education (CE) hours that a licensee can earn throughout self-study courses during his/her initial license period and all subsequent license renewal periods.

Mr. Law stated that the Board currently allows a licensee to earn up to six hours of CE through self-study courses during the initial license period and up to 12 hours of CE through self-study courses during all subsequent license renewal periods. This proposal would change those maximum hour limitations to 9 and 18 hours.

Mr. Law asked if anyone in the audience wished to testify. Nobody testified.

The hearing was closed at 1:05 p.m.

Mr. Law moved agenda item XII to precede agenda item X.

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XII. Review and Possible Action on Proposed Amendments to Sections 1805, 1806, 1833.3, 1816, 1816.1, 1816.2, 1816.4, 1816.6, 1854, 1855, 1856, 1857 & 1858 Regarding Application Files, Fees, and Licensed Educational Psychologists (LEP)

Dr. Sean Surfas, California Association of School Psychologists (CASP), commented that CASP strongly supports continuing professional development. However, CASP is concerned that 60 hours every 24 months is excessive. MFTs and LCSWs are required to complete 32 hours every two years. CASP suggests that continuing education requirements for LEPs are the same as MFTs and LCSWs.

Dr. Surfas stated that CASP is also concerned with Section 4989.205 due to the six-year of statute of limitations placed on experience required to apply for the license. This excludes experienced psychologists who apply because their supervised internship occurred more than six years ago. CASP would like to see language changed so that supervised internships could be more than six years. CASP does support the three-year experience requirement.

One of the items in SB 1475 is the actual degree name. Many members have master level degrees named in counseling without guidance. There is a masters degree in counseling and guidance. Many members have a masters degree in counseling alone. The degree title was in effect for more than 25 years in the California State University system; school psychology programs should be recognized.

Another concern is that Sections 4989.34(b) exempts school psychologists credentialed after July 1, 1994 from the 60-hour requirement. However, in the same legislative session, the Legislature eliminated the requirement for continuing professional development for all credentialed school employees. LEPs who completed their internships less than 6 years ago, would not have to ever meet the continuing education (CE) requirements according to SB 1475.

Mr. Riches started that most of the issues that Dr. Surfas addressed are implicated by the Board's statutory rewrite for educational psychology last year. Those issues will be on the Consumer Protection Committee agenda in April for consideration. Those issues are not included here because this is largely clean up to some expired regulatory language. Recent actions by the Commission on Teacher Credentialing and Dr. Surfas' presentation indicate that the Board needs to revisit the CE requirements that were put in that statute. The CE requirement will not become effective until the Board goes through the rulemaking process.

Dr. Surfas added that the supervision requirements also require supervision to be provided only by an LEP. However, 95% of those sitting for licensure have been supervised by credentialed school psychologists.

Mr. Riches stated that this discussion should be referred to the Consumer Protection Committee, chaired by Judy Johnson.

DR. IAN RUSS MOVED, JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO APPROVE THE ADOPTED LANGUAGE AS AMENDED.

X. Review and Possible Action on Proposed Amendments to Sections 1833.1 & 1870 Regarding Supervisor Qualifications

Justin Sotelo presented a brief background of the proposed amendments. This is a proposal that had been before the Policy and Advocacy Committee for preliminary approval. There was a public hearing at the November Board meeting. There were some minor modifications made to the language, which were incorporated into this proposal that was noticed for a 15-day period. No comments were received during that period. Staff is recommending adoption of this regulatory process. The Board is asked to provide final approval to this proposal so that staff may complete the regulatory change process.

There was no public comment.

DR. IAN RUSS MOVED, AND DONNA DIGIORGIO SECONDED, ONE MEMBER OPPOSED, AND THE REMAINING MEMBERS CONCURRED TO APPROVE THE ADOPTED LANGUAGE AS AMENDED. MOTION APPROVED BY VOTE OF 7-1.

XI. Review and Possible Action on Proposed Amendments to Sections 1816.7, 1887.7, 1887.75 & 1887.77 Regarding Continuing Education Providers

Mr. Sotelo presented a brief background of the proposed amendments. This proposal would modify the continuing education (CE) provider regulations. This is a proposal that had been before the Budget and Efficiency Committee for preliminary approval. There was a public hearing at the November Board meeting. There were some minor modifications made to the language, which were incorporated into this proposal that was noticed for a 15-day period. No comments were received during that period. Staff is recommending adoption of this regulatory process. The Board is asked to provide final approval to this proposal so that staff may complete the regulatory change process.

Mr. Cauldwell stated that there was a conflict in the language of Sections 1887.7(e) and 1887.75, claiming that these sections conflicted each other.

Ms. Riemersma stated that she did not see any conflict in language and interpreted the language in both sections.

DR. IAN RUSS MOVED, DONNA DIGIORGIO SECONDED, AND THE BOARD CONCURRED TO APPROVE THE ADOPTED LANGUAGE AS AMENDED.

XIII. Discussion and Possible Action to Sponsor Legislation to Accept Degrees Conferred by Bureau of Private Post-secondary and Vocational Education approved schools as Qualification for Licensure as a Marriage and Family Therapist

Mr. Riches gave a detailed background on this proposal. He explained that current law recognizes three separate entities for approving/accrediting marriage and family therapy degree programs including the Western Association of Schools and Colleges (WASC), Commission on Accreditation of Marriage and Family Therapy Education (COAMFTE), and the Bureau of Private Postsecondary and Vocational Education (BPPVE). In order to qualify for registration as a marriage and family therapist intern or a licensed marriage and family therapist, the candidate must have a qualifying degree from a program approved/accredited by one of three organizations.

