

MINUTES  
REGULAR MEETING  
CALIFORNIA ARCHITECTS BOARD

September 15, 2011

Sacramento, CA

A. CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

President Pasqual Gutierrez called the meeting to order at 9:33 a.m. Secretary Sheran Voigt called the roll.

Board Members Present

Pasqual Gutierrez, President  
Marilyn Lyon, Vice President  
Sheran Voigt, Secretary  
Jon Alan Baker  
Iris Cochlan (arrived at 10:13 a.m.)  
Jeffrey Heller  
Michael Merino  
Fermin Villegas  
Hraztan Zeitlian

Guests Present

Christine Anderson, Chair, Landscape Architects Technical Committee (LATC)  
Michael Armstrong, Chief Executive Officer, National Council of Architectural Registration Boards (NCARB)  
Richard Conrad, Regulatory and Enforcement Committee (REC) Member  
Kurt Cooknick, The American Institute of Architects, California Council (AIACC)  
Rachel Davidson, University of San Diego, Center for Public Interest Law  
Haley Gipe, AIACC Intern Development Program (IDP) State Coordinator  
Derek Haese, Assistant Director of Member Board Relations, NCARB  
Kathy Hillegas, Director of Executive Office, NCARB

Staff Present

Doug McCauley, Executive Officer  
Vickie Mayer, Assistant Executive Officer  
Justin Sotelo, Program Manager, Examination/Licensing Unit  
Trish Rodriguez, Program Manager, LATC  
Hattie Johnson, Enforcement Officer  
Anthony Lum, Administration Analyst  
Marccus Reinhardt, Examination/Licensing Analyst  
Annamarie Lyda, Secretary

Robert Carter, Architect Consultant  
Laura Freedman, Legal Counsel, Department of Consumer Affairs (DCA)

Six members of the Board present constitute a quorum. There being eight present at the time of roll, a quorum was established.

B. PRESIDENT'S REMARKS

Mr. Gutierrez indicated that Michael Merino had an announcement regarding his new military deployment. Mr. Merino announced that starting September 23, 2011, he will be deployed for one year to Guantanamo Bay, Cuba, for military duties for the United States (U.S.) Navy, but will arrange his schedule to enable him to attend future Board meetings. He continued that with his deployment, he will not be readily available at his office in Orange, California.

Mr. Gutierrez welcomed and announced that representatives from the NCARB were present and would provide a presentation for the Board. He introduced the NCARB representatives: Michael Armstrong, Chief Executive Officer; Kathy Hillegas, Director of Executive Office; and Derek Haese, Assistant Director of Member Board Relations. He noted that the Board appreciated its relationship with NCARB and the enhancements to their programs, such as IDP.

C. PUBLIC COMMENT SESSION

Mr. Gutierrez asked if there were any members of the public that wanted to address the Board. There were no public comments at the time. Mr. Gutierrez noted that he would reserve time for Shanker Munshani to address the Board should he arrive at a later time (Mr. Munshani did not attend the meeting).

D. APPROVE THE JUNE 16, 2011 BOARD MEETING MINUTES

Mr. Gutierrez called for a motion to approve the June 16, 2011 Board Meeting Minutes.

- **Michael Merino moved to approve the June 16, 2011 Board Meeting Minutes.**

**Sheran Voigt seconded the motion.**

**The motion passed 8-0 (Iris Cochlan was not present at time of vote).**

E. PRESENTATION BY NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB) REPRESENTATIVES, INCLUDING INFORMATION ON THE BROADLY EXPERIENCED FOREIGN ARCHITECT (BEFA) PROGRAM

Mr. Gutierrez announced the presentation by the NCARB representatives. Mr. Armstrong provided a brief summary of his background and then proceeded to discuss NCARB. He stated that he initiated an outreach program for NCARB representatives to travel and meet Member Boards around the country to enhance communication and build relationships. He indicated that the founding principles that NCARB was built upon are: 1) information exchange on examinations, licensing, and regulating; 2) encouraging uniformity on licensing and practice laws; 3) facilitating reciprocity between jurisdictions; 4) reviewing the methods and scope of content of licensing exams; and 5) improving

architectural education standards across the country. He explained that NCARB leads the regulation of the practice of architecture through developing and applying standards for licensure and credentialing; establishing model law; developing practice standards; and addressing education, training, and examination as a part of the standards. He stated that NCARB's portfolio is basically comprised of three parts: a) IDP 2.0; b) Architect Registration Examination (ARE); and c) NCARB certificate program.

Mr. Armstrong spoke about IDP and stated that the individuals who are involved in the program have new and refreshing points of view that NCARB uses for program feedback. He indicated that there is an expectation with evolving technology and the mobility of the architect profession for NCARB to evolve IDP as well. He stated that the purpose of IDP is not only to pair an individual's academic training with the profession, but is utilized as a feedback mechanism for NCARB to refresh and evolve the program. He continued that IDP is aligned with NCARB's Practice Analysis, which is a survey that is conducted periodically of the architect profession and interested stakeholders. He added that NCARB's IDP eliminated the need for each member state and/or jurisdiction to have a separate intern program and applauded California's efforts to transition to an IDP only system.

Mr. Armstrong indicated that another service NCARB provides is the Electronic Experience Verification Reporting system, which is an online system to document an intern's work experience. He stated that the system is constantly improving and evolving and is a core service that NCARB provides, but currently has some technical and user issues that NCARB is working to correct.

Mr. Armstrong stated that the ARE is also aligned with NCARB's Practice Analysis and recently completed the bidding process for vendors that support the exam development and administration. He explained that the exam's purpose is to assess a candidate's architectural skills and knowledge for the ability to provide architectural services and is administered uniformly across all 54 member boards and jurisdictions to save on examination costs.

Mr. Armstrong stated that the NCARB Certificate facilitates reciprocal registration. He indicated that the process assures that the individual candidate has met the standards created at the national level.

Mr. Armstrong continued by providing an overview of NCARB's Practice Analysis and stated that it is completed periodically, is a survey of current practices in architecture, and is used to justify the changes to NCARB's programs. He indicated that the data collected in the analysis is used to update the testing specifications of the ARE; for recommendations for IDP improvement; and is used by National Architectural Accrediting Board (NAAB) for its programs as well. He encouraged member boards, jurisdictions, and interested stakeholders to participate and complete the upcoming analysis in order to shape the future of the credentialing of architects.

Hraztan Zeitlian inquired whether NCARB had an existing IDP mentor recognition program.

Mr. Armstrong indicated that currently, there is no program to recognize mentors, but would discuss the issue with staff at NCARB and thanked Mr. Zeitlian for his suggestion.

Mr. Haese explained that the BEFA program is: 1) a pathway to NCARB certification; and 2) allows eligible foreign-trained architects to demonstrate competence to independently practice architecture in the U.S. or any member jurisdiction. He explained that there are four necessary requirements to become an NCARB certified architect: 1) education – a NAAB accredited degree or its equivalent; 2) experience – completion of IDP; 3) examination – passing the ARE; and 4) registration in a U.S.

member jurisdiction. He indicated that the BEFA program is the alternative pathway to meeting the examination requirement wherein the candidate possesses a verified foreign education to meet the education standard, documents their prior experience to meet the experience standard, and is a credentialed licensed architect in their native country to meet the registration standard.

Mr. Haese provided the history of the BEFA program indicating that it was initiated in 2003 and voted on and approved at the 2004 NCARB Annual Meeting. He explained that the BEFA process is rigorous for a foreign-trained architect to obtain an NCARB certification and obtain a registration to practice in the U.S. or any member jurisdiction. He stated that the objective of the BEFA program is to: 1) allow eligible applicants to demonstrate competence to independently practice architecture while protecting the public's health, safety, and welfare; 2) allow applicants to demonstrate responsibility over the development, management, and implementation of projects over which they exercise responsible control and comprehensive practice; and 3) demonstrate an understanding of U.S. licensure, professional conduct requirements, and knowledge of U.S. building codes and laws. He explained that the major steps to complete the program are: a) gain eligibility by compiling and submitting a dossier to be reviewed in three stages at NCARB; and b) if the dossier is approved, the applicant moves to an interview with the Broadly Experienced Architect (BEA) Committee members where, if approved, the applicant is recommended by the Committee for NCARB certification.

Mr. Haese explained that there are three main elements in order to be eligible for the BEFA program. The applicant must: 1) be currently credentialed as an architect in a country other than the U.S. or Canada that has a formal record-keeping method for disciplinary actions for architects; 2) hold a professional architect degree from an accredited, validated, and officially recognized architecture program; and 3) have a minimum of seven years of comprehensive practice as a credentialed architect in their country.

Mr. Haese informed the Board as to the required contents of an applicant's dossier and that it is based upon the contents of the ARE. He stated that the applicant must submit a minimum of three projects with in-depth details describing their competency to practice architecture, documentation to support the descriptions provided, and annotations to describe the project modifications in order for it to comply with U.S. building codes including accessibility laws. He continued that the dossier then undergoes three review processes: 1) initial review by NCARB staff to ensure the applicant maintained compliance of project submission guidelines; 2) the dossier is sent to three separate BEA Committee members for their independent reviews and notes; 3) the Committee members' notes are then compiled and utilized for discussion at a meeting of all BEA Committee members. He indicated that if the Committee approves the dossier, the applicant's next step is an interview with the BEA Committee where three of the members interview the applicant. He explained that the purpose of the interview is to verify the applicant's responsibility over the development, management, and implementation of each of the submitted projects, verify that the applicant understands U.S. licensure and professional conduct requirements, and to verify the applicant's knowledge of U.S. building codes and laws. He stated that if the applicant is approved after the interview, the Committee recommends granting the NCARB certificate.

Mr. Merino commented that there is a perception that the BEFA program provides an opportunity for foreign architects to practice here in the U.S. and take away jobs from American architects. He explained that the perception is incorrect as many of the applicants to the BEFA program are already working in the U.S. under another licensee and the program helps to validate and strengthen the licensure of architects within the U.S.

Mr. Gutierrez stated that with the current BEFA discussion, it would be an opportune time to move to agenda item J.1 and directed the Board to move to that agenda item for further discussion and/or action on the BEFA issue in order to take advantage of NCARB's presence.

