



BOARD OF BEHAVIORAL SCIENCE EXAMINERS

Executive Officer: Sherry Mehl
(916) 322-4910 and
(916) 445-4933

Authorized by Business and Professions Code section 4980 *et seq.*, the eleven-member Board of Behavioral Science Examiners (BBSE) licenses marriage, family and child counselors (MFCCs), licensed clinical social workers (LCSWs), and educational psychologists (LEPs). The Board administers tests to license applicants, adopts regulations regarding education and experience requirements for each group of licensees, and appropriately channels complaints against its licensees. The Board also has the power to suspend or revoke licenses. The Board consists of six public members, two LCSWs, one LEP, and two MFCCs. The Board's regulations appear in Division 18, Title 16 of the California Code of Regulations (CCR).

The current members of the BBSE are Judy Brislain, LEP; Marsena Buck, LCSW; Selma Fields, MFCC; and public members Thomas Knutson, Jerry Miller, Lorie Rice, Jeanne Smith, and Stephanie Carter. BBSE is currently functioning with one MFCC vacancy, one LCSW vacancy, and one public member vacancy.

MAJOR PROJECTS

Board Appoints New Executive Officer. As a result of a hiring process begun in July 1994 after the resignation of Dr. Kathleen Callanan, BBSE recently chose its new Executive Officer. [14:4 CRLR 44] Out of 188 applications, BBSE invited thirteen applicants for interviews; nine interviews were subsequently conducted. At a January 6 meeting, BBSE interviewed two finalists and offered the position to Sherry Mehl; prior to this appointment, Mehl served as Executive Officer of the Acupuncture Committee. Mehl will begin her duties as BBSE Executive Officer on February 1.

BBSE Ceases Use of Verification Form for Out-of-State Supervised Experience. Under current law, BBSE is permitted to accept (for purposes of MFCC and LCSW licensure) supervised experience hours gained in an out-of-state setting if the experience is "substantially equivalent" to that required by California law. Until recently, BBSE staff required that out-of-state supervised experience hours submitted by MFCC and LCSW candidates be verified through the use of a particular form developed by staff; the

form required verification of the supervised experience hours by both the out-of-state supervisor and by a jurisdictional oversight body similar to BBSE or the American Association of Marriage and Family Therapists (AAMFT). Department of Consumer Affairs (DCA) legal counsel Kelly Salter supported this method of determining the "substantial equivalency" of the training, and the Board voted at its August 1994 meeting to retain the procedure while investigating other states' policies regarding acceptance of out-of-state experience. In response to objections by the California Association of Marriage and Family Therapists (CAMFT) that the Board's use of the verification form to determine "substantial equivalency" amounts to "underground rulemaking" and must be adopted as a regulation through a formal Administrative Procedure Act rulemaking proceeding, the Board instructed its Legislative and Licensing committees to determine whether regulatory and/or legislative amendments are required. [14:4 CRLR 44]

BBSE staff subsequently contacted 25 of the 29 other states that license MFCCs and found that 24 appear to accept out-of-state experience purely on the basis of receiving verification from the supervisor and/or administrator of the employment setting where the experience was gained; however, staff opined that other states' policies were inconsistent and that consumers would be better served by BBSE's existing policy.

However, in response to a recent court decision, the Board reversed course at its November 17 meeting. In light of Judge Stuart Pollak's decision in *Cohen v. State of California* that regulatory amendments are required before BBSE may require the two-part verification (see LITIGATION), BBSE instructed staff to discontinue use of the verification form and to evaluate applicants' out-of-state supervised experience hours based on the Board's existing regulations. The Board also directed the Legislative Committee to develop statutory and/or regulatory language which would permit it to require appropriate verification of out-of-state supervised experience hours.

Board Hears Presentation From Repressed Memory Therapy Critics. At its November meeting, BBSE heard from several people regarding their experience with the results of "repressed memory therapy" (RMT); all but one of the presenters were parents of adult individuals who had "recovered" memories during therapy and subsequently accused one or more family members of abuse (usually sexual) during childhood. The family

members claimed their innocence and placed the blame for these allegedly false memories on the therapists; they asked BBSE to issue a statement deterring the use of RMT until further research can be done. One person spoke in support of RMT, as a therapist and a former participant.