On September 30, 2006 the Governor vetoed AB 2810. This bill, among other elements, extended the sunset date for the Bureau of Private Postsecondary and Vocational Education for one year to July 1, 2007. The veto of this legislation has the effect of repealing both the BPPVE and the underlying statutes that govern the approval of thousands of educational institutions including 21 programs offering degrees in marriage and family therapy.

Absent further legislative action, the Board will be unable to accept degrees conferred by these 21 programs on or after July 1, 2007. The administration and legislative leadership are working on reform proposals to establish a new law and administrative entity to succeed the BPPVE.

Mr. Riches explained the two things that this proposal will do: 1) It allows the Board to recognize degrees from BPPVE approved schools for a limited period of time. The BPPVE grants approvals/renewals for degree granting institutions that generally last from three to five years. The proposal would allow the Board to accept degrees granted within the time frame of the most recent approval/renewal granted to the degree program. 2) Allows the Board to recognize degrees granted by universities accredited by other regional accrediting bodies. Current law only allows the Board to accept degrees from programs accredited by WASC which accredits programs in California and other western states. Comparable accrediting bodies perform the same task in other regions of the country. Some programs in California are branches of universities that are accredited by one of these other accrediting bodies in another state. Current law requires that those programs be approved by the BPPVE. This proposal would eliminate that requirement.

The Department of Consumer Affairs is sponsoring a bill to contain similar fixes for other programs in the department. This will be included in that urgency measure. Urgency measures take effect once the Governor signs it. This could be in place by July 1st. However, any urgency measure requires a two-thirds majority vote.

Staff recommended that the Board sponsor emergency legislation outlined in this proposal.

George Ritter, Legal Counsel, added that if BPPVE sunsets in July, those schools can continue to operate, however, they will continue to operate in an unregulated and unapproved arena.

Ms. Riemersma commended staff on the quick response and trying to come to some resolution. She stated these were great proposals. Ms. Riemersma recommended striking "regional" from Section 4980.40(a). She explained that the U.S. Department of Education has other accrediting entities that are not necessarily regional accrediting bodies. For example, some faith-based schools cannot meet the requirements for some regional accrediting bodies; however, they can for a certain category that is recognized through the Council for Higher Education Accreditation (CHEA).

Mr. Riches stated that staff is open to hearing about the other accrediting bodies; however, staff and the Board have not looked at those accrediting standards. There will be an opportunity to have those accrediting agencies come and talk to the Board, discuss their accrediting standards, so that the Board can make an informed judgment.

In response to Ms. Riemersma's suggestion regarding the proposed language, Mr. Riches stated that the exclusion was intentional. The inclusion of regional accrediting bodies was intended to recognize the other regional accrediting entities, knowing that staff will need to look at the programmatic accreditation.

Mr. Cauldwell also thanked the Board for acting quickly on this. AAMFT is in support of the proposal in 4980.40(a). However, he recommended changes to the language. Mr. Cauldwell referred to Section 4980.40(a) stating that COAMFTE is redundant because one of the conditions for COAMFTE accreditation is regional accreditation. He stated that Section 4980.40(c) is harmful, and explained that what that has done traditionally was meant for applicants from other states. If they graduated from a COAMFTE accredited program, their degree is presumed to have met the content requirements that are outlined in Section 4980.40(a). He recommended leaving Section 4980.40(c) unchanged.

Dr. Paul Boatner, Academic Vice President of Southern California Seminary, presented the background on his institution and its accreditation. Southern California Seminary is an institution that has been approved through BPPVE. Under the U.S. Department of Education, CHEA grants authority to organizations, including regional organizations, to grant accreditation. There are other accrediting associations that are approved by CHEA, one of which is the organization that accredits the Southern California Seminary. That organization is the Transnational Association of Christian Colleges and Schools (TRACS). TRACS has 230 standards of accreditation. Dr. Boatner requested that there be recognition of other accrediting agencies approved by CHEA. Limiting the recognition of accrediting agencies to regional accreditations is an issue. Dr. Boatner suggested adding language to 4980.40(a) to state "...or other appropriate accrediting agencies approved by the Council for Higher Education Accreditation."

Dr. Russ asked if the Board staff can request from each of the accrediting agencies to submit their criteria and to demonstrate that the 42 WASC points are handled in there requirements?

Mr. Riches stated that programmatic accrediting entities are far more particular than the regional bodies. For the programmatic accrediting entities, it is a case-by-case analysis. It would be an opportunity for the accrediting body to petition to the Board to request that they are recognized. Regardless of what happens, it is either going to require a change in regulation or statute.

Dr. Russ asked if the Board can request the accrediting entities to submit this information before the next committee meeting in a particular format? Paul responded yes.

Mr. Ritter suggested that when the legislation is drafted, not to limit it to specifics. The language can state that the Board is authorized to include other approved accrediting agencies that it sees fit at its discretion.

Neil King, President of Antioch University of Los Angeles, briefly commented. His organization has been accredited by the North Central Association. Mr. King thanked the Board for acting quickly on this matter.