\*J. PROFESSIONAL QUALIFICATIONS COMMITTEE (PQC) REPORT

1. Discuss Reciprocity and Social Security Number Requirements (California Code of Regulations, Title 16, Section CCR 121, Form of Examinations; Reciprocity and Business and Professions Code, Section BPC 30) in Relation to BEFA Program and Foreign-Licensed Professionals and Possible Action

Justin Sotelo indicated that the BEFA program had been discussed at prior meetings and is back on the agenda for this meeting to discuss California's current reciprocity requirement and the need for a Social Security number (SSN) in order to obtain a license to practice architecture in California. He stated that the SSN requirement is specifically stated in BPC 30, and under the current reciprocity regulation, the Board has three pathways (i.e., licensed in a different U.S. jurisdiction, Canada, or United Kingdom [UK]) for reciprocity candidates to seek licensure in California. He indicated that there was an attachment in the meeting packet that provides the information on the different pathways and a copy of the specific regulation (CCR 121) that outlines California's reciprocity requirements. He continued that the SSN has been an issue and was put into the Board's Strategic Plan to address the requirement. He reported that recent staff research found that the State Bar of California had secured legislation for the acceptance of a Federal tax identification number (Individual Taxpayer Identification Number - ITIN) in lieu of a SSN for purposes of licensure and registration in California. He stated that staff presented this information to the DCA Division of Legislative and Policy Review and that the Franchise Tax Board (FTB) was not concerned that utilizing an ITIN in lieu of an SSN for licensure purposes would impede their programs. Doug McCauley stated that he met with the DCA Deputy Director of the Division of Legislative and Policy Review and found that there is merit to the SSN issue and would take legislation to the Senate Business, Professions, and Economic Development Committee. He stated that the issue is not only applicable to architects, but is cross-cutting, meaning it would affect all of the trades and professions (i.e., contractors, engineers, nurses, doctors, etc.) under DCA. He indicated that it would be incumbent of DCA to spearhead efforts to address the issue.

Jeffrey Heller inquired as to why the ITIN would be more suitable than the SSN. Ms. Freedman indicated that BPC 30 specifically requires a SSN in order to obtain a license (the SSN is required to enable the FTB to enforce Family Code section 17520; which enforces family child support obligations). Mr. Heller indicated that the Board should obtain more information from staff on the difference in the numbers (SSN vs. ITIN) prior to discussing or rendering a vote on an issue it does not fully understand. He suggested to delay the issue for discussion and/or vote until additional information can be obtained and the Board knows the possible ramifications. Mr. Merino disagreed and indicated that the Board was not taking action on some form of new program authorization or legislation, but was pursuing an alternative for the Board to provide the same opportunity to practice that other states and jurisdictions already have under the BEFA program. He stated that attorneys have already secured legislation to allow the acceptance of the ITIN in lieu of the SSN.

Ms. Freedman stated that the question for the Board should be whether it wants to pursue this issue as a policy, as BPC 30 is in place to ensure family child support obligations and is the method that the state utilizes to track individuals that are late in paying family support or tax obligations. She

continued that the individual must clear any prior support or tax obligations prior to being issued a license. Mr. Heller stated that since BPC 30 is already in place, he does not want to vote or decide upon the SSN issue until he understands the implications of making a change. Mr. Merino indicated that it is the policy of the BEFA concept that is presented to the Board, not the implementation of it. Mr. McCauley stated that the question was whether there are regulatory pathways as it pertains to the BEFA program. He continued that the issue was discussed at the prior meeting and it was subsequently determined that there is no current regulation that accommodates the BEFA program. Jon Baker stated that he understood there to be two impediments to the BEFA program in California; the SSN and the ARE requirements that are in statute are issues that face the Board in accepting the BEFA program. Vickie Mayer clarified that in CCR section 121, the two foreign paths [Canadian and UK] allow licensure if they meet the stated conditions and another foreign architect (outside of Canada or the UK) could fall similarly within one of the two paths, but the current regulations do not allow it. She continued that even if the foreign applicant meets the path's requirements, the other impediment to licensure is the SSN issue; which the Canadian and UK applicants are facing now.

- **Michael Merino moved for the Board to provide direction to staff to pursue a recommendation for a change in statute or regulation that allows the Board to proceed with the NCARB BEFA program.**

**Sheran Voigt seconded the motion.**

Mr. Heller inquired as to how NCARB views the foreign architects who want to pursue licensure through the BEFA program, want to work independently, and compete for architectural projects as opposed to associating with a U.S. architect. Mr. Haese stated that the NCARB BEFA program does not require associating with a U.S. architect and believed that the rigorous process of the dossier and the interview justify the applicant's work solely in the country where they are licensed, not inclusive of any work they accomplished in the U.S. Mr. Armstrong indicated that if the discussion is about changing the BEFA program criteria, it would have to be a separate discussion with participation from their membership and through the resolution process.

Mr. Zeilian inquired as to whether the BEFA program had any residency requirements. Mr. Haese indicated that the applicant can live anywhere, so long as they meet the BEFA requirements. Mr. Merino indicated that the applicant may have been working in the U.S. for some time under a U.S. licensee, but qualify for the BEFA program utilizing their work experience from their home country, not any of the work completed in the U.S. He stated that the BEFA program is rigorous and takes an average time of 24 months to complete. Mr. Haese stated that for those individuals who are in the U.S. and not licensed, they need to complete the three years of IDP and pass the ARE in order to obtain a license. He continued that many individuals do not have the time to complete these requirements for licensure and the BEFA program is a means to expedite the licensure process for foreign architects. He added that the applicant still needs to document three years of work experience, but instead of completing the ARE, they qualify by documenting the three years of work experience from their home country to fulfill the BEFA requirement.

Mr. Gutierrez summarized by indicating that: 1) at the prior meeting, there was discussion about the validity of the BEFA program; 2) NCARB gave a presentation on the BEFA program and its details; 3) the Board has discovered that there are two impediments (i.e., SSN and regulatory requirements) to accepting the BEFA program in California; and 4) there is a current motion to proceed with the BEFA program in California. He asked Ms. Freedman whether once the BEFA program is validated

in California, the Board can add criteria of practice to the program. Ms. Freedman indicated that the Board would have the opportunity to add a practice element to the program. Mr. Gutierrez stated that if the Board could add a practice element to the BEFA program, it becomes a Board issue (whether to allow, limit, or encourage practice to address California specific issues). Mr. Zeitlian stated that an added requirement could be for the applicant to complete the California Supplemental Examination (CSE) after the completion of the BEFA program. Mr. Gutierrez indicated that there will be issues for the Board to address once the BEFA program is validated in California and to pursue, identify, and understand the impediments to the BEFA program and how they can be resolved.

Marilyn Lyon stated that her concern is for individuals that want to come to California to practice and qualify under the BEFA program should also take the CSE. She indicated that the Board's discussion has strayed off of the issue presented before it and if the motion is approved, it would allow the Board to explore the issue further from the Board's perspective.

Mr. Heller requested that the motion be restated inclusive of its limitations with a point of information that Mr. Merino was incorrect that in California and other jurisdictions, there is a requirement for an out-of-state licensee to participate on a project with a local architect.

Mr. Merino restated his motion.

- **Michael Merino moved for the Board to direct staff to bring back information on how to implement a structure that is satisfactory to the Board to align with the NCARB BEFA program.**

**Sheran Voigt seconded the motion.**

**The motion passed 9-0.**

Mr. Merino clarified for the record that an individual licensed in a state with an NCARB certificate is not required to associate with another firm to practice in that state.

2. Action on Proposed Regulations to Amend CCR, Title 16, Section 109, Filing of Applications; 116, Eligibility for Examination; 117, Experience Evaluation; and 121, Form of Examinations; Reciprocity [As it Relates to the Repeal of the Comprehensive Intern Development Program Requirement], Including Authority to Add and Amend Documents in the Rulemaking File

Mr. Heller provided a brief history on the creation of Comprehensive Intern Development Program (CIDP). He stated that when he started on the Board, NCARB had an intern program (IDP) that the Board determined was not sufficient or comprehensive enough to validate the interns. He indicated that as a result, CIDP was approved to compensate for the IDP's deficiencies. He continued that CIDP created a means for reporting and comprehensiveness that IDP eventually embraced. He stated that the Board initiated discussions over a year ago to repeal CIDP due to the improvements to IDP and the current redundancies between the two programs. He indicated that the issue went to the PQC for a recommendation and the Committee agreed that IDP had progressed to the point where CIDP could be repealed.

Ms. Freedman recommended that the motion be very clear that the Board is approving action on three separate issues: 1) adopt the proposed regulation; 2) delegate authority to the Executive Officer (EO)

to formalize the regulation and make any non-substantive (minor, technical) changes as may be required; and 3) add or amend documents in the Rulemaking File. She indicated that it can be a single motion with three separate components.

- **Jeffrey Heller moved to approve the recommendation to amend the regulation pertaining to reciprocity, as it relates to the repeal of the CIDP requirement, delegating authority to the EO to make any minor, technical changes and add or amend documents in the Rulemaking File.**

**Marilyn Lyon seconded the motion.**

**The motion passed 9-0.**

- **Sheran Voigt moved to adopt, provided no adverse comments are received from the public, the Proposed Regulations to Amend CCR, Title 16, Sections 109, Filing of Applications; 116, Eligibility for Examinations; 117, Experience Evaluation; and 121, Form of Examinations.**

**Marilyn Lyon seconded the motion.**

**The motion passed 9-0.**

- **Michael Merino moved to delegate authority to the EO to make any minor, technical changes that may be required and add or amend documents in the Rulemaking File.**

**Marilyn Lyon seconded the motion.**

**The motion passed 9-0.**

Agenda items J (3), (4), and (5) deferred to later in the meeting.

#### **F. EXECUTIVE OFFICER'S REPORT**

Mr. McCauley indicated that there was no action required on the legislation (Senate Bill [SB] 543 and SB 706) shown on the agenda. He reviewed the Board's meeting schedule and stated that the December two-day meeting included a Strategic Planning session, and will be held in San Diego on December 7-8, 2011. He indicated that Daniel Iacofano is contracted to facilitate the Strategic Planning session where the Board will determine its objectives for the coming year.

Mr. McCauley reported that the Communications Committee worked with staff and DCA's Office of Publication, Design, and Editing to produce a new document included in the meeting packet (attached to the EO Report) to reach out to building departments and other entities that emphasize important points from the Board's Consumer's Guide.

