

BACKGROUND PAPER FOR THE BOARD OF PSYCHOLOGY

**(Oversight Hearing, March 19, 2012, Senate Committee on
Business, Professions and Economic Development)**

IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS FOR THE BOARD OF PSYCHOLOGY

BRIEF OVERVIEW OF THE BOARD OF PSYCHOLOGY

The Board of Psychology (Board) in the Department of Consumer Affairs (DCA) is responsible for implementation and enforcement of the Psychology Licensing Law; the laws and regulations related to the licensure, practice and discipline of those who are engaged in the practice of psychology in California in order to protect the public. Only licensed psychologists can practice psychology independently in the private sector in California.

The Board licenses approximately 22,000 psychologists, registers 300 registered psychologists, and 1,600 psychological assistants. The Board issues more than 2,200 new licenses and registrations each year, and more than 8,000 licenses and registrations are renewed each year.

The regulation of psychology began with the Certification Act of 1958, which protected the title “psychologist,” but did not take into consideration the interests of the consumers of psychological services. As the regulation of the profession evolved, the Legislature recognized the potential for consumer harm by those practicing psychology and shifted the focus of the regulation of the profession to protection of the public, additionally defining, by 1967, the practice and requiring licensure to practice psychology. Originally established as an “examining committee” under the Medical Board, in the 1970’s the Psychology Examining Committee became increasingly independent, and was established as the Board of Psychology in 1990.

Psychologists differ from psychiatrists chiefly in that psychiatrists train for, and are licensed as, medical doctors (MD), and are therefore regulated by the Medical Board of California, while psychologists (as well as registered psychologists and psychological assistants) are specifically trained in the practice of psychology. As indicated above, the Board regulates the field of psychology in three categories:

- **Psychologist** practices psychology independently in any private or public setting. The license must be renewed every two years, and licensees must complete 36 hours of continuing education for renewal. Requires a doctoral degree in psychology, educational psychology, or in education with a field of specialization in counseling psychology or educational psychology; to complete 3,000 hours of qualifying supervised professional experience, 1,500 of which must be accrued post-doctorate; pass the Examination for Professional Practice in Psychology (EPPP)

and the California Psychology Supplemental Examination (CPSE); complete coursework in human sexuality, child abuse, substance abuse, spousal abuse, and aging and long-term care.

- **Registered psychologist;** a 30 month, non-renewable registration to work and train under supervision in non-profit agencies that receive government funding. Requires a doctoral degree in psychology, and 1,500 hours of qualifying supervised experience for registration.
- **Psychological assistant;** an annually renewed registration (for up to six years) to work and train while supervised by a qualified licensed psychologist in a private setting. Intended to be a method by which an unlicensed person can perform limited psychological functions to accrue hours of supervised professional experience. Requires a qualifying master's degree in psychology, with no experience required for registration.

The Board’s mission statement, as stated in its Strategic Plan 2011-2013, is as follows:

The Board of Psychology protects and advocates for Californians by promoting the highest professional standards through its licensing, regulation, legislation, enforcement, continuing education, and outreach programs.

Currently, the Board is composed of nine members. It has a majority of professional members with four public members. Each member is appointed for a four year term, and may serve a maximum of two consecutive terms.

The Governor appoints the five licensed members and two public members. The Senate Rules Committee and the Assembly Speaker each appoint one public member. Public members cannot be licensed by the Board of Psychology or by any other DCA healing arts board. The Board as a whole is required to meet at least three times a calendar year, and meets at various locations throughout the state to address work completed by various committees of the Board. Board meetings are open and give the public the opportunity to testify on agenda items and on other issues.

The following table lists all members of the Board, including: background on each member, when appointed, term expiration date, and appointing authority.

Name	Appointment Date	Expiration Date	Appointing Authority
Richard Sherman, Ph.D. – President Professional Member. Serves in private clinical practice in Southern California. A former President of both the California Psychological Association and Los Angeles County Psychological Association.	June 2007	June 1, 2011, serving grace period	Governor
Emil R. Rodolfa, Ph.D. – Vice President Professional Member. Serves as Director of UC Davis Counseling Program and is past Board President. In 2010 served as President of the Association of State and Provincial Psychology Boards. Sits on numerous national organizations as a Representative and Delegate. Currently is the editor of the Training Journal in Psychology, runs an internship program and has been chair of the Association of Psychology and Post-Doctoral Internship Centers, the national internship and postdoctoral training association.	November 2007	June 1, 2011, serving grace period	Governor