RMT is at the center of a maelstrom in the psychotherapeutic community; equally credentialed and respected clinicians and researchers support opposing viewpoints. Perhaps the biggest furor—and potential concern for BBSE—lies in the techniques used to "recover" the supposedly repressed memories; hypnosis, visualization, and sodium amytol ("truth serum") are some of the methods used. Critics maintain that clients are extremely vulnerable when they seek therapy and are led to recover "memories" that are actually delusions, fantasies, or imagined fears; proponents cite instances of traumatic amnesia in Vietnam veterans as proof that repression exists and blame a backlash against the exposure of the child abuse epidemic for the increasing number of skeptics.

Whether BBSE can or will seek to regulate RMT remains to be seen. The Board has indicated that it will consider issuing a policy statement only after collecting more information; in the future, BBSE expects to hear from professionals in the field and has invited representatives from professional associations to make presentations on the topic.

Changes to Administration of Oral Examinations. At its November meeting, BBSE unanimously approved several changes to its oral examination process. For example, the location of the oral examinations, which were previously administered in hotel bedrooms, will be moved to a more appropriate setting. Also, candidates will be allowed up to ten minutes to review the vignettes they are being tested on, instead of the two to three minutes previously permitted. In addition, BBSE will review the Candidate's Handbook with the intent of improving its usefulness. Further, BBSE voted to review its current appeal process in order to make it more effective and accessible to candidates; the Board agreed that this should be addressed in a public session. These changes were made in response to public comment from MFCC candidates regarding their frustration with the oral examination process.

LEGISLATION

SB 26 (Alquist), as introduced December 8, is an urgency bill which would increase MFCC license renewal fees from



\$150 to \$230, LCSW license renewal fees from \$150 to \$180, and MFCC intern registration fees from \$60 to \$150. The bill would permit BBSE, after January 1, 1996, to increase renewal fees up to \$400; but fees may not be any more than 10% greater than that charged on December 31, 1995 and may not be increased any more than 10% per calendar year. [S. B&P]

The fee bill is of critical importance to BBSE; in 1994, the Board was forced to curtail its enforcement program due to inadequate revenues and reserves. BBSE sponsored (and Senator Alquist carried) fee increase legislation in 1994, but vociferous opposition by CAMFT caused Senator Alquist to drop the bill. [14:2&3 CRLR 42-43]

■ LITIGATION

In *Cohen v. State of California*, No. 960-604 (San Francisco Superior Court), petitioner Maxine Cohen questioned BBSE's practice of requiring verification of out-of-state supervised experience hours for MFCC interns by an outside organization in addition to verification by the supervisor (see MAJOR PROJECTS). Cohen applied to take the MFCC exam in California, and submitted supervised experience hours from Arizona verified by a licensed psychologist. According to Cohen, some of her hours were rejected by BBSE because they could not be verified by AAMFT. Cohen argued that BBSE's policy of requiring verification of out-of-state hours by both the supervisor and by an other-state BBSE counterpart or by AAMFT must be codified in the Board's regulations through the APA rulemaking process before it is enforceable. Judge Stuart Pollak agreed, noting that the dual verification requirement is not published in the Board's regulations regarding admission standards and stressing the importance of codifying licensure requirements so that candidates understand the criteria they must meet in order to be licensed. Judge Pollak ruled that BBSE's dual verification requirement is "a matter of general application which, if it is to be enforced, needs to be spelled out in the regulations."

■ RECENT MEETINGS

At BBSE's November meeting, Interim Executive Officer Scott Syphax reported on the progress of the BBSE investigative unit which is to be established within the Department of Consumer Affairs' (DCA) Division of Investigation (DOI). [14:4 CRLR 44] BBSE and DOI are working together to finalize a memorandum of understanding for the operation of the unit. Syphax anticipated that the necessary budget change proposals would be denied, but stated that DOI will work with

BBSE on budget transfers to accomplish the funding of the unit.

