



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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JANET NAPOLITANO
Governor

KATHLEEN PHILLIPS
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
May 6, 2005

Members Present: Cedric Davis, Dan Wright, Kathleen Phillips, Steve LeGendre, Laura Waterman
Members by Telephone: Ruth Lee
Members Absent: Jose Herrera, Del Worley
Staff Present: Debra Rinaudo, Marc Harris, A.A.G., Victoria Mangiapane, Solicitor General's Office, Kami Thur, Sherry Blatner, Mary Wilson
Public Present: Teresa Sanzio, Linda Levy, Elizabeth Dunn, Diana Iniguez-Corlew, Fred Seebold, Hassie Soto, Grant Nees, Clare Cory, Stephen Babrer, Lindsay Kalish, Tom Niemeir
Public by telephone: Mary Hofkes-Ewalt, Michael Hinkel, Heather Watkinson, *CP, Barbara Burstein

1. Call to Order

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on May 6, 2005, at 9:00 a.m. with Ms. Phillips presiding.

2. Roll Call

See above.

3. Review and Approval of Minutes

Mr. Wright moved, seconded by Dr. Waterman, to approve the minutes from the March 28, 2005, teleconference. The motion passed unanimously. Ms. Phillips recused from the vote.

Dr. Davis moved, seconded by Mr. Wright, to approve the general meeting minutes from the April 1, 2005, meeting. The motion passed unanimously. Ms. Phillips recused from the vote.

4. Administrative Hearings

A. Sat Khalsa, CSAC applicant

Mr. Khalsa withdrew his request for a formal hearing.

B. Diana Iniguez-Corlew, LPC applicant

Dr. Waterman recused herself from all matters involving Ms. Iniguez-Corlew.

Board members and staff were introduced. Ms. Mangiapane from the Solicitor General's Office appeared on behalf of the Board. Ms. Phillips reviewed the rules of procedure for a formal administrative hearing.

Ms. Iniguez-Corlew appeared in person and gave an opening statement. Mr. Harris, A.A.G., appeared on behalf of the State and gave an opening statement.

The Board took a recess at 9:19 a.m., reconvening at 9:57 a.m., to copy Ms. Iniguez-Corlew's exhibits.

Ms. Iniguez-Corlew was sworn in and testified on her own behalf.

Ms. Iniguez-Corlew offered Respondent's Exhibits A through C into evidence. Mr. Harris offered no objection to the admission of these exhibits. Ms. Phillips admitted these exhibits into evidence.

**Behavioral health clients are identified by initials only*

H:2005 minutes/Board/May

Mr. Harris cross-examined Ms. Iniguez-Corlew.

Ms. Rinaudo, Executive Director of the Board, was sworn in and testified regarding the basis for the Counseling Credentialing Committee's denial of Ms. Iniguez-Corlew's Licensed Professional Counselor application.

Mr. Harris offered State's Exhibits 1 through 7 into evidence. Ms. Iniguez-Corlew had no objection to the admission of Exhibits 1 through 7.

Ms. Phillips admitted State's Exhibits 1 through 7 into evidence.

Ms. Iniguez-Corlew made a closing statement and requested that the Board overturn the Counseling Credentialing Committee's denial of her licensure application.

Mr. Harris made a closing statement and requested that the Board affirm the Committee's denial of Ms. Iniguez-Corlew's licensure application.

Following discussion, Mr. Wright moved, seconded by Dr. Davis, to affirm the Counseling Credentialing Committee's denial of the professional's licensure application based on the professional's failure to establish that the work experience she acquired as a Foster Care Specialist was in professional counseling. The motion carried with Mr. LeGendre and Ms. Phillips opposed. Dr. Waterman was recused from the vote. See attached roll call.

C. 2005-0096, Robert Fern, LISAC-10813

Ms. Rinaudo reported that notice of the hearing was sent to Mr. Fern by regular and certified mail. A certified mail receipt was returned to the Board and signed by the professional, proving delivery of the certified letter.

Mr. Harris, A.A.G., appeared on behalf of the State. Ms. Mangiapane from the Solicitor General's Office appeared on behalf of the Board.

Mr. Harris made an opening statement.

Ms. Rinaudo, Executive Director of the Board, was sworn in and testified regarding information obtained during the processing of Andres Bustamante's Certified Professional Counselor (CPC) application indicating that Mr. Fern participated in the creation of a fraudulent CPC certificate and NBCC exam score in Mr. Bustamante's name.

Mr. Harris offered State's Exhibits 1 through 6 into evidence.

Ms. Phillips admitted State's Exhibits 1 through 6 into evidence.

Mr. Harris made a closing statement and requested that the Board adopt the jurisdiction statement, the findings of fact and the conclusions of law from the Notice of Hearing and Complaint. He also requested that the Board issue an order revoking Mr. Fern's license and assessing a civil penalty and investigative costs against Mr. Fern.