<p>Lucille Acquaye-Baddoo Public Member. A leading Management Consultant and Educator, serves as an Adjunct Political Science Instructor at Los Angeles Harbor Community College; Program Coordinator with Los Angeles Job Corps. A graduate of California State University-Dominguez Hills with a Bachelors of Arts degree in Sociology/Behavioral Science and a Masters degree in Public Administration. Currently is completing work on a Ph.D. in American Politics and Public Policy. Professional associations include the American Political Science Association, Public Administration Review and the Eta Pi Unit (California State Association of Parliamentarians).</p>	February 2009	June 1, 2014	Assembly Speaker
<p>Barbara Cadow, Ph.D. Professional Member. Since 1981, has engaged in private practice in Los Angeles, and has also been a Clinical Associate for the University of Southern Californian (USC), serving as Director of Training from 1981-1983 and Director of Clinical Services 1983-1986. Practiced as a clinical psychologist for the Los Angeles County/USC Medical Center in the Psychiatry Outpatient Clinic. A member of the American Psychological Association, the California Psychological Association and the Los Angeles County Psychological Association.</p>	August 2010	June 1, 2012	Governor
<p>Michael Erickson, Ph.D. Professional Member. Has been in private practice since 1980 and has been a Qualified Medical Examiner (QME) for the Department of Industrial Relations since 1993. Served as Assistant Clinical Professor at UC Davis from 1992 to 2003, after being a Clinical Instructor for the previous five years. Member of the American Psychological Association and the California Psychology Association.</p>	August 2010	June 1, 2014	Governor
<p>Gail Evans Public Member. Previously served as Chief of Staff to Senator Jack Scott and as an education programs consultant for the Department of Education. Member of the American Association of University Women.</p>	September 2011	June 1, 2015	Senate Rules
<p>Miguel Gallardo, Psy.D. Professional Member. Currently serves in private practice in Irvine and Lake Forest in Orange County. Since 2008, has served as Associate Professor at the Pepperdine University Graduate School of Education. Has served as the Director of Research and Training at the Orange County Multi-Ethnic Collaborative of Community agencies since 2009. Member of the American Psychological Association, California Psychological Association, the California Latino Psychology Association and the National Latino Psychological Association.</p>	August 2010	June 1, 2012	Governor
<p>Vacant Public Member.</p>		June 1, 2012	Governor
<p>Vacant Public Member.</p>		June 1, 2014	Governor

The Board currently has seven standing committees that perform various functions:

- **Contemporary and Emerging Issues Committee** – Composed of two licensed members. Purpose is to monitor and review trends, issues and relevant changes to the profession of psychology and report its findings and recommendations to the Board.
- **Continuing Education** – Composed of three licensed members. Purpose is to review continuing education policies and recommend regulatory changes to keep the Board’s continuing education program consistent with the evolution of the profession.

- **Credentials Committee** – Composed of three licensed members. Purpose is to consider issues such as education and supervised professional experience to determine qualifications and competence for all applicants and licensees.
- **Outreach and Consumer Education Committee** – Composed of two licensed members and one public member. Purpose to provide critical information to the public regarding the practice of psychology, relevant and emerging issues in the field of psychology, and the work of the Board.
- **Enforcement Committee** – Composed of two public member and one licensed member. Board policy requires the chair to be a public member. Purpose is to focus on public protection against the negligent, incompetent, unethical, unlicensed and unlawful activities related to psychology practice by maintaining and applying the Board’s Disciplinary Guidelines and retaining a qualified pool of expert case reviewers.
- **Examination Committee** – Composed of two licensed members. Works with the Association of State and Provincial Psychology Boards (ASPPB) and with the DCA Office of Professional Examination Services (OPES) to ensure valid and reliable national and California examinations.
- **Legislation Committee** – Comprised of two public members and one licensed member. Purpose is to review and track legislation that affects the Board, consumers and the profession of psychology, and recommend positions on legislation for consideration by the Board.

The Executive Officer is appointed by the Board to ensure that the Board functions efficiently and serves solely in the interests of the consumers of psychological services in the State of California. The Board’s current executive officer, Robert Kahane, was appointed by the Board in 2006.

As a Special Fund agency, the Board receives no General Fund support, relying solely on fees set by statute and collected from licensees and applicants. For fiscal year (FY) 2011/12, the total revenues anticipated by the Board is \$7,476,000, and for FY 2012/13, \$6,458,000. The total expenditures anticipated for the Board for FY 2011/12 are \$4,260,000, and for FY 2012/13, \$4,345,000. According to the Board, the current reserve level is \$3.1 million, approximately 8.4 months in reserve. The Board does not anticipate any budget deficit or any need for a fee adjustment in the foreseeable future. The Board spends approximately 59% of its budget on its enforcement program. In FY 2002/2003 a \$5 million loan was made to the General Fund from the reserves in the Board’s special fund. In FY 2008/2009, an additional loan of \$2.5 was made to the General Fund. The current outstanding loan balance to the General Fund is \$7.5 million.

In FY 2007/08, the Board had 13.5 authorized positions. The Board has been dramatically affected by the hiring freeze and furloughs, and continues to have vacancies and has experienced difficulty in filling positions due to the recent hiring freeze.