Mr. McCauley reported that the Sunset Review process has been ongoing for well over a year where the Board submitted its Sunset Report in September 2010 and had its sunset hearing with the Senate Business, Professions and Economic Development Committee in March 2011. He reported that the final culmination of this process is the legislation, SB 543 (Steinberg and Price), which extends the

Board's sunset date until January 1, 2016. He stated that the bill removes two important issues that the Board has been working on which are the: 1) sunset date that was associated with the Board's internship authority in statute; and 2) language to reconfigure the Board's license renewal cycle from every odd year biennial renewal cycle to an ongoing biennial renewal cycle. He stated that staff completed a cost-benefit analysis that found there was no real benefit in changing the license renewal cycle.

Mr. McCauley reported that there was a cross-cutting bill (Assembly Bill 1424 – Perea) that the State and Consumer Services Agency supported that is similar to the Family Code provisions and is regarding the collection of taxes from individuals who are in arrears. He stated that the bill allows the Board to take action on individuals who owe back taxes and that this is a measure he and Mr. Gutierrez flagged. He reported that the last bill he wanted to apprise the Board of was SB 706 (Price) which requires boards to post enforcement actions (i.e., accusations, decisions, suspensions, disciplinary actions, etc.) on their website. He stated that this requirement is new to many other boards; however, the Board already posts its enforcement actions on its website.

Mr. McCauley reported that for Board communications, the Board's electronic newsletter has been well received and since the latest issue posted in August 2011, there have been 13,000 views of the newsletter. He stated that the number of views on the website for the spring newsletter is 81,000, which is a significant number in comparison to the printed version where the Board printed and mailed roughly 39,000 copies. Ms. Lyon asked whether there were any statistics on the number of views per article. Mr. McCauley indicated that currently, the newsletter is in a Portable Document Format and individual article views cannot be obtained since each view is for the entire document.

Mr. McCauley reported that the Board's Liaison Program began in March 2011 with the implementation of Phase I where contact letters were sent to various associations that the Board works with to gain insight as to their strategic objectives to integrate the information into the Board's work. He stated that Phase II was launched at the end of August 2011 with contact letters sent for the Board members to communicate with the accredited schools of architecture. He stated that the current plan is for the Board members to make contact and communicate with the associations and schools and present their information at the December Board meeting so that it can be incorporated into the Strategic Plan.

Mr. McCauley reported that there is a new group that has been formed relative to the California Access Specialist program (CASp); which is administered by the Division of the State Architect. He stated that the CASp certified individuals formed a new group called the California Access Specialists Institute (CASI). He reported that the group met with him and had questions about the: 1) stamping and signing requirements for an architect who possesses a CASp certificate; and 2) extent an unlicensed individual who possesses a CASp certificate can provide services. He continued that staff is working to finalize the questions so they can be presented to the DCA Office of Legal Affairs to obtain definitive responses to them. Mr. Heller requested to expand on the implications of CASp versus a licensed architect and provide a background for the Board on this issue. He stated that there were many discussions about the reason for CASp because a licensed architect is qualified to provide the same services. Mr. McCauley stated that he can provide a few comments, but the issue should return to the Board as a fully agenda item. He stated that the basis of the issue is that there is a group of certificate holders (some architects, some not) who provide services and are now facing the realities of operating in the marketplace. He stated that some of the issues that face the group are focused on stamping and signing requirements for architects holding a

CASp certificate and the point at which CASp services provided by an unlicensed individual might become the practice of architecture. He continued that these are some of the issues the Board will have to research and provide a legal response. Mr. Heller added that there is a liability issue that also needs to be addressed. Mr. Merino agreed with Mr. Heller and indicated that this was an issue that concerned him. Mr. Baker stated that from a historical standpoint, when the Board heard of CASp, the staff at the Division of the California State Architect's office had developed a "quasi-practice act." He indicated that the Board met with the State Architect at the time, which then suspended the program and developed the certificate program in its place. He continued that initially, it was made clear that if you possessed the CASp certificate, the individual could provide access services and as a licensed architect without the certificate, they could also provide the services under the architectural license. Mr. McCauley indicated that it will be an issue brought back to the Board for discussion and possible action.

Mr. McCauley reported that the Enforcement Program continues to do a great job to reduce the number of pending enforcement cases which is currently down to 113 (from over 300 pending cases a few years ago) and complimented staff's efforts.

Mr. McCauley reported that for the LATC, there still are two vacancies out of five positions on the Committee, but the staff vacancies have decreased from three down to one. He stated that LATC just completed the next form of its Supplemental Examination which maintains the defensibility of the exam.

G. DISCUSS AND POSSIBLE ACTION ON TASK FORCE ON COMMITTEE PROCEDURES RECOMMENDATION

Mr. Gutierrez stated that in the Board's 2011 Strategic Plan, the Executive Committee was charged to review committee appointments and membership procedures and charges and make recommendations for improvement, including training. He indicated that staff researched the committee procedures for related organizations and drafted a White Paper on the subject. He reported that at the April 15, 2011 Executive Committee meeting, minor edits were suggested for the document and at the June 16, 2011 Board meeting, the revised White Paper was presented to the Board. He continued that at the meeting, there were discussions regarding term and committee chair limits. He indicated that the Board referred the issue to a Task Force on Committee Procedures to discuss the issue and make recommendations for the Board's consideration. He stated that the Task Force was comprised of himself, Mr. Merino, and Ms. Lyon and a teleconference meeting was held on August 31, 2011.

Mr. Gutierrez requested Mr. Merino to present the first Task Force recommendation on the committee term and chair limits and for Ms. Lyon to present the second Task Force recommendation on the consolidation of the Examination Committee with the PQC after his explanation of the committee and chair terms.

Prior to Mr. Merino's presentation of the Task Force's recommendation, Mr. Gutierrez explained the issue of committee term and chair limits by providing a visual presentation on a draft board. He outlined the Task Force's recommendation by drawing visuals to represent term and chair limits. He explained that if a committee member is on a committee for four years, at the end of the four-year term, the Task Force's recommendation is for the member to request reappointment to the same committee for an additional four years, if they choose to do so, for a maximum of eight years of

service on a specific committee. He continued that if the member wants to continue to serve on the same committee after serving the maximum eight-year term, he/she has to be removed from that committee for one year before reappointment can be made back to that particular committee or the member could be appointed to a different committee immediately to begin a new service term (on a new committee). Mr. Zeitlian inquired that when a member is removed from a committee for the one year, are they eligible for another eight-year term after being off the committee for a year. Mr. Gutierrez indicated that the member would be eligible to begin another eight year service term on the prior (if removed for one year) or new committee after appointment. Mr. Heller inquired that after the one year break from a particular committee, it is not assumed that the member would be reappointed to the same committee. He indicated that there may be a lack of available committee positions, the inability for a committee to bring a member back, or a committee decision to not want the member back as possible reasons. Mr. Gutierrez indicated that all committee members are appointed by the Board President if there are committee vacancies available and that the process is not an automatic appointment.

Mr. Gutierrez next discussed committee chairmanships. He stated that a chairmanship occurs with three roles; vice chair, chair, and advising chair, and each of the seats is a one-year term. He explained that after the vice chair serves a one-year term, that member will move into the chair seat the following year, then the current chair moves into the advising chair position, and the advising chair is removed from that committee for at least one year before being considered for a vice chair appointment or serves as one of its members (unless it is the end of their eight-year term, where they will need to be removed from the committee altogether for at least one year before reappointment to the same committee can occur). He continued that with the sequence of a year-by-year advancement of the committee chairs, the Board President must appoint a vice chair for each committee annually. Mr. Heller inquired as to the length of time a committee chair serves. Mr. Gutierrez indicated that a committee chair serves a one-year term.

Mr. Gutierrez continued to explain committee chairmanships and indicated that if a chair terms out from the Board in the middle of his/her term (i.e., a Board member, who is chair of a committee, terms out at mid-year), the current advising chair would return to the chair position for the remainder of the one-year term and then once the year ends, move back to the advising chair position. Mr. Gutierrez clarified the following points: 1) if an advising chair wants to be reappointed to a vice chair position, he/she must be off of the committee for one year prior to reappointment; 2) a committee member's eight year maximum time of service on a committee (including reappointment at the four year mark) continues whether they are serving as a member or chair and encourages members to rotate to other committees; 3) all three chairmanship positions will only be occupied by Board members; and 4) the purpose of the advisory chair is to assist the chair and preserve the institutional memory of the committee.

Mr. Merino stated that the language in the Task Force's recommendation simply codifies the presentation given by Mr. Gutierrez. He explained that the intent of the recommendations is to create a system to increase the knowledge and experience of the Board. He stated that Board members usually serve multiple terms and from the data accumulated previously by staff, indicates that many members remain on the same committee a majority of their service time. He continued that the current proposal with limits on the terms would force members to obtain experience on other committees and share their experience with other members on different committees to create synergy, enhance experiences, and allow an avenue for new individuals to become members on different committees. Ms. Lyon stated that the recommendations are not only for the current Board members,

but emphasized that many of the committees are quite large and need turnover to allow new people into the positions on different committees and share their expertise (including many of the newly licensed architects). Mr. Merino indicated that the committee data he received from Board staff showed that some committee members had been on the same committee for a long time and although that may bring experience, allowing new individuals who are new to the profession onto the committees brings a different knowledge with their experience of technology; mindset and reasoning; background; and perspectives that may give the Board something new to ponder. He emphasized that it is healthy for the Board to have a mix of experiences, perspectives, and knowledge, and to have the ability to train others for committees to create a larger pool of individuals to carry out their functions.

Ms. Voigt inquired whether the Task Force discussed how the Board was going to obtain the new committee members. Mr. Merino indicated that a majority of the Task Force's recommendation maintained the purview of the Board President and the Executive Committee for member selection. Mr. Gutierrez explained that the purpose of the Task Force was to provide structure for the terms of the committees and chairs and bring it back to the Board.

Mr. Gutierrez further explained the committee appointment and reappointment process. He stated that a committee member is initially appointed by the Board President for a four-year term and after the four years, the member submits a request for reappointment for an additional four years on the same committee to the President. He stated that the request should address the following statement of purpose: 1) the number of times the committee met during the member's term and the number of meetings the member attended; 2) what the committee accomplished during the member's term and his/her contributions; and 3) the reason why the member wants to continue to serve on the committee.