Jack Mayhall, Chairman of the MFT Department at the California Graduate Institute, briefly commented. His program has 225 students who will not meet the July deadline. Mr. Mayhall asked the Board to consider how it's going to contain these people while agencies obtain their accreditation with other accrediting bodies. He also stated that this is an opportunity to have uniformity with other states.

David Sitzer, Psychology Department Chair at Argosy University in Santa Monica, thanked the Board for moving quickly on this issue. Argosy University has 183 students are affected by this change. Their regional accrediting body is the Higher Learning Commission (HLC).

Barry Lord, Program Director for Southern California Seminary, clarified that there are 10 nationals and six regionals throughout the United States. The schools can have franchise campuses where they can go to other regional areas and provide schooling. All of these are approved by the U.S. Department of Education, and under that is a branch known as CHEA. This issue will put schools out of business. Mr. Lord thanked the Board for their efforts.

Mr. Wong suggested that the schools that are not directly affected by this, to adopt the students who are in these schools and are affected by this so that they can complete their degrees. Mr. Wong also suggested that when the urgency is over, the thought should be given to the issue of generalist school accreditation versus program/specialist accreditation.

Daniel Litteral, General Counsel of University of Phoenix, expressed his appreciation to the Board and staff for the time taken on this issue. University of Phoenix is the largest private accredited university. University of Phoenix has approximately 800 students throughout the campuses in California. University of Phoenix is a regionally accredited institution through the Higher Learning Commission. There are campuses in other states, including Canada and Puerto Rico. He is supportive of the language drafted by staff.

Mr. Law suggested to the students who are affected by this to contact their local representatives.

Mr. Perez requested to hear from staff as to the suggested changes in the language.

Mr. Riches responded that he was comfortable with including the regional accreditation language and uncomfortable about passing on any programmatic accreditation until there is an opportunity to evaluate those more carefully. His suggestion was to not alter the provision. On comments from AAMFT, the changes on the COAMFTE strictly regarded as organizational. It doesn't affect how the regional bodies and approvals are handled. He stated it could be left as is for now. Mr. Riches recommended that the Board move forward in recognizing regional accreditation, continuing recognition of approvals proposed, and rescind the changes on COAMFTE if it's going to create discomfort with this proposal given the speed in which it is going to move.

Mr. Ritter added a procedural point. Because this is emergency legislation, if it goes forward, it's going to be subject to a lot of review. There may be suggestions for technical changes in the language. Therefore, he suggested to either delegate to Mr. Riches to make those changes, or if necessary, to hold a teleconference meeting.

VICTOR PEREZ MOVED, JOAN WALMSLEY SECONDED, AND THE BOARD CONCURRED TO SPONSOR LEGISLATION CONSISTENT WITH THE PROPOSED RECOMMENDATIONS.

Meeting adjourned for break at 2:25.

Meeting reconvened at 2:32 p.m.

XIV. Report of the Policy and Advocacy Committee

A. Recommendation #1 – Amend Sections 4980.80 and 4980.90 to increase portability of marriage and family therapist licenses

Donna DiGiorgio, Committee Chair, gave background regarding this proposal. This proposal would:

1. Modify the statutory requirement for a two-semester or three-quarter unit course in California law and ethics.
2. Clarify in statute that the Board will consider hours of supervised experience gained in the 6-year period prior to the issuance of the applicant's original MFT license from another state.
3. Current law allows out-of-state applicants to make up coursework or units in the MFT core curriculum as defined in Section 4980.40. The core MFT courses, including practicum units, should be required as part of any qualifying degree, but any other units should be permitted to be made up. A change that would permit that flexibility for out-of-state applicants is proposed for required units or coursework other than the core MFT curriculum.
4. Staff will work on a proposal for a method to consider documented practice experience while licensed in another state that will count in place of supervised experience requirements.

The Committee recommended that the Board sponsor legislation to increase portability of MFT licenses.

Ms. Riemersma stated that this would increase portability and urged the Board to continue to work on ways to increase portability. Eighteen hours in law and ethic is reasonable.

DR RUSS MOVED, DONNA SECONDED AND ALL CONCURRED TO APPROVE THE RECOMMENDATION.

B. Recommendation #2 – Repeal Section 4980.40(i) relating to registration as a marriage and family therapist intern

Ms. DiGiorgio gave background to this proposal, explaining that this law, which provided an alternative qualifying method for registration as an MFT intern, was outdated. The Committee recommended to the Board to sponsor legislation to eliminate the alternative qualifying method for registration.

KAREN ROYE MOVED, VICTOR PEREZ SECONDED, AND THE BOARD CONCURRED TO APPROVE THE RECOMMENDATION.

C. Recommendation #3 – Sponsor Legislation to increase Health Professions Education Foundation surcharge and reduce license renewal fees

Ms. DiGiorgio gave a very brief background of this proposal. In order to address the increasing fund balance, the Committee considered reapportioning the revenue by reducing renewal fees and increasing the licensing renewal surcharge which will go to the loan repayment program. The Governor's budget released in January 2007 reflected an increase in the Board's expenditure authority. This increase was not anticipated by Board staff and reflects a mix of price increases from recent labor contracts and increases in costs from the Division of Investigation.