Effective January 2011, through the Consumer Protection Enforcement Initiative (CPEI), which sought to overhaul the enforcement processes used by healing arts boards within the Department, the Board received budget approval to hire 2 investigators, 2 medical consultants, and one limited term analyst, bringing its staffing level to 19.5 authorized positions. Although these positions were funded in January 2011, the Board has been unable to fill them due to the hiring freeze implemented August 2010. As a small Board without any redundant positions, all vacancies directly affect the productivity and timeliness of the Board’s processes as the workload resulting from these vacancies must be absorbed by remaining staff. Though the Board continues to improve its timeliness, the vacancies reduce the amount of progress that can be made. At the time of the Board’s Report, 41% of the

authorized positions (or 8 positions) , including the positions granted as a result of the CPEI, were vacant.

Enforcement

The Board states that over the last seven years the Board's enforcement workload has grown beyond current staffing resources. Extended processing times are directly related to the following challenges and workload increases:

- 72% increase in the number of complaints received.
- Inadequate staffing levels to handle the current workload.
- Loss of productivity due to the state hiring freeze and the inability to recruit and train the five positions for CPEI.
- Loss of productivity due the state hiring freeze and the inability to recruit and train staff vacancies.
- Loss of productivity due to furloughs.

The majority of complaints received by the Board involve allegations of unprofessional conduct. Consumer complaints are received (by telephone, e-mail, or via written communication), logged, responded to, and entered into the computer-based system. As complaints are received, Board staff immediately reviews each complaint to determine the appropriate course of action based on the Board's complaint prioritization guideline. Complaints regarding sexual misconduct, substance abuse, and mental illness are categorized as urgent, and are immediately referred for formal investigation.

Most complaints are investigated by in-house staff analysts who conduct "desk" investigations by gathering data and documents via written communication. Desk investigations do not include field work or interviews. Any investigation that requires field work, interviews, service of subpoenas or a sworn peace officer involved due to safety concerns or criminal activity, is referred to the Medical Board Division of Investigation.

The Board works with the Medical Board Investigation Division, the Office of the Attorney General, and, when necessary, local district attorneys to remove incompetent practitioners and reduce fraud. Resulting disciplinary action could include an Interim Suspension Order (ISO), as well as probation, suspension, and license revocation. The Board also has the authority to issue citations and assess fines, letters of reprimand, and cease-and-desist orders.

Continuing Education / Continuing Competency

The Board requires each licensee to complete 36 hours of continuing education for each two year license renewal. Currently the Board's continuing education program is administered by the Mandatory Continuing Education for Psychologists Accrediting Agency (MCEPAA). The MCEPAA is a non-profit, fee-for-service program, administered by the California Psychological Association (CPA). The MCEPAA program was approved by the Board as an accrediting agency in 1994 and is currently the sole organization responsible for approving and maintaining a list of qualified providers and courses for California psychologists, and for reporting each licensee's compliance with continuing education requirements to the Board.

In addition to courses that are approved by MCEPAA, the Board also recognizes and accepts continuing education credit courses that are provided by American Psychological Association (APA) approved sponsors, Continuing Medical Education (CME) courses specifically applicable and pertinent to the practice of psychology and that are accredited by the California Medical Association (CMA) or the Accreditation Council for Continuing Medical Education (ACCME), or sponsored by the Academies of the specialty boards of the American Board of Professional Psychology (ABPP).

The MCEPAA tracks all continuing education earned by California-licensed psychologists and identifies to the Board those licensees who are deficient in the continuing education requirements. If a course taken by a licensee is MCEPAA approved, the course is reported directly to MCEPAA by the course provider. If a continuing education course is not approved by the MCEPAA (i.e. APA, CME, etc.), the licensee is responsible for reporting the credit to the MCEPAA. This process allows the Board to conduct a 100 percent audit of all licensees' continuing education.

If a psychologist fails to complete the required hours of continuing education, the license becomes invalid for renewal upon expiration, and the licensee is prohibited from practicing psychology until the continuing education is completed and the license is restored to a valid status. If the deficiency is not made up within six months following the license expiration date, the licensee is subject to disciplinary action and/or citation and fine. The Board indicates that due to current staffing issues, it is unable to take disciplinary action or issue a citation and fine in as a timely fashion as the Board would like.

Based on the reports from MCEPAA to the Board, there is an average of 8% non-compliance upon initial review of psychologist continuing education. Oftentimes, a report of non-compliance is due to failure to submit documentation of a course already completed by the licensee. The Board states that upon notification, most licensees document compliance immediately.

According to the Board the issue of continued professional development/competency has been an issue of discussion by the Board's Committee on Contemporary and Emerging Issues in recent meetings. This issue will be discussed further under Current Sunset Review Issues.

(For more detailed information regarding the responsibilities, operation, and functions of the Board please refer to Board's *Sunset Review Report, November 1, 2011*)

PRIOR SUNSET REVIEW

The Board was last reviewed by the former Joint Committee on Boards, Commissions and Consumer Protection (Joint Committee) seven years ago (2004-2005). During the previous Review, the Joint Committee raised 10 issues and recommendations regarding the Board. The following are actions which were taken to address these issues. For issues which may still be of concern to the Committee, they are addressed and more fully discussed below under "Current Sunset Review Issues."

