



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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JANET NAPOLITANO
Governor

MICHAEL SALAZAR
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
November 5, 2004

Members Present: Cedric Davis, Dan Wright, Laura Waterman (in at 8:13 a.m.), Ruth Lee, Kathleen Phillips, Steve LeGendre, Jose Herrera

Members Absent: Michael Salazar

Staff Present: Debra Rinaudo, Marc Harris, A.A.G., Victoria Mangiapane, Solicitor General's Office, Amy Shelton, Kami Thur, Mary Wilson

Public by telephone: Donice Green

Public Present: Susan Holtzman, Tammy Litleman, Jamie Hancock, Stacie Townsend, Jean Parsons, Eric Fletcher, Rogelio Calderone, Gianna Giovvaratto, Sonia Caro, Lynda Bishop, Stephanie Sundseth, Hannah Brisso, Yostaro Franza, Don Jorgenson, Brianna Fox, Ariella Encinas, Mario Spencer, Lynda Priddy, Christine Casey, Glenda Engrissel, Donald Smith, Carl Fox, Nikki Miller, Gene Lullo, Connie Hill, Raymond Grey, James Lopez, Shannon Boothe, Tiffany Trunnell, Dorian Craig, Sr.

1. **Call to Order**

A meeting of the Arizona Board of Behavioral Health Examiners was called to order on November 5, 2004, at 8:12 a.m. with Steve LeGendre presiding.

2. **Roll Call**

See above.

3. **Review and Approval of Minutes**

Dr. Waterman moved, seconded by Ms. Lee, to approve the general meeting minutes from July 9, 2004, as submitted. The motion carried with Dr. Davis, Mr. Wright and Mr. LeGendre abstaining.

Ms. Phillips moved, seconded by Dr. Waterman, to approve the executive session minutes from July 9, 2004, as submitted. The motion carried with Dr. Davis, Mr. Wright and Mr. LeGendre abstaining.

Ms. Phillips moved, seconded by Dr. Davis, to approve the general meeting minutes from August 6, 2004, as submitted. The motion carried with Dr. Waterman, Mr. Herrera and Ms. Lee abstaining.

Dr. Waterman moved, seconded by Mr. Wright, to approve the general meeting minutes from October 1, 2004, as submitted. The motion carried with Ms. Phillips and Mr. Herrera abstaining.

Mr. Wright moved, seconded by Dr. Waterman, to approve the executive session minutes from October 1, 2004, as submitted. The motion carried with Ms. Phillips and Mr. Herrera abstaining.

4. **Administrative Hearings**

A. *Nikki Miller*

Board members and staff were introduced. Mr. LeGendre reviewed the rules of procedure for a formal administrative hearing.

Ms. Miller made an opening statement on her own behalf.

Mr. Harris made an opening statement on behalf of the state.

Raymond Grey, Chief Executive Officer of Toby House, testified on behalf of the applicant.

Gene Lullo, Director of Clinical Programs for Toby House, testified on behalf of the applicant.

Mr. Rinaudo and testified on behalf of the state.

Dr. Donald Jorgenson testified as an expert witness on behalf of the state.

Mr. LeGendre moved states exhibits 1-6 into evidence.

Ms. Miller made a closing statement.

Mr. Harris made a closing statement requesting that the Board affirm the Substance Abuse Credentialing Committee's denial of Ms. Miller's application.

Following discussion, Mr. Herrera moved, seconded by Dr. Davis, to affirm the Substance Abuse Credentialing Committee's denial of the professional's certification application for all of the reasons set forth in the notice of hearing. The motion carried with Dr. Waterman abstaining. See attached roll call.

B. Connie Hill

Ms. Hill appeared in person and requested to withdraw her appeal of the denial of her certification.

Mr. Harris had no objection to Ms. Hill's request, but asked that the record reflect that Ms. Hill was advised that, by withdrawing her request for a formal hearing, the committee's decision becomes final and she will have no further appeal rights.

Mr. LeGendre moved, seconded by Mr. Wright, to accept Ms. Hill's request to withdraw her request for a formal hearing. The motion passed unanimously.

C. Donald Smith

Board members and staff were introduced. Mr. LeGendre reviewed the rules of procedure for a formal administrative hearing.

Mr. Smith made an opening statement on his own behalf.

Mr. Harris made an opening statement on behalf of the state.

Mr. Smith testified on his own behalf. Mr. Carl Fox, Director of TASC in Prescott, testified on behalf of the applicant.

Ms. Rinaudo testified on behalf of the state.

Dr. Donald Jorgenson testified as an expert witness on behalf of the state.

Mr. LeGendre moved states exhibits 1-10 into evidence.

Mr. LeGendre moved defense exhibit A into evidence.

Mr. Smith made a closing statement.

Mr. Harris made a closing statement requesting that the Board affirm the Substance Abuse Credentialing Committee's denial of Mr. Smith's application.

Following discussion, Mr. Wright moved, seconded by Dr. Davis, to affirm the Substance Abuse Credentialing Committee's denial of the professional's certification application. The motion carried with Mr. Herrera and Ms. Lee opposed. See attached roll call.

5. Review, consideration and action of complaints and other disciplinary matters

A. 2003-0038, Patricia Kelly, LISAC-1428

Ms. Thur summarized the facts of the complaint and the results of the investigation. The professional was noticed, but did not appear.