Mr. Zeitlian inquired as to whether there is a limit to the number of members on a committee. Mr. McCauley indicated that the current recommendation does not specify a specific number of members on a committee, but one suggestion was that a committee should not be larger than the Board. Mr. Merino stated that possibly the size of a committee could be determined by the scope of work that is assigned to that committee. Mr. Zeitlian stated that he agrees with the chairmanship portion of the Task Force's recommendation, but indicated that by subjecting the members to term limits, could the Board be limiting a member's passion to contribute on a voluntary basis to the committee. Mr. Gutierrez stated that it is good that members have passion to contribute and are allowed to do so for possibly eight years (if reappointed); but after that time, another individual who may be just as passionate should be allowed to contribute to another committee too. He continued that if the member is that passionate about contributing to that particular committee, they would only need to be removed for one year and then they could possibly be reappointed. Mr. Merino added that if a member is that passionate to contribute, they may have a skillset to where they could be appointed to a different committee and contribute there while waiting to be reappointed to their committee of choice.

Mr. Heller opined that it would be wrong for the Board to appoint committee chairs for a single year because it is not enough time for a chair to become familiar with the committee issues and believed that the committees would become less effective. He suggested that the chair positions should be appointed for a minimum of two years before moving on to the advisory chair position.

Mr. Gutierrez stated that the primary issue that he identified with appointing a chair for two years is that the vice chair and advisory chair positions would also need to be two years because the vice chair would be waiting two years in order to succeed to the chair position. Ms. Voigt stated that she is also concerned about the chair being appointed for one year because some of the committees only meet

one time per year and it is not enough time to learn to be a chair. Mr. Gutierrez indicated that a member is appointed as the vice chair prior to becoming the chair, giving him/her a year in that position to learn the committee process and know what is required to be chair. Mr. Baker stated that the frequency that some of the committees meet is relevant to this issue. He stated that some of the committees may not have met for over a year due to a lack of issues to address and believed that the Board should review these committees to determine their relevancy. He suggested that possibly implementing a more structured policy for the committees to meet regularly. He believed that the infrequent meetings contributed to the lack of continuity and if there is no reason for a committee to meet, the Board should determine whether it needs that committee.

Mr. Baker commented that he had no issues with the committee term limits as he viewed the three year chairmanship as a three-year term and thought this structure allowed for three members (chair, vice chair, and advisory chair) to run the committee. Mr. Heller disagreed and opined that the proposed chairmanship structure would not work. Mr. Gutierrez explained that the Task Force's recommendation is instilling more strength to the chairmanship by having three members engaged by sharing the information, sharing the leadership, and preserving the institutional memory of the committee. Mr. Heller disagreed with the one year chairmanship and gave the example that it took over a year to repeal CIDP. He stated that a committee cannot rely upon a vice chair moving into the chair position to have the same agenda as the prior chair and believed that if the chair is implemented as a one-year term, it will not be as efficient. He continued that he was unaware of any group that could complete the tasks delegated to it within a year.

Mr. Gutierrez stated that there is a second Task Force recommendation and asked Ms. Lyon to present it. Ms. Lyon stated that the recommendation is to consolidate the Examination Committee into the PQC. She explained that the recommendation is driven from multiple facts: 1) Examination Committee completed the task of transitioning the California Supplemental Examination (CSE) from an oral to a computer-based format; 2) current circumstances of working with the DCA Office of Professional Examination Services (OPES); 3) new restrictions with the involvement of creating the exam test questions and exam preparation; and 4) there is not sufficient policy issues to address for the Examination Committee to meet on a regular basis. She continued that due to these factors, she recommended a consolidation of the Examination Committee into the PQC, where the PQC may restructure the Committee as a subcommittee of the PQC, but that would be determined by the PQC. Mr. Gutierrez stated that the Task Force's recommendation on this issue would be to formalize it at the 2012 Strategic Planning session to consider an organizational restructuring.

Mr. Baker stated that the CSE has transitioned from an oral format to a computer-based format, but the new exam still requires an ongoing review of exam items, issues, and questions. He inquired as to the process for the ongoing evaluation of the CSE related exam issues, engaging with subject matter experts (SME), and whether these issues are for the Examination Committee. Mr. Gutierrez stated that the Task Force's recommendation is to consolidate the Examination Committee into the PQC rather than a stand alone committee, so the examination issues Mr. Baker inquired about would be under the PQC's purview. Mr. McCauley stated that all of the psychometric functions for the exam remain (i.e., creating and reviewing test items, standard setting, etc.), and these functions are not committee issues. He continued that there is a very linear examination development process that is followed and the SMEs are recruited with input and guidance from the exam vendor.

Mr. Baker inquired as to who selects the SMEs and structures the group of participants to evaluate and review the exam items. Mr. McCauley indicated that the Board staff locates and contacts the

SMEs to participate in the development with guidance from OPES on the parameters the Board needs to maintain for validity. Ms. Lyon indicated that the function of exam development is no longer the purview of the Examination Committee. Mr. Baker inquired whether the Board is still involved in the exam development process since OPES is managing the examination development. Ms. Mayer indicated that OPES has guidelines that Board staff follow when recruiting SMEs and cited that SMEs must possess a license for at least five years, have a certain demographic background, work at different sized firms, and be a part of a variety of practice areas and a second group may have similar criteria, but would be licensed less than five years. She stated that Board staff recruit by referrals from other SMEs that have previously participated in the process and prior oral exam commissioners and that staff ensures that the SMEs meet the guidelines set by OPES.

Mr. Baker clarified his understanding of the CSE development and SME selection process by indicating that OPES manages the overall process and Board staff selects the individuals that sit on the evaluation committees. He then inquired as to what entity evaluates the committee participants to find out which individuals performed well and which did not. Ms. Mayer indicated that OPES provides feedback to the Board about individual SMEs on whether they were productive, participatory, and provided usable exam content items and then Board staff determines whether the SME is invited back for future development. She reported that the pool of SMEs is about 80 in number, utilizing eight SMEs per workshop and to date, there have been eight workshops of examination development. She continued that there is SME turnover, but OPES provides the SME qualifying criteria and evaluation of their performance after the workshops are completed.

Mr. Zeitlian inquired as to where committee members are recruited from (other than Board members). Mr. McCauley stated that the appointment of committee members is a presidential prerogative. Mr. Zeitlian clarified that the Board President can appoint as many committee members as he/she wants. Mr. McCauley agreed that the president can appoint as many committee members as he/she would like. Mr. Merino elaborated by inquiring how the pool of potential prospects for committees is determined for appointment by the president. Mr. Gutierrez indicated that he could only speak from his term as president, but he did not receive any requests for committee service from the public and indicated that existing standing committee members continued their service to form the committees. Mr. Merino indicated that if this is the case, then the Board should post a message on the website or in the newsletter inviting people to submit requests for standing committees.

Mr. Baker stated that the discussion drifted away from his point of the discussion which was the absence of the Examination Committee and indicated that it would no longer be the purview of the President or the Board. Ms. Lyon clarified that the Examination Committee would be the Board's purview through the PQC. Mr. Baker indicated that to him, the appointment process and selection of SMEs is occurring at the staff level and by OPES with no involvement by the Board or Board President. Ms. Mayer clarified that the Examination Committee members may have also been SMEs, but their role as a member of the Examination Committee was different than participating in development of the actual exam. She continued that the Examination Committee members oversaw the CSE administration, reviewed the exam appeals, and selected the graphics of the oral exam. She added that when it came to exam development, some of the Committee members may have assisted in the exam development as SMEs, but they did not approve exam items, as those were put through the psychometric process. She stated that at the final stage of exam development, the Examination Committee would approve the exam after it had gone through the psychometric process. Mr. Baker summated his comments and asked the Board whether it is comfortable with no involvement in the process of selecting exam development participants and the structure and management of the exam

development process. He continued that the Board will be accountable at a policy level, but will not be involved in the committee appointments where term limits may not apply to the participants and how it would affect the quality or the role of the Board. Ms. Lyon stated that DCA had procedures in place that state Examination Committee members could not participate in the examination development process during the transition of the CSE due to a possible conflict of interest. Mr. McCauley stated that there is a formal DCA exam development policy where Board and committee members cannot participate in the psychometric exam development process due to the role of Board or committee members and the potential for undue influence in the item writing sessions, which could compromise the defensibility of the exam. Mr. Baker clarified that DCA's policy pertains to Board and committee members being participants in the exam development process, but not relative to the selection of SMEs. Mr. McCauley indicated that DCA's policy does not address the SME selection process.

Mr. Gutierrez clarified Mr. Baker's point where he indicates there are the Examination Committee members who were a stand alone committee, but are now going to be combined into PQC if the current proposal is approved. He inquired as to how the Examination Committee members are appointed whether the members are in that (exam) committee or PQC and what jurisdictional oversight the Board has over the members after appointment for institutional memory. Mr. Baker clarified that he is not referring to the Examination Committee members and how they are appointed, but how the SMEs are selected, as his understanding is that the Board is not involved through the Examination Committee on this process. Mr. McCauley indicated that staff will discuss the issue with OPES and return with an update for the Board. Mr. Baker stated that from his understanding on the issue, the Board has proposed for the Examination Committee to be consolidated into the PQC because there is no longer a prominent role for it, OPES has the role of examination development oversight, Board staff are selecting the exam development SMEs, and the Board is responsible overall for the entire process. Ms. Mayer stated that Board staff has always selected the SMEs for exam development. Messrs. Baker and Merino inquired as to whether the SMEs were selected through the Examination Committee. Ms. Mayer stated that the Examination Committee did not have a role in the selection of SMEs for exam development and that it is a process that all of the DCA boards utilize where they recruit based upon the individual's background and expertise and create a rounded group to conduct development. Ms. Mayer indicated that the Committee members had a role as being a part of the available SME pool when it came time to select the SMEs for exam development workshops. Mr. Merino inquired as to the Examination Committee's role, given that it does not participate in the examination development process. Ms. Lyon indicated that with the transition of the oral exam to a computer-based exam, the Committee's role diminished; which is the reason for her recommendation to combine the Examination Committee with PQC. Mr. Baker stated that he agrees with the recommendation and that the discussion was more on a tangent issue that is not relative to the consolidation of the committees, but is more procedural as to how the Board is conducting the process of exam development.