In November 2011, the Board submitted its required Sunset Review Report to the Committee. In this report, the Board described actions that have been taken since the Board's prior review to address the recommendations of the Joint Committee. The following are some of the more important programmatic and operational changes and enhancements which the Board has taken and other important policy decisions or regulatory changes it has adopted, as well as some highlighted accomplishments:

- **Recommended Changes Enacted by SB 229 (Figueroa, Chapter 658, Statutes of 2005).** The 10 final recommendations made by the Joint Committee in 2005 were embodied in SB 299 legislation authored by the Joint Committee Chair, Senator Liz Figueroa. The changes include: extend the Board’s sunset date; establish the title “registered psychologist” and increase the amount of time one can work as a registered psychologist from 24 months to 30 months; add postdoctoral placements overseen by the American Psychological Association (APA), the Association of Psychology Postdoctoral and Internship Centers (APPIC) and the California Psychology Internship Council (CAPIC) as acceptable post-doctoral placement programs; delete the obsolete term “certified” with regard to the regulation of psychology and include Canadian licensed psychologists; provide that the Board makes the final determination as to whether a degree from an accredited university, college, or professional school meets the requirements for licensure; make corrections to refer to “Ethical Principles and Code of Conduct” rather than “code of ethics;” refer to the “supplemental licensing examination” and reflect the Board’s use of computer-administered examinations; accurately refers to the term of an initial license; add “retirement” to the list of reasons to place a license on inactive status.
- **Posting Information About Non-Licensees Convicted of Unlicensed Practice on the Board’s Website.** The Joint Committee raised this as an issue in 2005. The Board believes that the disclosure of a citation and fine, or conviction for unlicensed practice, would be very relevant and important to the public; however, it is problematic for the Board’s current IT system to allow the posting of such information in a similar place as the license verification function. According to the Board, it has aggressively sought out those in unlicensed practice through their advertising, websites and publications. The Board states that it is currently involved with the Department and IT regarding changes to its Website to disclose actions taken regarding unlicensed practice.
- **Board Authority to Order Restitution to Consumers Who Have Been Harmed by Licensees.** During the 2004 sunset review, DCA recommended that all Boards examine their authority to order restitution to consumers and develop policies to execute our authority. The Board now has the authority to order restitution, as reflected in its disciplinary guidelines. Restitution is a standard term in any case involving Medi-Cal or insurance fraud. Failure to pay restitution when ordered is considered a violation of probation. The Board also uses restitution as part of the stipulation process.
- **New Executive Officer.** Robert Kahane was appointed by the Board in March of 2006.
- **Headquarter Relocation.** In March 2008, the Board moved from the Howe Avenue complex to its current location on Evergreen Street in Sacramento.
- **Strategic Planning.** The Board has conducted a number of strategic planning sessions. In 2009, the Board began using a two-year model for its Strategic Plan. The Board is currently using a 2011-2013 plan.
- **Probation.** Approximately 51% of the Board’s disciplinary actions result in probation. The average term of probation is three to five years. The Board monitors approximately 60 licensees on probation per year. Since the last sunset review, there has been a 400% increase in the number of probationers that the Board must monitor. Probationers must be

adequately monitored to ensure compliance with the terms and conditions of the disciplinary order. The Board has taken a proactive approach in implementing new procedures to reduce the strain on staffing resources and improve consumer protection. In July 2010, the Board entered into the DCA master contract with Phamatech, Inc. for drug testing services. Phamatech services give the Board drug test results within 24 hours, and access to experts in the interpretation of test results. The Board has further implemented a requirement for an annual face to face meeting with all probationers, resulting in fewer probation violations which represents a cost savings for the Board.

- **Legislation Sponsored By or Affecting the Board.** A number of legislative changes relevant to the Board's duties have been enacted since the last Sunset Review in 2004. Some of the significant changes are listed below. For a comprehensive list of relevant legislation see the Board's *Sunset Review Report*.

AB 611 (Gordon, Chapter 103, Statutes of 2011) established certain disclosure requirements pertaining to accreditation status, licensure, and related limitations for unaccredited doctoral programs. The Board accepts doctoral degrees in psychology from schools that have been approved by the Bureau of Private Postsecondary Education (BPPE) that meet specific criteria. There are currently 6 schools approved by BPPE that meet the criteria. The Board has no authority over school approvals or their operation and curriculum.

AB 2435 (Lowenthal, Chapter 552, Statutes of 2010) encouraged the Board to include coursework regarding the assessment and reporting of elder and dependent adult abuse in the required training on aging and long-term care issues, prior to licensure or license renewal. The Board approved draft language to amend CCR section 1382.6 at the May 2011 Board meeting to incorporate this mandate.