Following discussion by members, Mr. LeGendre moved, seconded by Dr. Davis, to adopt the jurisdiction statement and preliminary findings of fact from the Notice of Hearing and Complaint as findings of fact. The motion passed unanimously.

Mr. LeGendre moved, seconded by Dr. Waterman, to adopt the preliminary conclusions of law from the Notice of Hearing and Complaint as conclusions of law. The motion passed unanimously.

Mr. LeGendre moved, seconded by Mr. Wright, to revoke Mr. Fern's license, to levy a civil penalty in the amount of \$1,000 per violation, for a total of \$4,000, to be paid within 60 days of the service of the Order on Mr. Fern and to assess costs for the Board's investigative costs regarding Board complaints against Mr. Fern and Mr. Bustamante to be paid within 60 days of service on Mr. Fern of an invoice of the Board's investigation costs. The motion passed unanimously. See attached roll call.

D. Grant Nees, CPC applicant

Dr. Waterman recused herself from all matters involving Mr. Nees.

Board members and staff were introduced. Mr. Harris, A.A.G., appeared on behalf of the State. Ms. Mangiapane from the Solicitor General's Office appeared on behalf of the Board. Ms. Phillips reviewed the rules of procedure for a request for review and/or rehearing.

Mr. Nees appeared in person and addressed the basis regarding his request for a review or rehearing regarding the denial of his certification application.

Mr. Harris argued that Mr. Nees failed to present any evidence of irregularity in the Board's proceedings.

Mr. LeGendre moved, seconded by Mr. Wright, to deny the professional's request for a review or rehearing. The motion passed unanimously. Dr. Waterman was recused from the vote. See attached roll call.

The Board took a break from 11:20 a.m., reconvening its public meeting at 11:27 a.m.

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

A. 2005-0087, Tony Floda, LPC-0625

Mr. Harris summarized the facts of the case. Mr. Floda was noticed, but did not appear.

Following review and discussion, Mr. Wright moved, seconded by Dr. Davis, to accept the signed consent agreement for the voluntary surrender of the professional's license. The motion passed unanimously. See attached roll call.

B. 2005-0003, Karen Kewley, LPC-10258

Mr. Harris reported that, since the referral of this complaint to formal hearing, the Board has received additional information that may require a summary suspension. Mr. Harris summarized that information, including Ms. Kewley's repeated contacts with former clients, including minor clients, to enlist support for Ms. Kewley in a pending court matter.

The attorney for the Pascua Yaqui tribe, Ms. Burstein, addressed the Board telephonically. Dr. Cory appeared in person and addressed the Board regarding potential harm to clients created by Ms. Kewley's actions.

Following review and discussion, Dr. Waterman moved, seconded by Mr. LeGendre, to adopt the preliminary findings of fact, as amended, from the Finding of Public Emergency and Order of Summary Suspension as the findings of fact. The motion passed unanimously.

Dr. Waterman moved, seconded by Mr. Wright, to adopt the preliminary conclusions of law from the Finding of Public Emergency and Order of Summary Suspension as conclusions of law. The motion passed unanimously.

Dr. Waterman moved, seconded by Dr. Davis, to summarily suspend the professional's license and to order that the professional surrender her license to the Board immediately upon service of the Board's order. The motion passed unanimously. See attached roll call.

C. 2005-0068, Michael Hinkel, LISAC-0614

Ms. Thur summarized the facts of the case. Mr. Hinkel addressed the Board telephonically.

Following review and discussion, Dr. Waterman moved, seconded by Mr. Wright, to accept the Substance Abuse Credentialing Committee's recommendation to issue a Letter of Concern and dismiss the complaint. The motion passed unanimously.

D. Kim Feinstein, LAC applicant

Ms. Thur summarized the facts of the case. Ms. Feinstein was noticed, but did not appear.

Following review and discussion, Dr. Waterman moved, seconded by Mr. LeGendre, to issue a Letter of Concern and dismiss the complaint when a license is issued to the applicant. The motion passed unanimously.

E. 2004-0036, Heather Watkinson, LCSW-4113

Ms. Rinaudo summarized the facts of the complaint and results of the investigation. Ms. Watkinson addressed the Board telephonically. Ms. Watkinson's attorney, Ms. Sanzio, appeared in person on her behalf. The complainant, *CP, addressed the Board telephonically. Ms. Frederickson addressed the Board telephonically on behalf of the complainant.

Following discussion by members, Mr. LeGendre moved, seconded by Mr. Wright, to accept the Social Work Credentialing Committee's recommendation to accept the signed consent agreement. The motion passed unanimously. See attached roll call.

F. 2003-0082, Elizabeth Dunn, LPC-10050

Ms. Rinaudo summarized the facts of the case. Ms. Dunn appeared in person and addressed the Board.