Mr. Gutierrez asked Mr. Heller whether he conducted any formal review or received any solicitations for committee members during the time he was president of the Board. Mr. Heller indicated that he never had any review or solicitations for the appointment of committee members; however, there was numerous communications between the Board and the committee chairs at the Board meetings. Mr. Gutierrez inquired about the appointment of public members and how they were appointed and whether there was a process to appoint them. Mr. Heller explained that he was unaware of any process to appoint public members to committees and that many of them were simply a part of their standing committees due to being long-term members. He suggested that the Board create a process

for the appointment of public members to committees because he was unaware of any procedures to perform that function in order to obtain the best qualified individuals for those roles.

- **Michael Merino moved to approve and implement the Task Force on Committee Procedures Recommendations.**

**Jon Baker seconded the motion.**

Mr. Baker recommended a staggering of committee members' term limits so that a committee would not lose all of its members every four years and to preserve the institutional memory of that committee. Mr. Merino indicated that the Task Force did discuss the issue of staggered terms, but wanted to obtain approval from the Board to first move forward on the committee issue and then address the specifics like term staggering, guidelines, application process, in addition to more staff work in the implementation phase of the Task Force recommendation.

Mr. Zeitlian stated that in the absence of an active recruitment program, he was concerned with the maximum eight year term for committee members because it may limit those individuals who want to contribute and volunteer beyond their term limit. Mr. Merino indicated that when the program goes into the implementation phase, the Board would only implement the committee member rotation process if there are others to fill the vacancy. He continued that after an eight year service term, he believed that there should be enough interest from other individuals to fill the vacated committee position.

Mr. Heller indicated that he believed the Task Force's recommendation on one-year committee chairmanships and to combine the Examination Committee and PQC is not a good idea, self defeating, and will make the committees ineffective. He continued that with these Task Force recommendations, he opposes them and encouraged others to oppose as well until revisions can be made.

- **Sheran Voigt moved, as a substitute motion, to bifurcate Mr. Merino's original motion to approve and implement the Task Force on Committee Procedures Recommendations.**
- **Jon Baker seconded the motion.**

**The motion passed 8-1 (Michael Merino opposed).**

- **Sheran Voigt moved to approve the Task Force's recommendation on committee procedures regarding term limits.**

**Michael Merino seconded the motion.**

**The motion passed 6-3 (Iris Cochlan, Jeffrey Heller, and Sheran Voigt opposed).**

- **Sheran Voigt moved to approve the Task Force's recommendation on the consolidation of the Examination Committee and PQC and be formalized at the 2012 Strategic Planning session.**

**Jon Baker seconded the motion.**

**The motion passed 9-0.**

Ms. Freedman recommended that for Board staff clarification, the Board should clarify how the Task Force's recommendations will be implemented. Mr. Gutierrez inquired to the Board that it is understood and agreed upon that the implementation of the Task Force's recommendations on committee procedures and consolidation of the committees be formalized at the 2012 Strategic Planning session. All of the Board members were in agreement with Mr. Gutierrez's statement.

**H. UPDATE AND POSSIBLE ACTION ON CALIFORNIA SUPPLEMENTAL EXAMINATION DEVELOPMENT AND ADMINISTRATION**

Mr. Sotelo reported that the new computer-based format of the CSE has been operative since February 2011 and since that time, there have been 729 candidates tested through August 2011 and anticipate testing over 800 candidates by the end of September 2011. He indicated that at the last meeting, the Board had questions in regard to the exam exit survey that candidates take upon the completion of the exam. He stated that there was an attachment in the meeting packet for the Board's review showing the results of the survey questions from February through the end of August 2011. He stated that the first section of the questions were standard Psychological Services, LLC (PSI) questions and are asked for all of the programs that utilize PSI for its exam administrative services. He continued that the second section of questions is Board specific questions for the candidates and focus on how a candidate prepared for the examination. He added that most of the questions were similar to the questions that were previously asked after a candidate completed the oral exam. He reported that of the 707 candidates that responded to the survey, most indicated that the customer service was good to excellent. He reported that of the 729 candidates that have taken the exam, 384 passed, which is a 53 percent pass rate. Mr. Zeitlian inquired whether the pass rate was an increase or decrease over the oral format. Mr. Sotelo reported that the number of candidates that passed the exam was an increase over the past two years. He stated that in the past, the pass rates of the oral exam were in the mid-40s to 50 percent.

Mr. Sotelo reported that at the previous meeting, there were also questions about the time it took to release exam scores and in the past, the scores were released after 30 days of taking the exam. He stated that currently, the exam scores are being issued in less than 30 days. He continued to report that there is a new exam development cycle beginning at the end of September and will be ongoing through the fall. He stated that individual contracts for expert consultant services are now required for each of the SMEs participating in exam development workshops. Mr. Merino inquired about the need for an SME contract when they are providing their services to the Board without compensation. Ms. Mayer indicated that the newly required policy is for each SME to sign a contract because they are providing a service to the Board and are reimbursed for their travel expense, plus \$100 for each day they participate. She explained that in the past, the SME would invoice the Board and obtain reimbursement for their expenses after the services were rendered, but DCA discovered that exam development services that are rendered for all of the programs should have a contract.

Mr. Baker inquired that if the SMEs all need to be under contract because they are providing a service, how would it be categorized for other members on committees for their services. Ms. Mayer indicated that the specific code delineates the types of services that require a contract and an SME is one of the categories. Ms. Freedman acknowledged that the SME for exam development is one

category of expert that is required to have a contract for services, but another is the SME for enforcement.

Mr. Merino inquired whether there was a place for a candidate to write questions or comments on the survey other than what they are directly being asked. Ms. Mayer indicated that the candidate has an opportunity to comment on each exam item as they are taking it. She continued that on the exit survey, the Board was limited in the format of the questions because all of the questions had to utilize the same format (i.e., all yes/no, all rating the same from 1-5, etc.) and did not provide the opportunity to provide comments related to the exam. Mr. Merino inquired whether the Board received questions about individual exam items. Ms. Mayer indicated that the Board has received some comments on individual items which are reviewed by Mr. Sotelo.

Kurt Cooknick stated that prior to the new exam being implemented, there were parties offering seminars on preparing for the exam and inquired as to how these parties knew what to offer in their seminars if nobody had taken the exam. Mr. Sotelo stated that there is public exam information on the Board's website available to candidates, which includes the test plan that lists all of the task statements and a reference materials list. Mr. Cooknick asked if the Board has reviewed any test preparation materials to determine whether exam candidates are reviewing appropriate preparation materials for the CSE. Ms. Mayer asked Mr. Cooknick for clarification whether his question is if preparation materials contain exam material or whether preparation materials are appropriate or relevant to the exam. Mr. Cooknick clarified that his question is if exam preparation material is relevant because potentially, up to 80 percent of the candidates utilize exam preparation materials from private organizations. Ms. Mayer advised that candidates are warned that the Board does not endorse or recommend any exam preparation parties. She said the Board reviews preparation materials from outside sources to determine if there is a subversion of the exam which may be a violation of the BPC. She continued that if the Board found exam preparation materials being provided in the seminars that violate the law, the Board would have jurisdiction to act against the seminar provider.

Mr. Cooknick indicated that the candidates that are taking the CSE are consumers and it would be proactive in the way of consumer protection if some of the preparation materials could be reviewed to discover what is being provided to them and enable the Board to communicate that the material presented is inappropriate to prepare candidates for the exam. Ms. Mayer confirmed with Mr. Cooknick that he feels that it is the Board's role to review the exam preparation material to determine whether it is relevant to the exam. She further indicated that the Board has performed that function in the past only when there have been subversions of the exam. Mr. Merino stated that there may be parties fraudulently claiming that they can help a candidate pass the CSE and that the potential is there for certain parties to market these claims if the Board does not periodically review the test preparation materials. Mr. Baker inquired whether the Board informs candidates of what criteria the CSE is based upon and if it does inform the candidates and they choose to review other outside test preparation materials, it would not be the Board's responsibility to oversee this issue. Mr. Cooknick inquired that if the Board is not concerned with the test preparation materials that a candidate reviews prior to the exam, why is the issue asked on the exam exit survey. Mr. McCauley indicated that the Board asks the questions to provide candidate feedback to the Board on how they prepared for the exam. He stated that the first question of whether the candidate utilized the Board's test plan is the most important since that material is based upon the CSE. He continued that when the Board has researched this issue in the past, as the providers of the CSE and the body that is responsible for the protection of the health, safety, and welfare of the public through measuring

minimum competence, it would not be appropriate for the Board to provide any endorsement or review of test preparation services because it would affect the validity of that measurement of minimum competency.

Mr. Baker commented that reciprocity candidates also take the CSE with in-state CSE candidates and that the addition of those candidates may skew the numbers within the CSE statistics. Mr. Cooknick inquired as to whether the Board could provide the number of reciprocity candidates that take the CSE. Mr. Sotelo indicated that the number of reciprocity candidates who took the CSE could be provided.

Ms. Gipe inquired that since the Board has received feedback from the candidates who took the CSE through the exit survey, will the Board act in response to the feedback results from the survey. She stated that if there are 80 percent of candidates utilizing private sources for test preparation, but only 50 percent are passing the exam, there are parties that are claiming to have appropriate test preparation materials, which is not true. Mr. Gutierrez stated that 95 percent of the candidates are utilizing the Board's test plan and over 50 percent of those actually passed the CSE. Ms. Gipe stated that although a majority of candidates are utilizing the Board's material, they are also using outside exam preparation materials beyond what the Board provides in order to prepare for the CSE. She indicated that in order to protect the candidate, if there are parties making false claims so that exam candidates will utilize their test preparation materials or seminars, those parties need to be held accountable and not take advantage of the candidates.

Mr. Merino inquired as to the Board staff's intent and purpose on obtaining the exit survey information. Ms. Mayer indicated that the questions on the CSE exit survey were the same questions from the oral exam and were carried over to use on the new exam. Mr. Baker inquired as to whether the Board's system can utilize the exit survey information to identify whether a candidate passed the CSE or not and tie the information to find whether a candidate only utilized the Board's exam materials or other outside sources to pass the exam. Ms. Mayer indicated that Mr. Sotelo checked through OPES and the ability to link the exit survey information to the candidate's exam performance cannot be done at this time.