AB 2699 (Bass, Chapter 270, Statutes of 2010) established a California license exemption for out-of-state licensed health care practitioners who provide free services on a short term, voluntary basis to uninsured persons at health fairs. The Board states that it already has existing provisions that allow persons licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada to provide psychological services in California for a period not to exceed 30 days in any calendar year. According to the Board, psychologists do not typically participate in the type of sponsored events covered by this bill (not exceeding ten calendar days). According to the Board, a psychologist's work is performed over a continued period of time, rather than at a time-restricted event; therefore, the Board is not considering promulgating regulations at this time.

AB 2257 (B&P Committee, Chapter 89, Statutes of 2006) required psychologists to maintain a patient's records for seven years from the patient's discharge date, or in the case of a minor, seven years after the minor reaches 18 years of age.

- **Regulations Adopted by the Board.** A number of regulatory changes have been adopted by the Board since the last Sunset Review in 2004. Some of the significant regulatory changes are listed below. For a comprehensive list of regulatory changes, see the *Sunset Review Report*.

Applications: Modified the examination application filing deadline due to the Board's examinations transitioning from a paper/pencil examination to computer-based testing.

Previously the Board gave each of its examinations twice a year on specific dates and applicants were required to be submitted 90 days prior to the examination date. Examinations are now given continuously; therefore, application deadlines are no longer required.

Amount of Fines. Increased the maximum administrative fine to \$5,000. The regulation authorizes the Board to impose a civil penalty between \$2,501 and \$5,000 where exceptional circumstances are present.

Continuing Education Requirements. Increased the number of quality continuing education courses by accepting those courses provided by sponsors approved by the American Psychological Association (APA), the California Medical Association (CMA), the Accreditation Council for Continuing Medical Education (ACCME), and the American Board of Professional Psychology (ABPP).

California Laws and Ethics Examination. Incorporated the new California Psychology Law and Ethics Examination (CPLEE) for those seeking California licensure who are currently licensed in another state, Canadian province, or U.S. territory. Previously, such applicants were required to take the California Psychology Supplemental Examination (CPSE). The CPLEE is a subset of the CPSE, containing only those questions from the CPSE regarding laws and ethics.

Renewal of License – Disclosure of Discipline & Criminal Convictions: Required all licensees who have not previously submitted fingerprints to the DOJ or for whom an electronic record of the submission of the fingerprints does not exist with DOJ, to submit fingerprint images for a state and federal level criminal background check prior to his or her license renewal date. Applied the fingerprint requirements to licensees upon reactivation or reinstatement of an expired license. Further required all licensees, as a condition of renewal, to disclose whether they have been convicted of any violation of the law in this or any other state, the United States or its territories, military court, or other country since the license was last renewed. Required all licensees, as a condition of renewal, to disclose whether they have had a license disciplined by a government agency or other disciplinary body since the license was last renewed.

- **Pending Regulations.** In its Report, the Board identified several proposed regulations that are currently being considered by the Board. Some of the more significant pending regulatory changes are listed below. A comprehensive list may be found in the *Sunset Review Report*.

Continuing Education Requirements: Re-defines the Board's Continuing Education Provider Approval System, to make it consistent with other states, and agencies within California, and to restructure the process for compliance monitoring and reporting requirements. This proposal eliminates any accrediting agency as the Board's designated organization responsible for approving providers and courses, and for reporting each licensee's compliance to the Board. This proposal designates the entities whose courses the Board will recognize and accept for continuing education credit, and eliminates the individual repetitive course review that is currently required of all providers approved by the MCEPAA.

Delegation of Functions and Unprofessional Conduct: In response to the DCA's request to implement regulations to enhance the Board's mandate of consumer protection, this proposal delegates authority to the executive officer to approve settlement agreements for revocation,

surrender, or interim suspension of a license or registration. Further delegates authority to the Executive Officer to order an applicant or licensee to submit to a physical or mental examination if it appears the person may be unable to safely perform duties and functions due to physical or mental illness. Clarifies the authority of the Executive Officer to deny the application if the applicant is unable to safely practice based on the review of the evaluation report.

The regulation prohibits “gag clauses” in civil settlement agreements that forbid a party from contacting, cooperating with, or filing a complaint with the Board, or that requires a person to withdraw a complaint filed with the Board. Defines as unprofessional conduct failure to provide the Board with copies of documents within 15 days of receipt of a request. Also defines as unprofessional conduct the failure to cooperate and participate in any Board investigation pending against a licensee or registrant.

CURRENT SUNSET REVIEW ISSUES

The following are unresolved issues pertaining to the Board, or those which were not previously addressed by the Board, and other areas of concern for the Committee to consider along with background information concerning the particular issue. There are also recommendations the Committee staff have made regarding particular issues or problem areas which need to be addressed. The Board and other interested parties, including the professions, have been provided with this Background Paper and can respond to the issues presented and the recommendations of staff.

ISSUE # 1: Will the Board be able to successfully fill vacant positions?