Following review and discussion by members, Dr. Waterman moved, seconded by Mr. Wright, to find a violation of A.R.S. §32-3251(10)(i), any conduct or practice that is contrary to recognized standards of ethics in the behavioral health profession, as it relates to the NAADAC Code of Ethics principle 9(c), members shall not exploit relationships with clients or former clients for personal gain, and the NAADAC Code of Ethics principle 9(d), members shall not engage in sexual behavior with current or former clients, based on the professional's reprehensible behavior and her statement that she engaged in billing fraud, and to approve the Substance Abuse Credentialing Committee's recommendation to remand this matter to formal hearing. The motion passed unanimously.

Mr. LeGendre moved, seconded by Mr. Herrera, that staff do what is required to refer the alleged billing fraud to the Office of Behavioral Health Licensure. The motion carried with Ms. Phillips recused and Dr. Davis abstaining.

B. Donice Green, SA-1553

Ms. Rinaudo indicated that the terms of the consent agreement have been met and the Chair of the Substance Abuse Credentialing Committee has approved releasing the professional from the consent agreement.

The professional addressed the Board telephonically regarding her belief that Board staff provided incorrect information regarding the consent agreement. She stated she would never have signed the consent agreement if she had received correct information.

Ms. Rinaudo reviewed language in the consent agreement that the professional had the right to consult with an attorney. Ms. Rinaudo indicated that staff clearly advise all professionals that staff is not authorized to and does not provide legal advice.

Following review and discussion by members, Ms. Phillips moved, seconded by Mr. Wright, to release the professional from the terms of the consent agreement. The motion passed unanimously.

C. NJ04-0014, Amy Fisher

Ms. Rinaudo reported that the professional works for the Department of Economic Security and that there is a specific exemption in the licensure statute for DES employees.

Following review and discussion by members, Mr. LeGendre moved, seconded by Dr. Waterman, to dismiss the complaint as non-jurisdictional and have staff forward the complaint to the Department of Economic Security for review. The motion passed unanimously.

D. NJ04-0015, Robert Cannon

Dr. Waterman recused herself from all matters involving Robert Cannon.

Ms. Rinaudo reported that the professional works at SAMHC. Mr. LeGendre indicated that law enforcement should be notified because of the sexual abuse allegations in the complaint.

Following review and discussion by members, Mr. LeGendre moved, seconded by Dr. Davis, to dismiss the complaint as non-jurisdictional and to refer the complaint to the appropriate law enforcement agency for review. The motion passed unanimously with Dr. Waterman recused.

E. NJ04-0016, Verna Shelton

Ms. Rinaudo reported that the professional is a student.

Following review and discussion by members, Dr. Waterman moved, seconded by Ms. Phillips, to dismiss the complaint as non-jurisdictional. The motion passed unanimously.

6. Review, Consideration and Action on Applicants Recommended for Certification

Dr. Davis moved, seconded by Mr. Herrera, to approve 13 Licensed Independent Substance Abuse Counselors, five Licensed Associate Substance Abuse Counselors and one Licensed Substance Abuse Technician. The motion passed unanimously.

Dr. Davis moved, seconded by Mr. Herrera, to approve 19 Licensed Professional Counselors and 12 Licensed Associate Counselors. The motion passed unanimously.

Dr. Davis moved, seconded by Ms. Phillips, to deny six counseling applicants for not meeting minimum requirements. The motion passed unanimously.

Dr. Davis moved, seconded by Ms. Phillips, to approve two Licensed Baccalaureate Social Workers, 17 Licensed Master Social Workers and five Licensed Clinical Social Workers. The motion passed unanimously.

Mr. Wright moved, seconded by Mr. Herrera, to approve one Licensed Marriage and Family Therapist and seven Licensed Associate Marriage and Family Therapists. The motion passed unanimously.

7. Report from the Chair and items for review, consideration and possible action

A. Consideration of Judge Sheldon's request

Ms. Rinaudo reported regarding Judge Sheldon's request for clarification regarding whether court staff must be licensed.

Dr. Waterman indicated that there have been counseling applicants who have presented the type of work Judge Sheldon described. Ms. Rinaudo reported that she is unaware that the Counseling Credentialing Committee has ever accepted such work as professional counseling.

Mr. Harris advised members that it does not appear that the services fall under the Board's jurisdiction. Mr. Harris suggested that the Board send Judge Sheldon a letter explaining that, while the Board doesn't give advisory opinions, it doesn't appear that the services Judge Sheldon described constitute psychotherapy. All cases, however, would be reviewed individually.

Ms. Phillips moved, seconded by Dr. Davis, to have staff draft and send the proposed letter to Judge Sheldon. The motion passed unanimously.

8. Report from the Treasurer and items for review, consideration and possible action

A. Monthly report

Mr. LeGenre reported that the agency remains within its budget.

Ms. Rinaudo reported that the FY06-07 budget was submitted on October 1, 2004.

9. Report from the Executive Director and/or staff

A. Agency operations

Ms. Rinaudo reported that new application numbers have returned to normal levels. The Board continues to process certification application denials.

Ms. Rinaudo reported that the Counseling Credentialing Committee reviewed the issue of increasing member per diem. That committee agrees that the increase in per diem needs to be addressed, but recommended that the Board not pursue an increase at this time. Committee members agreed to request input on this issue from the Board's legislative liaison.

Ms. Rinaudo reported that Mr. Salazar is not seeking reappointment to the Board. A new chair must be elected when he is replaced.

10. Committee Reports

No report

11. National and regional news regarding the profession

None

12. Future agenda items

None

13. Call for public comment

None

14. Establishment of future meeting dates

The next meeting is scheduled for Friday, December 3, 2004, at 9:00 a.m. in Room B-2.

15. Adjournment

Dr. Davis moved, seconded by Ms. Phillips, to adjourn. The motion passed unanimously and the meeting was adjourned at 12:25 p.m.

Steve LeGendre
Secretary/Treasurer

Date