Mr. Gutierrez stated that he believed the Board should wait for a longer period of time in order to gather and analyze an appropriate amount of data in order to make sound decisions to improve the process and experience for the candidates since the exam has only been implemented for seven months. Mr. Merino suggested that maybe some of the questions on the exam exit survey could be changed to ask more pointed questions in order to obtain specific objective data to answer some of the concerns that have been discussed. He stated that the prior questions may have been pertinent to the oral exam, but since the change in exam format, may not be as pertinent as to how candidates are preparing for the computer-based exam. Ms. Mayer explained that the questions were carried-over from the oral exam and that there are parameters as to the number and format of any new questions the Board requests or it could be a separate survey altogether. Mr. Baker suggested that possibly the CSE exit survey results could be posted on the Board's website so that candidates could view viable data to determine what may work for candidates to pass the CSE. Mr. Merino commented that if the survey could be posted, it would make the gathering of the information from the survey worthy.

- **Jon Baker moved to post the CSE exit survey results on the Board's website.**

**Michael Merino seconded the motion.**

**The motion passed 9-0.**

Ms. Gipe inquired as to whether the exit survey statistics were the same for the computer-based exam as compared to the oral format. Ms. Mayer stated that the questions are asked in a different format than during the oral exam because now they are yes/no type of questions. She indicated that Board staff would research the issue to find if there are any differences in the statistics. Ms. Gipe indicated that she inquired on the issue to find out if more candidates are utilizing outside resources or collaborating with their peers as compared to before.

Mr. Sotelo stated that at the previous meeting, there was discussion about the time it took to release the CSE scores. He reported that the CSE scores were released approximately 30 days after the completion of the exam, but is now less than 30 days after the exam is completed. Mr. Zeitlian inquired as to whether the exam scores can be issued immediately to the candidates. Mr. Sotelo indicated that the exam scores could be released immediately; however, there are concerns in doing so because: 1) there is a secondary score verification process that staff conducts to ensure that the information provided by PSI is transmitted through the Board's tracking system and is accurate; and 2) in the unanticipated event something occurs with an exam item, it provides staff the 30 days to address the issue. Ms. Lyon commented that there were also concerns about a candidate passing the exam, obtaining the passing score immediately, and then by memory, forwarding the exam information on to other candidates.

Mr. Sotelo indicated that another issue was if a candidate failed the exam, it could be a situation where the candidate may take his/her frustration out on the exam proctor and affect other candidates in the testing center. Mr. Baker stated that he had conversed with many candidates that are in the process or have passed the CSE and they are frustrated with the 30 day delay in obtaining their CSE scores. He stated that within the Board's discussion, he has not heard a plausible reason as to why the results cannot be issued to the candidate upon the completion of the exam. Ms. Mayer indicated that issuing the exam results immediately can be accomplished, but that the staff's recommendation is to continue issuing the exam results within 30 days after the completion of the exam for awhile longer while the scores are still being analyzed. She stated that she wanted the Board to be aware that when a new exam is implemented, the scores will be held until OPES completes its analysis of the exam. She cited examples of two candidates may be taking two different exams (one current exam, one new exam) and the candidate completing the current exam will obtain their score immediately, while the candidate taking the new exam will need to be informed that their score will be held until the completion of the exam vendor's analysis. She continued that the cut score for each of the exams would also be different. Mr. Merino stated that all of that information can be ameliorated by simply issuing a pass or fail result at the testing center, as the actual score is probably not as important to the candidate as knowing if they passed or failed and he suggested that the Board's intent should be to get the exam score to the candidate immediately after completing the exam.

Mr. Baker inquired whether OPES implements an entirely new exam when they utilize new exam content. He explained that when NCARB implements a new exam, they utilize ten percent of an existing exam for new questions that will not count against the candidate's score so they can evaluate the test items performance without compromising the testing process. He continued that if OPES does not implement new exam content in this or a similar manner, it may be a procedural issue that the Board needs to discuss with OPES because if they are implementing an entirely new exam that

requires a delay in issuing exam scores, that may not be reasonable or necessary. Ms. Mayer explained that since the CSE is in its new format, there will be new exam items and the goal is for some of those items to eventually become anchor items. She continued that there are also additional items included with each new exam that are pre-tested to where they are included in the exam, but not counted toward the score. She added that this is the reason for the recommendation to continue the 30 day delay to issue the exam scores because there are new exam forms being implemented and it takes time to properly analyze the results to ensure the validity of the questions and eventually, there will be anchor items to solidify the exam procedures. Mr. Baker stated that on a temporary basis, the staff's request made sense and agreed with it. He inquired if staff could recommend a timeline until the CSE scores could be released immediately.

- **Hraztan Zeitlian moved for Board staff to study in detail various options and timelines as to how the Board can accelerate the issuance of the CSE results.**

**Michael Merino seconded the motion.**

Mr. Baker moved to amend Mr. Zeitlian's motion to be more specific to where the new CSE is operational for 12 months and then after 12 months, the CSE scores are released immediately replacing the 30 day waiting period. Mr. Zeitlian approved Mr. Baker's amendment to his motion. Ms. Mayer clarified that the Board would like staff to carry-over the issue to the December 2011 meeting with recommendations at that time.

- **Hraztan Zeitlian amended his motion and moved for the Board to continue releasing CSE results 30 days after testing for one year from the launch of the new CSE and then begin releasing the results immediately, pending staff recommendations to be presented at the December 2011 meeting.**

**Michael Merino seconded the motion.**

**The motion passed 9-0.**

I. CLOSED SESSION – DISCIPLINARY DECISIONS AND EXAM DEVELOPMENT ISSUES  
[CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126(C)(1) AND (3)]

The Board went into closed session in order to consider action on one disciplinary case and the June 16, 2011 Board meeting closed session minutes. The Board considered the Default Decision and Order in the Matter of the Accusation against Ryuji Tsuyuki. The Board also approved the June 16, 2011 Board meeting closed session minutes.

Ms. Freedman indicated that it is not required to announce the decisions made in Closed Session.

J. PROFESSIONAL QUALIFICATIONS COMMITTEE (PQC) REPORT

3. Review and Ratify Modifications Regarding Proposed Regulations to Amend CCR, Title 16, Sections 109, Filing of Applications; and 121, Form of Examinations; Reciprocity [As it Relates to Intern Development Program (IDP) Sunset Date]

Mr. Sotelo stated that the regulatory proposal had already been approved by the Board and pertained to the IDP requirement and sunset date, as provided in the Board's statutes and regulations. He reported that the sunset date in statute had previously been extended twice, but SB 543 removes the sunset date altogether providing the Board with the authority to implement an intern program indefinitely. He continued that this proposal removes the sunset date from the regulation because staff found that the dates indicated in statute were misaligned with the regulations. He stated that the proposal is nearing the end of its review with the Office of Administrative Law (OAL) and it recommended a modification to the text of the language in order to achieve the Board's objective with the proposal. He reported that the text was modified and that each of the procedural steps (i.e., temporary withdrawal from OAL, 15-day notice for comments, etc.) was followed to resubmit the proposal back to OAL. He stated that staff is requesting that the Board ratify the modifications in the proposal and delegate authority to the EO to adopt the regulation and make minor technical changes to the language, if needed.

- **Sheran Voigt moved to ratify the modifications in the regulation proposal and delegate authority to the EO to adopt the regulations and make minor technical changes to the language, if needed.**

**Michael Merino seconded the motion.**

**The motion passed 9-0.**

4. Review and Ratify Modifications Regarding Proposed Regulations to Amend CCR, Title 16, Sections 109, Filing of Applications; 117, Experience Evaluation; and 121, Form of Examinations; Reciprocity (As it Relates to IDP Guidelines)

Mr. Sotelo stated that this regulatory proposal has also been before the Board for approval and the intent of the proposal is to update the reference in the Board's regulations to correspond with the NCARB IDP Guidelines, specifically to the most recent edition of the guidelines. He reported that there were also some editorial revisions to the language to clarify and provide consistency to how the guidelines are referenced in the regulations. He stated that when the proposal was initiated, the NCARB October 2010 IDP Guidelines were in effect; however, the latest language revisions reflect the changes from the NCARB July 2011 IDP Guidelines and supersede the prior language. He stated that the request is to approve and ratify the recommended modifications to the regulations and delegate authority to the EO to adopt the regulations and make minor technical changes to the language, if needed.

- **Sheran Voigt moved to ratify the modifications in the regulation proposal and delegate authority to the EO to adopt the regulations and make minor technical changes to the language, if needed, and assuming no adverse comments are received.**

**Michael Merino seconded the motion.**

**The motion passed 9-0.**

5. Update and Possible Action Regarding the AIACC Academy of Emerging Professionals' 2011 Architectural Education Summit

Mr. Sotelo reported that the AIACC Academy of Emerging Professionals' (AEP) Architectural Education Summit is scheduled for November 18, 2011 in San Francisco. He reported that the Board had been updated on this issue since the December 2010 meeting and referred to Ms. Gipe for the latest update on the summit.

Ms. Gipe indicated that she is the chair of the summit's planning committee, the IDP State Coordinator, and an intern and licensee candidate. She explained that the idea for the summit was to invite all of the interested stakeholders to a forum to create an improved relationship between academia, the profession, the regulating board, and other interested stakeholders. She stated that in conversation, the idea arose, but was never put into action, so by having all of the stakeholders together, she envisioned that a strategic plan can be consummated to move forward for the next few years and make positive changes as it relates to architectural education, retention in the profession, and many other issues. She indicated that the date (November 18, 2011), the location (City College of San Francisco), and a key note speaker (Wendy Ornelas) have been secured and currently, the agenda and registration materials are being finalized. She stated that there may not be a charge of admission to the summit; which should encourage participation from all of the interested stakeholders. She proceeded to name many of the interested stakeholders who are invited to the summit, specifically emphasizing the community colleges, as many architect candidates earn degrees from these institutions. She invited the Board to attend the summit in knowing that attendance and participation from the State regulatory body is an important component to the summit. She stated that Mr. Baker has been involved with some teleconference calls with the committee and provided valuable insight for them.

Ms. Gipe indicated that one major issue for the summit is to review the metrics related to the path into the profession (i.e., number of licensees, retention rates, number of students graduating from architectural programs, the number of students that obtain a license and whether the architectural programs are working). She stated that as an individual that is pursuing licensure, she is unsure as to whether the current licensure pathway system is working. She inquired whether some pathways are stronger than others, whether some are archaic, or if some need support and asked whether there were some metrics available from the Board on these issues. She stated that her information indicates that currently, there are more architects over the age of 70 than under the age of 40. She indicated that some useful information would be to review age demographics, the specific programs licensees are graduating from, the licensure path that was chosen, whether the licensee worked in a firm while pursuing licensure, whether they attended community college, etc. She stated that these are important aspects to review in order understand the future of the architecture profession in California.