Background: As with other regulatory boards, the Board of Psychology has been working within the limitations of the current fiscal emergency and the resulting Executive Orders. As a result, the Board has experienced a number of vacancies and encountered considerable difficulty in filling the vacancies due to the hiring limitations. As a small Board without any redundant positions, all vacancies directly affect the productivity and timeliness of the Board’s processes as the workload resulting from these vacancies must be absorbed by remaining staff.

Effective January 2011, the Board received additional budget approval through the DCA’s Consumer Protection Enforcement Initiative (CPEI) to hire 2 investigators, 2 medical consultants, and one limited term analyst, bringing its staffing level to 19.5 authorized positions. The Board has worked with DCA Office of Human Resources (OHR) to fill these CPEI positions. Although these positions were funded in January 2011, the Board had been unable to fill them due to the hiring freeze implemented in August 2010.

Though the Board continues to improve its timeliness, vacancies reduce the amount of progress that can be made. At the time of its November 2011 Report, 41% of the Board’s allotted positions (or 8 positions), including the positions that were granted as a result of the CPEI, were vacant. Also, because of the classification level of some of these positions, the Board indicated that it has received disappointingly low interest from potential candidates to fill those positions.

Staff Recommendation: *The Board should inform the Committee of its current staffing levels. Are there current staff vacancies? What are the current challenges to fill vacant positions? What has been the effect of the staff vacancies on the Board's operations?*

ISSUE # 2: Improved enforcement workload management in spite of decreased staffing levels.

Background: The Board reported in its November 2011 Report that 41% of the allotted positions were vacant. The organizational chart submitted with the Report showed 8 vacancies out of a staff of 19.5 authorized positions. Despite its vacancies, it appears that the Board has made adjustments to its complaint handling functions that allowed staff to meet or exceed many of its performance expectations.

In recent years, in an effort to improve its administrative functions, the Board established performance measures for four key areas: complaint intake, intake and investigation, formal discipline, and probation intake. To date, with existing staff, the Board has significantly reduced the processing times for complaint intake and desk investigations. In the last two years, the processing time for complaint intake was reduced by 40% and desk investigation has been reduced from 133 days to 32 days which represents a 76% decrease in processing time. The Board established a goal for formal discipline to reduce the processing time from an average of 1,000 days to 540 days. The Board's current processing time for formal discipline is an average of 894 days.

The Board's administrative improvements include the development of enforcement process guidelines for staff to clearly establish expected processing times. New procedures for complaint intake and overall monitoring were implemented and resulted in a 40% reduction to processing time.

The Board has further reviewed and updated its complaint procedure manuals to reflect current processes and provide staff with streamlined and detailed direction for all enforcement processes. Further administrative improvements include enhanced training for staff in investigative techniques and report writing.

In light of the reduced staffing levels, noted above, how does the Board explain the seemingly increased efficiencies in a number of its operations?

Staff Recommendation: *The Board should discuss with the Committee how it has been able to achieve complaint handling efficiencies while dealing with budget and staffing reductions, vacancies and furloughs in the recent past. Are there additional changes which could be made to enable to Board to address its workload in light of its staffing limitations?*

ISSUE # 3: Are regulatory or legislative changes needed regarding telehealth or the online practice of psychology?

Background: The Board states in its Report that the issue of the practice of psychology by alternative methods such as telephone and online psychotherapy has recently moved to the forefront of issues facing the profession of psychology. The Board states that California, along with many other states and provinces, are beginning to look seriously into this topic and how it affects consumers.

The Board acknowledges that there are many issues regarding providing psychological services electronically across state lines, such as the location of the recipient of the services and the location of the provider; however, there are many other issues regarding the provision of psychological services electronically within California that the Board needs to address first. These issues include, but are not limited to, safety, security, informed consent, and ethical practice.

The Board has considered conducting a symposium and inviting various individuals and organizations knowledgeable about telehealth, including the Association of State and Provincial Psychology Boards (ASPPB) which is currently developing guidelines that could be useful for all psychology licensing jurisdictions. The California Psychological Association (CPA) has offered to partner with the Board in this endeavor. The Board is aware of the urgency of this issue, as there are licensees who are currently practicing telehealth, and the Board will be determining if regulations regarding this issue are necessary to protect consumers of psychological services in California.

According to the Board, whether legislation or some basic regulations are needed is yet to be determined. There are many similar discussions in other jurisdictions regarding telehealth. Since this delivery of mental health services will encompass much more than our state, the Board states that efforts must be made to ensure that consumers are not harmed if receiving services from another jurisdiction. Working with the other jurisdictions (boards) in assessing what is needed for the best practice in telehealth will also benefit the California consumer when they leave the state. Telehealth would allow the continuation of therapy without interruption due to proximity to the practitioner.

Staff Recommendation: *The Board should update the Committee on its evaluation of whether regulations or legislation are needed regarding telehealth or the online practice of psychology.*

ISSUE # 4: Are there regulatory or legislative changes which should be made regarding unaccredited schools?