Mr. Riches explained that if the Board goes forward to preserve the $40 reduction in fees proposed earlier. This option would trigger repayment of the General Fund Loan

beginning in the 2011-12 fiscal year. Staff has assumed repayment over a three-year period. Such action would, based on current assumptions, require action to raise fees beginning in the 2015-16 fiscal year to bring revenues into balance with expenditures.

Mr. Riches suggested that the Board wait until regulations has passed putting a program in place.

KAREN ROYE MOVED, DONNA DIGIORGIO SECONDED, AND THE BOARD CONCURRED TO APPROVE TO SPONSOR LEGISLATION, BEGIN THE REGULATION PROCESS, AND PROVIDE DIRECTION TO INITIATE ONCE OPERATING PROGRAM IS IN PLACE.

D. Recommendation #4 – Amend board policy on succession of officers

Ms. DiGiorgio gave background to this proposal. In February 2005, the Board adopted a policy which required the required the election of officers by March of each year. That provision was changed in Senate Bill 1475 to require election of officers before June 1st of each year.

The Committee recommended amending the policy to reflect the new date for electing officers.

JUDY JOHNSON MOVED, VICTOR PEREZ SECONDED, AND THE BOARD CONCURRED TO APPROVE THE RECOMMENDATION.

E. Recommendation #5 – Establish a board position on legislation to establish licensure for professional counselors

Mr. Riches gave background and discussion to this proposal. The Committee met and heard a presentation by the California Coalition for Counselor Licensure (CCCL) supporting legislation this year to establish licensing for professional counselors (LPC) in California. The Board heard their proposal in 2005. That proposal did not succeed in the Legislature and was opposed by the Board. The CCCL came back in the fall indicating that they were going to sponsor legislation this year. They brought their proposal before the Committee in January. The Committee expressed a conditional support for the proposal.

The proposal requires a masters degree, a minimum of 48 units, 3000 hours of supervised post graduate experience. It is modeled very closely on the requirements for marriage and family therapy. It requires passage of a professional licensing examination. It has a requirement that two members of the Board are professional counselors and 2 members of the Board are public members, which would result in a 15-member Board at BBS.

This proposal includes two different methods by which a person could be granted a license via grandparenting during the first year. One of the methods requires possession of a MFT license and a degree that meets LPC coursework requirements. The other method requires all of the following:

- A 48 unit qualifying degree that meets the same requirements as for regular LPC licensure, including a complete practicum.
- Two years of full time post-degree counseling experience that includes at least 1,000 hours of supervised direct client contact.

- Passage of two national examinations.

The following issues related to grandparenting are still outstanding:

- The Board will not have a chance to have a psychometrician evaluate examination(s) required for grandparenting prior to the grandparenting period. Staff believes that persons licensed through grandparenting should be recertified after a 6-year period by taking current licensing examinations.
- Determine whether the Board will accept the Certified Rehabilitation Counselors Examination (CRCE) along with the National Clinical Mental Health Counselor Examination (NCMHCE) for meeting grandparenting examination requirements.

Mr. Riches stated that although he is ambivalent in starting up a new licensing program, he is comfortable that the CCCL's proposing is meets the objectives of staff.

Ms. Riemersma stated that this is a profession with a very broad scope of practice. According to the document provided by CCCL, the profession appears to do exactly what psychology does. Ms. Riemersma asked if this is the appropriate Board to regulate this profession, or should it be the Board of Psychology? She suggested that the Board not take a position on this proposal remain neutral. This has not gone through the sunrise process. Ms. Riemersma disagreed with the claim of the shortage of mental health professionals. LPCs, like MFTs, will run into the difficulty of Medicare reimbursement. LPCs can already work in exempt work settings. This bill will allow the discipline to engage in private practice. Ms. Riemersma did not agree that grandparenting standards are sufficient. She expressed that the Board should not regulate an additional profession until an occupational analysis is performed.

Mr. Cauldwell stated that he shares the same concerns regarding scope of practice. He encouraged the Board to wait for legislative sunrise process before taking any stand.

Dean Porter, President of CCCL, introduced Dr. Gregory Jackson, Dr. Leah Bru, and Jan Cummings. These individuals are CCCL board members.

Dr. Gregory Jackson gave his background. He stated that the LPC is recognized in 48 states where licensure exists and the numbers exceed 95,000 licensees. LPCs are master and doctoral level trained mental health providers; trained to treat mental, behavioral, or emotional problems and disorders; employed at community health centers, agencies, and organizations; and covered by managed care organizations and health plans. This is an established profession with its own ethics and standards of practice set forth by the American Counseling Association (ACA). Recently the ACA and the American Mental Health Counselors Association worked together on a bill that just passed both the U.S House of Representatives and the Senate, and signed by the President, that would include counselors as providers in the Department of Veteran Affairs. Currently the American Counseling Association is working on legislation that would add LPCs and MFTs to Medicare's lists of covered providers for mental health services.

Dr. Leah Bru, Professor at California State Fullerton, gave her background. LPCs are qualified through curriculum from Council for Accreditation of Counseling and Related Educational Programs (CACREP). Education and training are rigorous, and focuses on wellness and development as a foundation for treatment. The national standard for licensure requires CACREP core plus psychotherapy. Dr. Bru gave an overview of the requirements for licensure. Currently, there are 47 public and private universities in

California that offer masters degrees in counseling, but cannot get licensed when they graduate.