Mr. McCauley indicated that with regard to the metrics, Ms. Gipe can forward a request to staff specifying the information she seeks and, given the limitations of DCA's system, staff will assess whether the information can be obtained.

## K. REGULATORY AND ENFORCEMENT COMMITTEE (REC) REPORT

### 1. Discuss and Possible Action on Enforcement Statistics

Hattie Johnson reported that the enforcement tables in the meeting packet show the number of cases that have been closed by category since the last Board meeting. She indicated that also attached are DCA's Performance Measures and the Board's Enforcement Program bar chart showing the pending

cases by year. Mr. Merino indicated that the statistics definitely show an improvement in the case numbers.

2. Discuss and Possible Action on Strategic Plan Objective to Develop a Strategy for Informing the League of California Cities and the California Chapter American Planning Association of the Architects Practice Act Requirements

Mr. McCauley indicated that this issue was an objective within the Board's Strategic Plan to communicate to the League of California Cities (LCC) and the California Chapter American Planning Association (CCAPA) about the Architects Practice Act (APA) requirements. He stated that the reason this issue arose was because the Board had discussed unlicensed issues at the 2010 Strategic Planning session and discussed that unlicensed practitioners were involved with projects from an early preliminary phase, provided services within the architectural jurisdiction (non-exempt services), and when projects progressed to the building department, permits could not be granted because they are architectural projects and there were no architects involved in the projects. He stated that this is an example of the consumer issue and when this occurs, the consumer will encounter delays, additional costs, and the burden of correcting the project's errors by retaining an architect. He reported that when the issue was presented to the REC, it realized that this was a valid concern and recommended to contact these two parties and have collaborative discussions to identify the issues, whether there are any common areas, and determine how to move forward. He stated that based upon the information obtained, there could be an opportunity to communicate with the individual planning departments so they are aware of what the law requires. He reported that when the issue was presented to the Board, it decided to take a more direct approach. He stated that the Board requested a clearer understanding of the definition of architectural services so the Board has a common understanding of the definition. He stated that staff also prepared a letter that could be sent to the planning departments that cites the various laws involved in unlicensed practice, and municipalities' requirements for verifying that a licensed architect is involved in the project. He asked Bob Carter, Architect Consultant, to provide an overview of the definition of architectural practice and then the Board could consider the draft letter to the planning departments or other action it deemed necessary.

Mr. Carter indicated that the definition of architecture is defined within the APA under BPC 5500.1, which states that the practice of architecture within the meaning and intent of this chapter is defined as offering or performing or being in responsible control of, professional services which require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures. He stated that following the above in the BPC is a list of services that architects can provide.

Mr. Carter stated that the process becomes complex with the planning department because the Board allows exempt categories of practice. He indicated that unlicensed individuals can provide services for designated project types (i.e., single family residential homes, multiple dwellings containing no more than four units per lot, etc.) under BPC 5537. He explained that these are the sections and definitions of the BPC that are relied upon when Board staff are dealing with projects, city and/or county planning departments, or building departments.

Mr. Merino indicated that the general content of the letter is fine, but had a concern that it lacked focus and left room on the planning aspect that brought the issue to the forefront. He believed that the letter could lead the reader to some confusion as to whether a project can be processed by the planning department and be caught at the building department. He believed the letter's language was

not strong enough and cited an example where, "...even at the planning department level, the project must comply with the APA." He stated that it can be interpreted as the project could go through the planning department and be left up to the building department to catch the error and reject it; however, the Board would like to catch the error sooner in the project. Mr. Zeitlian indicated that the letter's first paragraph should be strengthened to focus on the planning aspect of a project.

Mr. Gutierrez stated that if the letter's content remains the same, it suggests that the consumer is at risk when they hire unlicensed design professionals to secure their planning approvals or documents to submit to the planning department. Mr. Merino reiterated his understanding of the letter and suggested that the planning departments need to take some responsibility to validate that a licensed architect is providing those services because planning departments may believe that there is no damage to the consumer because there are no construction documents and they are not performing any construction. He continued that as the letter implies, the project has already progressed to the point where it is at the building department and is rejected because an architect was not involved and the consumer is already hurt. He suggested that the letter needs to be stronger to have the planning department assume some level of responsibility for enforcement of license validation. Mr. Heller opined that the Board's message in the letter should be very clear on a very broad basis that in any official governmental approval process that is not in an exempt area of practice, there must be a licensee involved in every step of the project. Mr. Baker agreed that the letter should be stronger, that the definition of architectural services should be included in the letter, and the message should be made clear to the public agencies that if an individual is performing these services, they are required to be a licensed architect in order to do them, even at the preliminary planning stages.

Mr. Zeitlian inquired as to whether the letter should only be sent to the planning departments or should the Board send it out to other entities that could potentially oversee planning departments. Multiple Board members indicated that the letter could be sent to redevelopment agencies, city mayor, city councils, city managers, water districts, and other agencies that perform entitlement projects on their own. Mr. Merino indicated that the Board should send it to these parties in the instance that an issue arises, and once completed, the Board has done its due diligence to address the problem for the consumer across the board. Mr. Heller added that the larger entities could also be included such as the California Coastal Commission, Bay Area Conservation Development Commission, etc. Mr. Gutierrez agreed with his colleagues in that the letter did not express enough intent to convey the Board's message on the issue in that there are consumers exposed to the risk that they are receiving architectural services by unlicensed professionals. He indicated that the letter needs to be to that point. Mr. Gutierrez appointed Mr. Heller to work with Board staff to revise the letter and bring it back to the Board at the December 2011 meeting.

- **Pasqual Gutierrez moved to appoint Jeffrey Heller to work with Board staff on the revision of the letter to the planning departments and other entities, and bring it back to the Board at its December 2011 meeting.**

**Jon Baker seconded the motion.**

**The motion passed 9-0.**

3. Discuss and Possible Action on Strategic Plan Objective Regarding DCA's Proposal (SB 1111) Concerning Board Delegation to Executive Officer: Stipulated Settlements to Revoke or Surrender License

Ms. Johnson indicated that at the last meeting, the Board supported DCA's proposal stemming from prior legislation (SB 1111) to delegate settlement agreements for revocations or surrender of license to the Board's EO. She stated that CCR section 103 defines the Board's delegation of certain functions to the EO. She stated that the Board is asked to review the proposed amendment to CCR section 103 and authorize staff to proceed with the rulemaking file.

- **Michael Merino moved to approve the proposed amendment to CCR section 103 to delegate settlement agreements, revocations, or surrender of license to the Board's EO.**

**Sheran Voigt seconded the motion.**

**The motion passed 9-0.**

4. Discuss and Possible Action on Strategic Plan Objective Regarding DCA's Proposal (SB 1111) Concerning Psychological or Medical Evaluation of Applicants

Mr. Gutierrez indicated that he will make a statement prior to Ms. Johnson presenting this agenda item. He stated that presently, there is a process for a consumer to file accusations against an architect for fraud, negligence, willful misconduct, incompetency, or recklessness, all of which subject the architect to various degrees of disciplinary action including suspension. He indicated that he is not convinced that proving psychological impairment is easily, if at all, possible by factual evidence and is therefore, unnecessary to engage the issue when there are current processes in place that are available to the consumer.

Ms. Johnson stated that from the prior meeting, the Board voted to support DCA's proposal stemming from prior legislation (SB 1111) concerning psychological or medical evaluation of applicants. She indicated that the proposal would specifically order an applicant for licensure to be examined by a physician or psychologist if it appears that the applicant may be unable to safely practice architecture due to a physical or mental illness. She explained that this proposal is different than what was previously proposed, as it specifically focused on applicants for licensure. She continued that based upon the Board's acceptance of the proposal at its last meeting, staff requested that legal counsel draft language that could be used in the legislation required to pursue this objective. She stated that the Board is asked to review the draft proposed legislation and advise staff on how to proceed.

Mr. Merino indicated that the Board has previously reviewed the reasoning for this issue and stated that it is a topic that the Board should be concerned with. He stated that the issue is now coming from DCA and not an issue that stemmed from the Board. He explained that if an individual chooses to enter into a field as an applicant, they have specific requirements that must be met. He stated that if the applicant has demonstrated a significant risk to the staff, the Board, or any consumer, it is not unreasonable to subject that individual to an examination.

Mr. Heller inquired whether the examination requirement would be for all licensees, whether this requirement is also occurring on other boards, and has there been instances warranting the use of this requirement. Mr. Gutierrez inquired to clarify that the requirement is for applicants, not licensees. Ms. Freedman stated that general provisions in the BPC that apply to healthcare practitioners include a provision that allows the requirement to occur for any licensee. She indicated that SB 1111 sought

to fill the shortfall for those healthcare programs to allow them to conduct pre-licensure screening because there was a question on the authority for this requirement. She elaborated that the Board may face an issue if it proceeds with this requirement making it a standard for applicants that does not pertain to licensees (i.e., if the mental illness disqualifies a candidate for licensure, why does it not disqualify licensees?). She answered Mr. Heller's questions by indicating that other healthcare boards do have a similar requirement when they identify an individual that may require a medical or mental health examination. Mr. Heller stated that his understanding is that the decision for this requirement would be determined by staff when the applicant is going through the licensing process and demonstrated certain behaviors. Ms. Freedman indicated that the requirement is conducted on a case-by-case basis and not required of all applicants or licensees.

Mr. Cooknick indicated that he was annoyed that this issue arose again after addressing it back in 2008 because it was determined at that time that the issue was inappropriate for the Board and he is disappointed that staff would spend more time on it. Mr. Baker stated that the Board had vetted the issue in the past and had questions for the Board to discuss. First, he inquired as to how the Board defines an individual's mental state relative to their ability to practice architecture, which is different than if the person is a danger to society and should be put in jail. He continued and asked who will determine the bounds of inappropriate behavior and who will determine whether the person has crossed that boundary. Second, he inquired as to the source of the complaints and who will determine whether an individual needs an evaluation. Third, he inquired as to how the issue relates to the stipulation that any pending complaint against a licensee or individual is required to be posted on the Board's website.