Background: The Board states that California is the only state which allows students from unaccredited schools to sit for psychology licensing examinations. All other states require students to be from accredited institutions, accredited by either a regional or national accrediting body. This leaves California as an outlier in the profession, and stands as an impediment to the Board entering into any reciprocity agreements with other states.

The Board indicates that the lack of reciprocity with other states is a barrier to full participation by California-licensed psychologists in national issues. The Board also would like all psychologists and students in California to be included in national organizations, able to be accepted into internship placement programs and have the ability to become licensed in other states. These limitations are among many which those practitioners from California, who attended an unaccredited school, will be subject to.

According to the Board, it is currently monitoring statistics and passing rates. The Board has recently sent out letters to all national organizations questioning their reasoning regarding the limitations they have set for those who have not attended accredited institutions. With the re-establishment of the Bureau for Private Postsecondary Education (BPPE), the Board is hopeful that these unaccredited institutions, while having their students continue to apply for licensure, will be held accountable within

the new regulations, to the minimum standard of notifying those students, prior to attending, of the limitations of their graduation and degree from a non-accredited program.

Section 2914 of the Business and Professions Code requires each applicant for licensure to possess a doctoral degree in psychology, educational psychology, or in education with a field of specialization in counseling psychology or educational psychology from a regionally accredited educational institution in the United States or Canada, or from an educational institution in California that is approved by the BPPE. It provides that applicants for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the Board that he or she possesses a doctorate degree in psychology that is equivalent to a degree earned from a regionally accredited university in the United States or Canada.

There are currently 6 schools approved by the BPPE that meet the educational criteria to qualify for licensure. The Board has no authority over school approvals or their operation and curriculum. The Board feels very strongly about full disclosure in regards to the restrictions an unaccredited degree program in psychology has on California students in regards to mobility and membership in various professional organizations and programs within the profession. AB 611 (Gordon, Chapter 103, Statutes of 2011) set forth certain disclosure requirements pertaining to accreditation status, licensure, and related limitations for unaccredited doctoral programs.

Staff Recommendation: *The Board should inform the Committee of its current efforts regarding the issue of unaccredited schools. To what extent are California students being harmed by this issue? Is there a way for the Board to better inform potential students of the differences between attending an accredited versus an unaccredited school and to keep a list of both. Are there regulatory or legislative changes that need to be made regarding unaccredited schools? What can be done to enhance the ability of California's licensed psychologists to have reciprocity with other states?*

ISSUE # 5: What is the status of the Board's efforts to ensure the continued competency of its licensees?

Background: The Board requires each licensee to complete 36 hours of continuing education for each two-year license renewal. The Board reports that it averages a 92% compliance rate of licensee compliance with the continuing education requirements, and that most noncompliance issues deal deficiencies in submitting the proper documentation of the completed continuing education courses.

The Board additionally states that it has also discussed continued professional development/competency for licensed psychologists. The Board states that continued competency has been an issue on the agenda for the Board's Committee on Contemporary and Emerging Issues for the past several Board meetings. The Committee has been looking at how licensees can demonstrate competency beyond continuing education. In 2011, the Committee on Contemporary and Emerging Issues recommended referring this topic to the Board's Continuing Education Committee. The Board stated that the Committee would review models regarding continued professional development/competency created by the Association of State and Provincial Psychology Boards and the American Psychological Association at the November 2011 Board meeting. The Board states that it is also planning to partner with the California Psychological Association to address this developing issue.

Given that the Board has discussed the issue in the recent past, and more closely considered the issue of continuing competency through two of its committees, including reviewing models for demonstrating continuing competency, it would be appropriate for the Board to give its current assessment of the issue of continuing competency. Are there models for demonstrating continuing competency that appear to viable, in the Board's estimation? Has the Board engaged in discussions with the California Psychological Association about continuing competency?

Staff Recommendation: *The Board should discuss with the Committee its efforts to date to address continuing competency, and what it expects to accomplish in near future regarding this issue.*

ISSUE # 6: What is the status of pending regulations?

Background: The Board has reviewed and implemented a number of rulemaking changes since the previous sunset review. The two regulatory packages noted above were "pending" at the time the Sunset Report was submitted to the Committee. The Board should update the Committee about the status of these two regulatory proposals, especially the regulations which would streamline and augment the Board's enforcement processes.

This regulatory proposal is in response to the DCA's request to implement regulations to enhance the Board's mandate of consumer protection. The DCA launched the Consumer Protection Enforcement Initiative (CPEI) to overhaul the enforcement processes used by healing arts boards within the Department, in order to reduce the average enforcement completion timeline from 36 months to between 12 and 18 months. The regulations implement certain elements that were reflected in SB 1111 (Negrete McLeod) from 2010, and SB 1441 (Ridley-Thomas, Chapter 548, Statutes of 2008). The former DCA Director encouraged the boards in the Department to develop regulatory changes, as needed, to implement the changes that could be adopted through the regulatory process.