Jan Cummings gave her background. Ms. Cummings stated that there are three reasons why California needs LPCs: 1) to address shortages of mental health workers, 2) to broaden the accessibility of mental health services in order to meet an increasing need of the unserved and the underserved communities, and 3) for consumer protection. LPCs were involved in the Hurricane Katrina efforts. Over 20% of the folks who involved were from ACA. Over 50% of the student population is non-white. Of those, 27 percent are Latino, 13 percent are Asian, 8 percent are African-American, and 3 percent are Native American.

Ms. Roye asked why people from different cultures are choosing this practice.

Dr. Bru responded that many minorities do not look upon therapy as an acceptable profession because of the stigma relating to therapy within their cultures. Being involved in a counseling setting is less threatening; therefore, it attracts people of ethnicity.

Ms. Walmsley asked if the counselors are required to have a license to work in agencies. Ms. Cummings responded that there are some jobs that do not require the license, and there are other jobs that require clinical work and require licensure.

Ms. Walmlsey asked if this license would permit the LPC to work as schools counselors. Dr. Jackson responded yes, provided that they completed 3000 post-masters supervised hours, met the requirements of their masters degree in their specialty area, and completed the 600 hours required by the BBS.

Ms. Walmsley remarked that this would give them a license to practice independently, because the school districts do not require a licensed school counselor. Ms. Porter agreed.

Ms. Porter closed and referred to highlights of their proposal, referring to handouts provided. She gave an overview of the reasons that California needs LPCs: 1) to protect consumers, 2) to address the mental health workforce shortages, 3) to provide more access to the underserved, 4) to enable California to participate in the federally funded programs, 5) to allow portability for counselors coming to California, and (6) to achieve parity and equity among California professionals who are educated and trained.

Ms. Riemersma referred to the language in Section 4989.14(a), stating that it was written to only allow counselors to engage in psychotherapy. She urged the Board to review this section because it is already in the psychology licensing law and gives exception to the other disciplines to practice psychotherapy, and that this conflicted with another section.

Mr. Riches responded that a similar conflict exists in the other practice acts, which begins by declaring an exclusive domain of activity and proceeds to outline exemptions. It is not to impair their ability to provide services under that license.

Mr. Wong stated that this is premature and needs more development before the Board approves this proposal. He clarified that this is not a bill; it is not an official version and does not have an author. This document can be modified or amended by anyone, and submitted as legislation.

Mr. Riches responded that any bill could be changed up until the Governor signs it. Staff makes sure to follow the legislation, and makes sure that if it does change, staff will communicate that with the Board. And it will be determined if support or opposition is still appropriate. In regards to the scope of practice, Mr. Riches recommended to the Board to look closely at statutes of the three scopes of practice.

Dr. Russ stated that if these counselors are qualified, they should not be denied. If the programs are gathering a greater diversity, it increases the chances of them going back to their communities.

Mr. Perez stated that there is downside to the grandfather clause, and there is a concern for consumer protection during the 6-year period prior to recertification. Mr. Perez indicated that he was not prepared to take a stand on this issue.

After further discussion, Mr. Law tabled this item until the next Board meeting.

F. Preliminary results from demographic survey of board registrants and licensees

Handouts containing this information were provided.

G. Regulation Update

Mr. Sotelo referred to the update in the meeting materials, which is an overview on the regulation proposals. Most of it was addressed in the agenda.

F. Legislation Update

Mr. Sotelo referred to the update in the meeting materials, which is an overview on the legislation proposals.

I. Strategic Plan Update

Mr. Sotelo referred to the update in the meeting materials, which is an overview on the Strategic Plan update.

J. Budget Update

Mr. Riches briefly presented from the projections outlined in the meeting materials. Current projections indicated a year-end balance of approximately $84,000. He referred to the increase in the fiscal year 2007-2008 budget that was proposed. A large portion of that are the billings from DOI. There was nothing particular to report on the fund condition.

K. Quarterly Licensing Statistics

Mr. Riches briefly presented the licensing statistics and spoke on backlog and personnel effects on the statistics. Two of three full-time cashiers left at the same time, and two of five evaluators left at the same time, which resulted in a backlog.

SAMPLE

XV. Public Comment for Items Not on the Agenda

No public comments.

Meeting was adjourned at 4:47 p.m.

SAMPLE

Thursday, February 15

MEMBERS PRESENT
Victor Law, Chair, Public Member
Gordonna DiGiorgio, Public Member
Judy Johnson, LEP Member
Renee Lonner, LCSW Member
Victor Perez, Public Member
Karen Roye, Public Member
Dr. Ian Russ, MFT Member
Howard Stein, Public Member
Joan Walmsley, LCSW Member

MEMBERS ABSENT
D'Karla Leach, Public Member

STAFF PRESENT
Paul Riches, Executive Officer
Mona Maggio, Assistant Executive Officer
George Ritter, Legal Counsel
Christina Kitamura, Administrative Assistant

GUEST LIST
On File

SAMPLE

FULL BOARD OPEN SESSION

Victor Law, Board Chair, called the meeting to order at 8:59 a.m. Christina Kitamura called roll and a quorum was established.

XVI. Petition for Reinstatement

A. Peggy Reid LCS 18337

The Board heard a petition for reinstatement, requested by Peggy Reid. The hearing was presided over by Administrative Law Judge Donald P. Cole. The hearing began at 9:00 a.m.