Also at its November meeting, BBSE voted to revamp its LEP examination; the revision will be done by DCA's Office of Examination Resources (OER) and will cost BBSE approximately \$21,400. At this writing, OER anticipates completing the revisions by March. The Board also voted to computerize its LCSW and LEP written examinations as soon as possible; BBSE has already automated its MFCC examination. [14:4 CRLR 46-47; 14:2&3 CRLR 44]

Also in November, the Board directed Scott Syphax to request the resources needed for a management study from DCA. [14:4 CRLR 45] Syphax reported that the Board had already spent 50% of its budget in selected areas, and that a problem is developing in the enforcement area because Attorney General costs are very high. Syphax stressed the need for an increase in fees, which may be accomplished by the passage of SB 26 (Alquist), the Board's fee bill (see LEGISLATION).

■ FUTURE MEETINGS

February 23-24 in Sacramento.
May 18-19 (location to be announced).
August 24-25 (location to be announced).
November 16-17 (location to be announced).

CEMETERY BOARD

Executive Officer:
Raymond Giunta
(916) 263-2660

The Cemetery Board's enabling statute is the Cemetery Act, Business and Professions Code section 9600 *et seq.* The Board's regulations appear in Division 23, Title 16 of the California Code of Regulations (CCR).

In addition to cemeteries, the Cemetery Board licenses cemetery brokers, salespersons, and crematories. Religious cemeteries, public cemeteries, and private cemeteries established before 1939 which are less than ten acres in size are all exempt from Board regulation.

Because of these broad exemptions, the Cemetery Board licenses only about 188 cemeteries. It also licenses approximately 142 crematories, 200 brokers, and 1,200 salespersons. A license as a broker or salesperson is issued if the candidate passes an examination testing knowledge of the English language and elementary arithmetic, and demonstrates a fair understanding of the cemetery business.

The Board is chaired by industry member Keith Hargrave. Just prior to the Board's

September meeting, Governor Wilson appointed two new public members: Jeff Wallack, a Republican, former Assistant Secretary of the State and Consumer Services Agency, a real estate broker, and owner of a property tax consulting firm in Manhattan Beach; and Jane Emerson, a Democrat, former member of the Board of Behavioral Science Examiners, and owner of the Emerson Development Group in Del Mar. Other Board members include industry member Steve Doukas and public members Lilyan Joslin and Linda Trujillo.

■ MAJOR PROJECTS

Cemetery Board Shuts Its Doors. The end of 1994 also spelled the end of funding for the Cemetery Board. With no money to continue operating, the Board was forced to shut its doors at the end of December.

The defunding of the Board is the culmination of a lengthy effort by the legislature to remedy the Board's longstanding ineffectiveness in fulfilling its primary duty of consumer protection through its licensing, standardsetting, and enforcement programs. During the late 1980s and early 1990s, legislative attempts to abolish the Board or merge it with the Board of Funeral Directors and Embalmers (BFDE) stalled due to industry opposition, but were revitalized in 1993 when Assemblymember Jackie Speier and then-Department of Consumer Affairs (DCA) Director Jim Conran joined forces to compel the executive officers of both boards to resign. [13:4 CRLR 47; 13:2&3 CRLR 57]

In September 1993, DCA sponsored a statewide "Death Summit" in San Diego to discuss the boards' problems; in October 1993, the performance of both boards was reviewed by the Senate Subcommittee on Efficiency and Effectiveness in State Boards and Commissions. The Subcommittee concluded that both boards were generally ineffective and recommended that they be merged into a bureau within DCA, and that the new entity be required to adopt licensing and performance standards which protect the consumer and effectively regulate the death services industry. Subcommittee Chair Senator Dan McCorquodale adopted the recommendation by amending SB 2037 (McCorquodale) to include a provision merging the Board and BFDE into a single bureau. Following intense industry lobbying in opposition to the "bureau-izing" of the boards, the Senate Business and Professions Committee relented in May 1994, and agreed to amend SB 2037 to merge the boards into a single board instead of a bureau. [14:2&3 CRLR 45; 14:1 CRLR 44-45]