The regulations would make the following changes to enhance the Board's mandate of consumer protection:

- Delegate authority to the executive officer to approve settlement agreements for revocation, surrender, or interim suspension of a license or registration.
- Delegate authority to the executive officer to order an applicant or licensee to submit to a physical or mental examination if it appears the person may be unable to safely perform licensed duties and functions due to physical or mental illness.
- Clarify the authority of the executive officer to deny an application if the applicant is unable to safely practice, based on the review of the evaluation report.
- Prohibit "gag clauses" in civil settlement agreements that forbid a party from contacting, cooperating with, or filing a complaint with the Board, or that require a person to withdraw a complaint filed with the Board.
- Define as unprofessional conduct failure to provide the Board with copies of documents within 15 days of receipt of a request.
- Define as unprofessional conduct the failure to cooperate and participate in any Board investigation pending against a licensee or registrant.

Staff Recommendation: *The Board should inform the Committee of the current status of the proposed regulations relating to delegation of functions to the executive officer and regarding unprofessional conduct for licensees.*

ISSUE # 7: What is the status of BReEZe implementation by the Board?

Background: Although the existing CAS system has been updated and expanded over the years, it still has inadequate performance measures, data quality errors, an inability to quickly adapt to changing laws and regulations, and a lack of available public self-service options. The DCA intends to procure a Modifiable Commercial Off-The-Shelf (or “MOTS”) enterprise licensing and enforcement case management system. This system, known as the BreEZe Project will provide the DCA boards, bureaus, and committees with a new enterprise-wide enforcement and licensing system. BreEZe will replace the existing outdated legacy systems and multiple “work around” systems with an integrated solution based on updated technology.

BreEZe will provide all DCA organizations with a solution for all applicant tracking, licensing, renewal, enforcement, monitoring, cashiering, and data management capabilities. In addition to meeting these core DCA business requirements, BreEZe will improve the DCA’s service to the public and connect all license types for an individual licensee. BreEZe will be web-enabled, allowing licensees to complete applications, renewals, and process payments through the Internet. The public will also be able to file complaints, access complaint status, and check licensee information. The BreEZe solution will be maintained at a three-tier State Data Center in alignment with current State IT policy.

BreEZe is an important opportunity to improve the Board operations to include electronic payments and expedite processing. Staff from numerous DCA boards and bureaus have actively participated with the BreEZe Project. Due to increased costs in the BreEZe Project, last year SB 543 (Steinberg, Chapter 448, Statutes of 2011) was amended to authorize the Department of Finance (DOF) to augment the budgets of boards and bureaus and other entities that comprise DCA for expenditure of non-General Fund moneys to pay BreEZe project costs within the 2011-2012 Budget Year.

The DCA intends to roll out BreEZE over a period of 18 months, with the first boards implementing the new changes later this year. According to the current implementation schedule, the Board will begin using BreEZe in the Summer of 2012. It would be helpful to update the Committee about the Board’s current work to implement the BreEZe project.

Staff Recommendation: *The Board should update the Committee about the current status of its implementation of BreEZe. What have been the challenges to implementing this new system? What are the costs of implementing this system? Is the cost of BreEZe consistent with what the BPM was told the project would cost?*

ISSUE # 8: Webcasting Board meetings.

Background: The Board reports that in August 2011, the Board began webcasting its meetings. Although as of this date only two Board meetings have been webcast, the Board anticipates utilizing

this technology for all future meetings. Once the webcast is available, the Board immediately posts it on the Board's website.

Webcasting is an important tool that can allow for remote members of the public and those who may be unable to travel to a board meeting to stay apprised of the activities of the Board as well as trends in the profession.

Staff Recommendation: *The Board should continue its efforts to webcast future Board meetings in order to allow the public the best access to meeting content and to stay apprised of the activities of the Board and trends in the profession.*

ISSUE # 9: Loans to the General Fund.

Background: Since FY2002/2003 the Board has made two loans to the General Fund; \$5 million in FY2002/2003, and \$2.5 million in FY2008/2009. To date, the Board has not received any repayment of the loan amounts. The total outstanding loan balance owed to the Board remains at \$7.5 million.

Staff Recommendation: *The Committee requests that the Board provide an update about the status of the loans and when the funds are projected to be returned. Has the Board received any report from the Department of Finance regarding the repayment of the loans?*

**CONTINUED REGULATION OF THE PROFESSION BY THE
CURRENT MEMBERS OF THE BOARD**

ISSUE # 10: Should the licensing and regulation of the practice of psychology be continued and be regulated by the current Board membership?

Background: The health, safety and welfare of consumers are protected by a well-regulated psychologist profession. The Board has shown over the years a strong commitment to improve the Board's overall efficiency and effectiveness and has worked cooperatively with the Legislature and this Committee to bring about necessary changes. The Board should be continued with a four-year extension of its sunset date so that the Committee may review once again if the issues and recommendations in this Paper and others of the Committee have been addressed.

Staff Recommendation: *Recommend that the practice of psychology continue to be regulated by the current Board members in order to protect the interests of the public and be reviewed once again in four years.*