FULL BOARD CLOSED SESSION

XVII. Pursuant to Government Code Section 11126(c)(3) to Deliberate on Disciplinary Decisions

The Board met in closed session to deliberate its decision in this matter pursuant to Government Code Section 11126(c)(3).

Meeting was adjourned at 10:14 a.m.

SPEC: CHIROPRACTIC CONSULTANT, BOARD OF CHIROPRACTIC EXAMINERS
CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

Schematic Code: EV20
Class Code: 9964
Established: 4/18/95
Revised: --
Title Changed: --

CHIROPRACTIC CONSULTANT, BOARD OF CHIROPRACTIC EXAMINERS

DEFINITION

Under general direction, to serve as a consultant to the Board, its staff, and the Chiropractic Quality Review Panels regarding the professional competence of chiropractors; to provide chiropractic expertise in the review of chiropractic investigations and evaluations of the professional conduct of licensees in relation to the requirements of the law; to assist in the preparation of administrative or court actions by providing chiropractic expertise; to serve as an expert witness; to monitor probationers of the Board; and to do other related work.

TYPICAL TASKS

A Chiropractic Consultant, Board of Chiropractic Examiners, makes recommendations based on the review of complaints against chiropractors to assure compliance with laws relating to professional and individual competence; consults with the Executive Secretary in the preparation of evidence for presentation before the Board of Chiropractic Examiners and Chiropractic Quality Review Panels; consults with the Attorney General's Office Review Panels; consults with the Attorney General's Office in the preparation of legal actions; assists in the interview of witnesses and interested parties to secure information relating to chiropractic practices; interprets the chiropractic significance of information and evidence; makes recommendations regarding and assists in obtaining information and evidence which requires the immediate knowledge of professional chiropractic to secure; conducts audits of chiropractic office records to determine if the records, x-ray, and laboratory findings support the actual diagnosis and treatments performed, and to assure compliance with staff, organization, and record-keeping provisions of the Business and Professions Code; confers with and obtains the cooperation of recognized chiropractic consultants concerning the specialized practices of chiropractic and special or unusual chiropractic procedures and techniques; represents the Board before professional or lay groups; assists investigators and office staff in monitoring activities and performance of licensees who have been placed on probation by the Board; and prepares and dictates correspondence.

MINIMUM QUALIFICATIONS

Possession of a valid license for the practice of chiropractic in California as determined by the California Board of Chiropractic Examiners.

and

Experience: Five years of experience, within the last seven years, in the practice of chiropractic.

KNOWLEDGE AND ABILITIES

Knowledge of: Chiropractic, including recent developments and practices; record-keeping practices; provisions of the Business and Professions Code relating to the practice of chiropractic and the laws, rules and regulations of the Board of Chiropractic Examiners relating to chiropractic practice and continuing education; chiropractic specialties; principles, aims, methods and trends of contemporary chiropractic education; administration, curriculum, and procedures of providers of continuing education services.

Ability to: Conduct effective interviews; exercise sound chiropractic judgment in reviewing conflicting chiropractic reports and preparing opinions; analyze problems and recommend effective action; dictate correspondence; prepare reports; communicate effectively.

SPECIAL PERSONAL CHARACTERISTICS

Demonstrated ability to work cooperatively with others; emotional stability; integrity; initiative; good judgment; dependability; tact; courtesy; high professional ethics; willingness to travel throughout the State.

STATE OF CALIFORNIA

DEPARTMENT OF GENERAL SERVICES

DUTY STATEMENT

GS 907T (REV. 1/98)

SHADED AREA FOR HUMAN RESOURCES ONLY

INSTRUCTIONS: Refer to the Payroll and Personnel Procedures Manual (PPPM) for Duty Statement Instructions.

RPA- **006-CHIRO**	EFFECTIVE DATE:

1. DGS OFFICE OR CLIENT AGENCY Board of Chiropractic Examiners	POSITION NUMBER (Agency - Unit - Class - Serial) - - -
2. UNIT NAME AND CITY LOCATED Chiro Administration - Sacramento	3. CLASS TITLE CHIROPRACTIC CONSULTANT
4. PROPOSED INCUMBENT (If known)	5. CURRENT POSITION NUMBER (Agency - Unit - Class - Serial) 620-110-9964-001

6. BRIEFLY (1 or 2 sentences) DESCRIBE THE POSITION'S ORGANIZATIONAL SETTING AND MAJOR FUNCTIONS

Under the supervision of the Executive Director, the Chiropractic Consultant reviews and evaluates complaints of professional misconduct against licensees. This includes interpreting the chiropractic significance of information and evidence. Specific tasks include, but are not limited to the following:

7. Percentage of time performing duties	8. Indicate the duties and responsibilities assigned to the position and the percentage of time spent on each. Group related tasks under the same percentage with the highest percentage first. *(Use additional sheet if necessary)*
	ESSENTIAL FUNCTIONS
40%	Provide chiropractic expertise in the review of complaints and evaluations of the professional conduct of licensees in relation to possible violations of the laws and regulations. Respond in writing or by phone to consumers and other governmental or private entities' inquiries and complaints. Answer complex questions pertaining to practice issues and procedures.
25%	Review investigation reports to determine if sufficient evidence exists for administrative action or if further investigation is needed. Consult with deputy attorney general in preparation of administrative actions.
5%	Attend Board meetings to present items of interest relating to enforcement or examination issues.
5%	Prepare regulation language for review and discussion by the Regulation Review Committee.
5%	Review Chiropractic Law and Professional Practices Examination questions for accuracy, and serve as lead consultant in test question development.
5%	Confer with and obtain the cooperation of recognized chiropractic consultants concerning the specialized practices or chiropractic and special or unusual chiropractic procedures and techniques.
5%	Review complaint case to determine if a citation should be issued.
5%	Assist in the review and recommendations for continuing education courses.