Ms. Johnson addressed Mr. Baker's third question by indicating that enforcement issues are only posted on the Board's website after they have been sent to the Attorney General's (AG) Office where a formal statement of charges, known as an Accusation, has been filed. She stated that the Accusation is filed with the AG after all of the investigation is completed by staff, architect consultants, and once the AG's Office has reviewed the case. She added that once the Accusation is filed by the AG, then the information is posted on the Board's website.

Ms. Freedman addressed Mr. Baker's second question and indicated that from her experience with the healthcare boards, the complaints originate from consumers, staff, DCA Consumer Information Center, or a number of other sources. She continued by responding to Mr. Baker's first question and stated that once the staff has determined that there is a need for an applicant to undergo an evaluation, authorization is granted for a mental health professional to make the determination of a candidate's mental state. Mr. Heller inquired as to how high the threshold of erratic behavior has to be for staff to make a recommendation for an evaluation. Ms. Freedman indicated that there is no clear answer to that question.

Fermin Villegas stated that he was concerned with discrimination liability issues for the Board and Board staff when the complaint originates from those sources, as he does not see the same type of relationship between the Board staff and architect applicants as compared to the healthcare professionals and their complainants. Ms. Freedman indicated that if the concern is the relationship between an individual's mental status to their ability to practice architecture, it goes to the fundamentals of the policy decision. She stated that in general and under the assumption that legislation has been enacted, the Legislature will have concurred in a proposal that there is a relationship and, therefore, staff is authorized and have a type of prosecutorial discretion to ask questions. She added that staff is tasked to evaluate the qualifications of an applicant and the

decisions that they make, so long as they are within the course and scope of their appointment, are defended by the Board through any actions that are filed.

Ms. Voigt stated that she thought this issue was dead, but arose through SB 1111. Her concerns are: 1) liability to the Board; 2) whether the issue is within the purview of the Board to determine whether an individual is qualified to perform architectural services even though they are depressed or have some other mental issue; and 3) whether the Board members are qualified to review the mental health professional's report to make decisions for an applicant to be licensed. She opined that this issue is outside of the Board's realm and one that it should not address.

Mr. Cooknick inquired as to what entity requested this proposal. Ms. Johnson stated that within the past year, DCA encouraged boards to review the nine proposals from failed legislation (SB 1111) and that this was one of those DCA proposals. She indicated that the proposal was a part of the Board's last Strategic Plan for the REC to review the nine proposals and determine which to recommend to the Board. She stated that at the June 2011 meeting, the Board approved this proposal and based upon that vote to pursue legislation, staff drafted legislation for the proposal.

Mr. Merino stated that the issue was generated from the failed legislation (SB 1111) and DCA wanted boards to review its proposals. He indicated that the issue will arise again, but the question for the Board is whether it wants to be proactive of the eventual issue that may be forced upon it and determine as a Board on how it wants to proceed. He added that the issue will not dissipate and that there must be a reason as to why the Legislature continues to raise it from a consumer protection perspective and that other boards already have similar language in their business models. He suggested that the Board should determine how it wants to proceed on the issue rather than have some legislative action forced upon the Board.

Mr. Baker stated that he reviewed the minutes from the June 2011 meeting and did not find the connection between the action on the issue from the prior meeting and bringing the issue back. He was concerned that the Board had already addressed the issue in the past, believed that the Board is not qualified to determine whether an individual is able to practice architecture based upon a psychological evaluation, and opined that there is another process that can accomplish this action without putting the issue in the purview of a licensing board. He suggested that the Board table the issue and find other legal remedies for it rather than addressing the issue in this manner. Board staff subsequently noted where the issue and discussion on the DCA proposals (based upon SB 1111) was located in the prior Board meeting minutes.

Mr. Gutierrez asked the other members as to how they would like to proceed with the proposal. Mr. Merino indicated that the Board reviewed the issue and currently there is a consensus not to proceed on the issue, to table it, and assess what the Legislature proposes.

- **Michael Merino moved that the Board determined that the issue does not apply to the scope of authority of the Board and decline to proceed for any type of medical or psychological evaluation of applicants and recommend a more appropriate path to address the issue, should it reoccur.**

**Marilyn Lyon seconded the motion.**

**The motion passed 9-0.**

## 5. Adoption of Precedential Administrative Decision for Gaetano Dan Salvo

Ms. Johnson indicated that in June 2010, a citation was issued to Gaetano Dan Salvo (Subject), an unlicensed individual, for advertising architectural services on the Internet. She stated that the Subject appealed the citation to hearing where an Administrative Law Judge (ALJ) found that there was a violation of BPC 5536(a) for an unlicensed individual to advertise architectural services on the Internet, thus upholding the citation. She continued that the Board adopted the ALJ's proposed decision. She stated that some have questioned as to whether Internet advertising by unlicensed individuals who hold themselves out as architects or for architectural services are in violation of BPC 5536(a). She indicated that DCA legal counsel suggested that this decision should be made a precedential decision because the ALJ found the subject in violation of BPC 5536(a). She explained that a precedential decision would be binding on cases with similar facts that are considered by ALJs. She stated that the Board is asked to determine whether it should approve the decision administered to the Subject as a precedent decision.

Mr. Baker inquired as to whether it was the Subject's website that called him an architect or was it the search engine that directed people searching for an architect to his website, because there is a distinct difference between the two. Ms. Johnson indicated that the advertising was not on the Subject's website, but found via search engines directing people to architects. Mr. Baker stated if the advertisement was through a search engine and not on the Subject's own website, he may not have control. Mr. Heller clarified what was stated in the enforcement documents that indicated the unlicensed Subject advertised twice for architectural services and held himself out as an architect.

Mr. Merino stated that the issue that is presented is whether the Board wants to address the fact that an unlicensed individual is falsely advertising on the Internet. He stated that no matter what the medium is for advertising (i.e., newspaper, phone book, Internet, etc.); an unlicensed individual is not allowed to advertise as an architect or to provide architectural services.

Mr. Baker indicated that the Board is basing its precedential decision on the following: if an individual does not call himself an architect on his website, but a search engine directs people to his website (other third party individuals calling him an architect), he is guilty of calling himself an architect. He stated that based upon this information, he was not sure the Board should make this a precedential decision. Mr. Gutierrez stated that the Subject was listed on various websites as an architect, as indicated in the enforcement documents. Mr. Merino indicated that if what Mr. Baker stated was true, it is the responsibility of the Subject to have the advertisement removed once known; however, the Subject did not do this as evidenced by a second offense. He continued that even if the advertisement was inadvertent, the Subject should have taken some type of action to have his name or advertisement removed from those websites to resolve the problem. Mr. Carter stated that it would have been acceptable if the Subject had shown some form of due diligence in attempting to have his name removed from these websites (i.e., letters to the search engine companies or websites) because not all of the them will comply to remove the Subject's name or advertisement within a reasonable amount of time.

Mr. Villegas stated that after reading the decision and the facts associated with it, he indicated that there are not enough facts to substantiate a precedential decision on this issue. He stated that the facts are that other websites called the Subject an architect and therefore, he is listing himself as an architect. He stated that he did not identify the connection between the two because those facts may

be present, but they are not listed in the case decision. He continued that if the Board accepted the decision as precedential, it will need to accept how the unlawful conduct is listed in the decision which is, "Respondent is listed as an Architect on the following websites..."

Ms. Gipe stated that what is interesting about the Subject is that he was previously licensed and should know what is appropriate advertising and what is not. She continued that it would be different if the Subject's name came up on an arbitrary search engine, but he was licensed at one point and was aware that the advertisement was wrong and did nothing to correct the situation. Mr. Heller indicated that there is a list of specific points within the decision that would make the precedential decision defensible in the future for any other individuals that advertise illegally. Mr. Villegas indicated that if the decision was written better, it would be appropriate for a precedential decision; however, with the lack of facts not written into the decision, he cannot support the motion to approve the decision as precedential.

- **Michael Merino moved to approve the decision as a precedential decision for Gaetano Dan Salvo and direct staff to implement the regulation or subsequent action necessary to support the decision of the Board.**

**Marilyn Lyon seconded the motion.**

**The motion passed 6-3 (Jon Baker, Fermin Villegas, and Hraztan Zeitlian opposed).**

L. UPDATE ON JULY 28, 2011 COMMUNICATIONS COMMITTEE MEETING

Ms. Cochlan reported that the Communications Committee met via teleconference on July 28, 2011 and at the meeting, the Committee: 1) approved the March 2, 2011, Summary Report; 2) approved the newsletter articles for the Winter and Spring 2012 Issues of the *California Architects* newsletter; 3) discussed and approved a communications strategy for communicating via California Chambers of Commerce about the value of a license and the importance of a contract and authorized staff to proceed with the introduction of the Board to the California chambers; and 4) approved the Communication Plan targeted at reaching students, deans, and professors of universities and community colleges about the value of the architect license.

M. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

1. Update on July 19, 2011 LATC Meeting

Trish Rodriguez reported that there were changes made to the Landscape Architects Registration Examination (LARE) that will be implemented in September 2012. She stated that the changes made to the LARE include a structural change from five sections to four and will completely be a computer-based exam. She indicated that LATC is encouraging all candidates to complete the current exam by June 2012.

2. Review and Approve LATC Draft 2011-12 Strategic and Communications Plan

Ms. Rodriguez reported that on January 26 – 27, 2011, the LATC participated in a Strategic Planning session to update its Strategic Plan for 2011-12. She stated that at the July 19, 2011 meeting, the

Strategic Plan was reviewed, updated, and approved by the LATC. She indicated that LATC is requesting the Board to approve the draft of the LATC 2011-12 Strategic Plan.

Ms. Voigt stated that she was impressed with the detail that is included with LATC's Strategic Plan. Mr. Gutierrez commented that he liked the Culture and Lifestyle portions of the Strategic Plan.

- **Sheran Voigt moved to approve the LATC draft 2011-12 Strategic and Communications Plan.**

**Marilyn Lyon seconded the motion.**

**The motion passed 9-0.**

N. SCHEDULE

Mr. McCauley stated that the next Board meeting is scheduled for December 7-8, 2011, in San Diego, where the Board will discuss specific dates for 2012 and that the second day is the Board's Strategic Planning session.

O. ADJOURNMENT

The meeting adjourned at 3:03 p.m.

*\*Agenda items for this meeting taken out of order to coincide with the guest presentation. The order of business conducted herein follows the transaction of business.*