Following review and discussion, Mr. LeGendre moved, seconded by Mr. Wright, to accept the Counseling Credentialing Committee's recommendation to accept the signed consent agreement. The motion passed unanimously. See attached roll call.

G. 2004-0010, Eugene Dawson, LISAC-0827 and LMFT-0010

Ms. Rinaudo summarized the professional's request for modification of the consent agreement. The professional was noticed, but did not appear.

Following review and discussion, Mr. LeGendre moved, seconded by Mr. Wright, to accept the Substance Abuse Credentialing Committee's recommendation to accept the modified consent agreement. The motion passed unanimously. See attached roll call.

H. 2003-0031, Mary Hofkes-Ewalt, LPC-2441

Ms. Rinaudo summarized the facts, verified that all terms of the consent agreement have been met and reported that the Chair of the Counseling Credentialing Committee has approved the professional's request for release from the consent agreement. The professional had requested to appear telephonically, but was not available when Board staff called the telephone number she provided.

Following discussion, Mr. LeGendre moved, seconded by Dr. Waterman, to release the professional from the terms of the consent agreement. The motion passed unanimously.

I. NJ05-0025, Linda Levy

Dr. Waterman recused herself from all matters involving Ms. Levy.

After review and discussion, Dr. Davis moved, seconded by Mr. Wright, to dismiss the complaint as non-jurisdictional. The motion passed unanimously.

Ms. Rinaudo summarized information provided to the Board indicating the professional may be practicing psychotherapy without a license.

Ms. Levy and her attorney, Tom Niemeir, appeared in person and addressed the Board.

Members discussed actions taken by the professional since licensure became effective. Members expressed concern that information the professional provided in a pending court action appears problematic where the professional is not licensed to do behavioral health assessment, diagnosis and treatment.

Following further discussion, members agreed that no further action is necessary.

6. Review, consideration and action of applications for licensure.

Social Work

Dr. Davis moved, seconded by Mr. Wright, to approve seven applicants as Licensed Clinical Social Workers, 17 applicants as Licensed Master Social Workers and two applicants as Licensed Baccalaureate Social Workers. The motion passed unanimously.

Dr. Davis moved, seconded by Dr. Waterman, to deny one applicant for social work licensure based on not meeting minimum requirements. The motion passed unanimously.

Counseling

Mr. LeGendre moved, seconded by Mr. Wright, to approve Jenny Couch as a Licensed Professional Counselor. The motion passed with Dr. Waterman recused.

Dr. Waterman moved, seconded by Dr. Davis, to approve nine applicants as Licensed Associate Counselors and 13 applicants as Licensed Professional Counselors. The motion passed unanimously.

Dr. Waterman moved, seconded by Dr. Davis, to deny one applicant for counseling licensure based on not meeting minimum requirements. The motion passed unanimously.

Substance Abuse

Mr. LeGendre moved, seconded by Mr. Wright, to approve three applicants as Licensed Independent Substance Abuse Counselors and three applicants as Licensed Associate Substance Abuse Counselors. The motion passed unanimously.

Mr. LeGendre moved, seconded by Dr. Davis, to deny three applicants for substance abuse counselor licensure based on not meeting minimum requirements. The motion passed unanimously.

Marriage and Family Therapy

Mr. Wright moved, seconded by Dr. Waterman, to approve one applicant as a Licensed Associate Marriage and Family Therapist. The motion passed unanimously.

7. Report from the Chair

Appointment of nominating committee

Members decided to have annual elections in June without appointing a nominating committee. Dr. Davis expressed interest in serving as the Board Secretary/Treasurer.

8. Report from the Treasurer

A. Monthly financial report

Mr. LeGendre provided the monthly treasurer's report.

9. Report from Executive Director and/or staff.

A. General Agency Operations

Ms. Rinaudo reported regarding the upcoming agency move to off-mall commercial space.

Ms. Rinaudo reported that the comment period on proposed rule changes has ended. The Counseling Curriculum Subcommittee has reviewed written comments submitted to the Board. The Rules Subcommittee has reviewed written comments submitted to the Board. The recommendations of the Rules Subcommittee and the Counseling Curriculum Review Subcommittee will be considered by the Board at its June meeting.

Ms. Rinaudo introduced Sherry Blatner, the agency's new Enforcement Manager, and announced that Deputy Director Lisa Thornton will start on Monday.

10. Committee Reports.

None

11. National and regional trends and news regarding the profession(s)

None

12. Future agenda items

None

13. Call for public comment

None

14. Establishment of future meeting date(s)

The next meeting is scheduled for June 3, 2005, at 8:30 a.m. in room B-2.

15. **Adjournment**

Dr. Waterman moved, seconded by Mr. Wright, to adjourn. The motion passed unanimously and the meeting was adjourned at 1:15 p.m.

Steve LeGendre
Secretary/Treasurer

Date