9. SUPERVISOR'S STATEMENT: *I HAVE DISCUSSED THE DUTIES OF THE POSITION WITH THE EMPLOYEE*

SUPERVISOR'S NAME (Print)	SUPERVISOR'S SIGNATURE	DATE

10. EMPLOYEE'S STATEMENT: *I HAVE DISCUSSED WITH MY SUPERVISOR THE DUTIES OF THE POSITION AND HAVE RECEIVED A COPY OF THE DUTY STATEMENT*

EMPLOYEE'S NAME (Print)	EMPLOYEE'S SIGNATURE	DATE

NON-ESSENTIAL FUNCTIONS

5%

Perform other duties as assigned by the Executive Director.

KNOWLEDGE AND ABILITIES

Knowledge of:
Chiropractic, including recent developments and practices; record-keeping practices; provisions of the Business and Professions Code relating to the practice or chiropractic and the laws, rules and regulations of the Board of Chiropractic Examiners relating to chiropractic practice and continuing education; chiropractic specialties; principles, aims, methods and trends of contemporary chiropractic education; administration, curriculum, and procedures of providers of continuing education services.

Ability to:
Conduct effective interviews; exercise sound chiropractic judgment in reviewing conflicting chiropractic reports and preparing opinions; analyze problems and recommend effective action; dictate correspondence; prepare reports; communicate effectively.

DESIRABLE QUALIFICATIONS

SPECIAL PERSONAL CHARACTERISTICS
- Demonstrated ability to work cooperatively with others;
- Emotional stability;
- Integrity;
- Use good judgment and takes effective action
- Dependability and tact;
- Use courtesy;
- High professional ethics;
- Willingness to travel throughout the State.

ADDITIONAL QUALIFICATIONS
- Experience in writing procedures, manuals, and reports
- Proficiency with Microsoft Word, Outlook, Excel, Teale Data System, and Access
- Good organizational skills

WORK ENVIRONMENT, PHYSICAL OR MENTAL ABILITIES

Frequent off-site meetings
Occasional local and statewide travel, often independently
Requires presentations to professional audience
Effectively handle stress, frequent deadlines, and changing priorities
Frequent use of a personal computer and/or laptop and related software applications at a workstation

11. SUPERVISOR'S STATEMENT: *I HAVE DISCUSSED THE DUTIES OF THE POSITION WITH THE EMPLOYEE*

SUPERVISOR'S NAME (Print)	SUPERVISOR'S SIGNATURE	DATE

12. EMPLOYEE'S STATEMENT: *I HAVE DISCUSSED WITH MY SUPERVISOR THE DUTIES OF THE POSITION AND HAVE RECEIVED A COPY OF THE DUTY STATEMENT*

The statements contained in this duty statement reflect general details as necessary to describe the principal functions of this job. It should not be considered an all-inclusive listing of work requirements. Individuals may perform other duties as assigned, including work in other functional areas to cover absence of relief, to equalize peak work periods or otherwise to balance the workload.

EMPLOYEE'S NAME (Print)	EMPLOYEE'S SIGNATURE	DATE

are currently using review panels. The osteopathic board and the speech-language board told us that they do not use review panels or other similar review processes. Specifically, the osteopathic board stated that it relies instead on the case reviews by its expert consultants. The physical therapy board stated that it is currently in the process of preparing to implement a quality control program and that its planned process will include board members reviewing closed cases to ensure timely resolutions and consistency in the process.

We recognize that the issues surrounding the review panels are not simple, but it is clear that the chiropractic board must take some action to remedy its noncompliance with its regulation. In determining what that action might be, we believe the board must consider its complaint review process more broadly. As we noted in previous sections of this chapter, the chiropractic board has not developed standard procedures or required management oversight of its complaint process. Therefore, by instituting a stronger system for reviewing and taking action on complaints, the board will be better able to determine what other processes it should add to complement its ability to promptly and appropriately respond to complaints about chiropractors.

Although we recognize that the issues surrounding the review panels are not simple, it is clear that the board must take some action to remedy its noncompliance with its regulation.

The Chiropractic Board's Recently Vacant Chiropractic Consultant Position Leaves a Gap in Its Available Technical Expertise

As noted in the Introduction, the chiropractic consultant position, under the supervision of the executive officer, provided chiropractic expertise to help staff review complaints against and evaluate the professional conduct of licensees who may have violated chiropractic laws and regulations. During our review, we found that the chiropractic board's enforcement process and its staff relied heavily on the chiropractic consultant to complete its reviews and make decisions on complaints and punishment when violations occurred. Because the chiropractic consultant position has been vacant since August 10, 2007, we asked the executive officer to provide his perspective on the impact to operations, especially to enforcement, licensing, and continuing education, of not having technical expertise on staff. The executive officer explained that because of the current budget situation, the chiropractic board is not planning to fill the vacant chiropractic consultant position. He also said that based on the chiropractic board's initial assessment of the enforcement program and the chiropractic consultant position in particular, it had concerns about the duties and use of the position and did not plan to fill the vacancy until a job analysis was conducted. At the same time, board members expressed concerns about filling the position before instituting a significant change in duties.

Instead, the chiropractic board is developing a group of expert consultants or witnesses to bridge the gap in technical expertise. The executive officer anticipates having the written procedures for handling expert consultants and witnesses in place by the end of March 2008 and to begin training staff by July 2008. He also stated that he anticipates that timeliness will not be an issue once internal enforcement staff are fully trained and able to quickly recognize when cases need referral to an expert. Further, the executive officer stated that enforcement staff will actively follow up with the consultants or experts to ensure that reports are provided promptly, and he believes that once the procedures are fully implemented, overall complaint handling times will decrease compared with prior years.

The chiropractic board is developing a group of expert consultants or witnesses to bridge the gap in technical expertise.

We also asked how the chiropractic board is addressing technical questions that it receives on its Web site, another function previously handled by the chiropractic consultant. The executive officer told us he was temporarily assigning scope-of-practice questions to board members to answer and confirmed that he reviews board members' responses to ensure that they are appropriate. He also stated that this is a temporary process that has been reduced and will be completely discontinued by the end of February 2008. Instead, the executive officer stated that the chiropractic board expects chiropractors, as licensed professionals, to have a clear understanding of the chiropractic scope of practice. Also, consistent with other boards within the Department of Consumer Affairs (Consumer Affairs), the chiropractic board can (1) determine if there is case law related to the question and if there is, provide the answer; (2) determine if there are attorney general opinions related to the question and if there are, provide the answer; (3) determine if there is only one reasonable interpretation of the law and if there is, provide the answer; or (4) if none of these apply, direct the individual to the relevant sections of law and recommend that if the individual still has questions, he or she should consider consulting a private attorney and the chiropractic board will review the opinion as long as it is provided in writing.

The executive officer also told us that licensing staff rarely have questions that need answers from a chiropractor, that the course approval process for continuing education is currently being reviewed to improve effectiveness, and that he anticipates the review and approval process of continuing education courses will be revamped. Finally, he stated that the chiropractic board is looking to incorporate a new structure to address gaps that may or may not include the hiring of a chiropractic consultant.

Although we acknowledge the concerns that the executive officer and board members have expressed about the chiropractic consultant position and the way that it was relied on and used in

We encourage the chiropractic board to consider having an expert on staff to ensure that it has invaluable expertise that is readily available to staff rather than having to rely on referrals to outside experts.

the past, we encourage the chiropractic board to consider having an expert on staff. The chiropractic board can establish processes to limit the autonomy of the position while still gaining invaluable expertise that is readily available to staff rather than having to rely on referrals to outside experts. For example, the chiropractic consultant could be used much like legal counsel to provide opinions to the executive officer, who would remain the final decision maker.

The Chiropractic Board Did Not Adequately Control the Use of Expert Witnesses

Chiropractic board policies and procedures for assigning a complaint case to an expert require the chiropractic consultant to conduct a telephone interview to assess an expert's experience and expertise with the relevant procedure or treatment. Performing such an interview before assigning a specific case assists the chiropractic board in ensuring that the expert is qualified and has no conflicts or disqualifying criteria such as personal or financial conflicts of interest, complaint history, or insufficient years of practice.

Our review of five complaints referred to experts revealed no evidence in the files demonstrating that staff performed telephone interviews before assigning the cases to experts. Board procedures do not require staff to document such efforts. In addition, the chiropractic board told us that it does not enter into contracts with experts for services. Such contracts would include standard language that informs contracting parties about their responsibilities regarding conflicts of interest. Further, the chiropractic board does not require staff to obtain documentation from experts attesting that they are free of conflicts of interest. Therefore, we could not confirm whether the staff appropriately assigned the cases we reviewed to qualified experts who are free of conflicts of interest.

Experts did not always complete their reviews within 30 days as expected. According to the chiropractic board's expert procedures, it expects an expert to finish reviewing the assigned case and file a written report within 30 days of assignment. The expert in only one of the four sample cases we examined completed the review and provided a written report within 30 days.[11] In two other cases, the experts submitted their reports within 45 days. In the fourth, the expert took more than 200 days to provide a report. Staff told us they perform no follow-up procedures, thus allowing unnecessary delays

[11] In another case, the expert review was already in progress on other related complaints when the board referred it; thus, we did not calculate the total days to receive the expert report.

Board of Chiropractic Examiner's Initial Response

To ensure that it has necessary resources to answer technical questions regarding quality of care and improper treatment that often arise, the board should fill and maintain its chiropractic consultant position. In addition, the board should ensure that its chiropractic consultant acts only in an advisory capacity and that the executive officer makes the final decision.

The BCE respectfully disagrees with the recommendation that the Board fills and maintains its chiropractic consultant position. The BCE does not want to limit its initial review of complaints to only one person because he or she would only be able to bring his or her own education, training, and experience to the position. This is too limiting and would inevitably lead to a myopic review of complaints. Additionally, no single consultant would have expertise in each practice style and school of thought plus the specialties within these various practice styles to provide competent expert advice.