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BOARD OF BEHAVIORAL HEALTH EXAMINERS
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JANET NAPOLITANO
Governor

GAIL CHASE
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
April 2, 2004

Members Present: Cedric Davis, Susan Allanson, Gail Chase, Kathleen Phillips, Michael Salazar (9:07), Jim Roth, Lisa Aumack, Karl Gauby, Jose Herrera, Hank Peck

Member by Telephone: Milton Mattox, Steve LeGendre

Members Absent: Roberta Gastineau, Dan Wright

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

Public Present: Laurie Murphy, Sandra Leal, Steve Myers, Pete Murphy, Holly Gieszl, Larry Chase, Anne Parker

Public by Telephone: Susan High

1. **Call to Order**

A meeting of the Arizona Board of Behavioral Health Examiners was called to order on April 2, 2004, at 9:02 a.m. with Gail Chase presiding.

2. **Roll Call**

See above.

3. **Review and Approval of Minutes**

Mr. Roth moved, seconded by Mr. Gauby, to approve the general meeting minutes of March 5, 2004, as submitted. The motion carried with Dr. Davis, Ms. Allanson and Ms. Chase abstaining.

4. **Administrative Hearings**

A. 2001-0038 and 2002-0022, Patricia Metcalf, SW-0073B

Respondent requested a review or rehearing of the order entered in this matter.

Ms. Rinaudo reported that the Board had adopted the Administrative Law Judge's findings of fact and conclusions of law and modified the recommended order to reflect an order of censure and probation with stipulations should the professional return to practice. Due to an administrative error, the Administrative Law Judge's recommendation for revocation was entered instead of the Board's modified order.

Ms. Mangiapane advised the Board regarding review procedures. Mr. Harris, A.A.G., appeared on behalf of the state and supported the request for review or rehearing to allow the Board's amended order to become the final order as intended.

Following review and discussion by Board members, Dr. Aumack moved, seconded by Ms. Allanson, to approve the request for review of the sanctions only, pursuant to A.A.C. R4-6-1003(A)(4), excessive penalties. The motion passed unanimously.

Dr. Aumack moved, seconded by Ms. Allanson, to modify the order to reflect the terms of the Board order as adopted on February 17, 2004, to issue an order of censure and to order that, if and when Ms. Metcalf obtains certification or licensure in the future, the certificate or license will be immediately placed on probation subject to the following terms:

- Certificate or license will be immediately placed on 2 years probation,
- Professional will have monthly supervision with a masters level behavioral health professional,

- Supervisor will be pre-approved by the Social Work Credentialing Committee chair,
- Supervision will focus on behavioral health due diligence requirements and legal issues affecting practice in matters involving disputed custody proceedings,
- Supervisor will submit quarterly reports to the committee chair,
- Professional will complete a pre-approved 3 credit hour graduate level professional ethics course within one year of the effective date of the order,
- Professional will pay a \$500 civil penalty within one year of the effective date of the order of probation,
- Board will issue an order of censure,
- All costs will be borne by the professional.

The motion passed unanimously. See attached roll call.

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

A. 2003-0027, Patricia Bonnay, SW-10313M

Ms. Rinaudo explained that the same set of facts apply to this complaint and the Sandra Leal complaint that will be considered next.

Ms. Rinaudo summarized the facts of the complaint, the results of the Board's investigation and the committee's recommendation.

Ms. Gieszl, the professional's attorney, appeared in person and addressed the Board. Ms. Gieszl reported that Ms. Bonnay wants to try to negotiate the terms of the consent agreement. She requested a continuance to allow time for negotiation regarding the consent agreement.

Following review and discussion by Board members, Ms. Phillips moved, seconded by Mr. Salazar, to continue consideration of this complaint to the May Board meeting. The motion passed unanimously.

B. 2003-0039, Sandra Leal, SW-08111

Ms. Rinaudo summarized the facts of the complaint, the results of the Board's investigation and the committee's recommendation. Ms. Leal and her attorney, Mr. Myers, appeared in person and addressed the Board.

Mr. Myers requested dismissal of the complaint. He stated that Ms. Leal did not act with intent. Mr. Myers argued that the NASW Code of Ethics, which advises that parts of the code are aspirational, is not a legally enforceable standard.

Following review and discussion by Board members, Ms. Phillips moved, seconded by Mr. Peck, to amend the consent agreement to include a 3-semester credit hour graduate level ethics course and, if the consent agreement is not accepted or the parties cannot reach a modified agreement within 30 days, to move to formal hearing. The motion carried with Dr. Davis opposed. See attached roll call.

Dr. Davis stated that he voted against the motion because he believes the original discipline was adequate.

C. 2001-0026, Larry Chase, SA-10158

Ms. Rinaudo attempted to contact Mr. Chase by telephone. Ms. Rinaudo summarized the facts of the case and the professional's request for release from the consent agreement.

Following review and discussion by Board members, Dr. Aumack moved, seconded by Mr. Salazar, to release the professional from the stipulations of the consent agreement based upon documentation of completion of all terms. The motion passed unanimously.

D. 2003-0073, Deborah Suter-Downs, SW-0055M

Ms. Rinaudo summarized the facts of the renewal audit and reviewed the stipulations of the proposed consent agreement. The professional was noticed, but did not appear.

Following review and discussion by Board members, Mr. Gauby moved, seconded by Dr. Davis, to approve the Social Work Credentialing Committee's recommendation to accept the signed consent agreement. The motion passed unanimously. See attached roll call.

Board members requested that, to give the Board guidance, the credentialing committees should articulate the reasons they recommend discipline outside of the standard terms for a violation.

E. 2003-0016, Joan Parkinson, CC-10432A

Ms. Rinaudo summarized the facts of the case. Ms. Rinaudo indicated that additional information provided by the professional strongly suggests the need for further review of this matter. The professional was noticed, but did not appear.

The complainant appeared in person and addressed the Board stating that he opposes further review of the case. He stated that both sides presented their case, findings were made, and a consent agreement was offered and refused. He feels he should not have to go through the process a second time.

Mr. Harris advised the Board that they have a responsibility to be fair to both the complainant and the professional.

Following review and discussion by Board members, Dr. Aumack moved, seconded by Mr. Roth, to rescind the previous motion to remand to formal hearing and to remand the case back to the Counseling Credentialing Committee for further review. The motion passed unanimously. See attached roll call.

F. NJ04-0002, Jacqueline Snowden

Ms. Phillips moved, seconded by Mr. Roth, to dismiss the complaint as non-jurisdictional. The motion passed unanimously.

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

Substance Abuse

Mr. Salazar moved, seconded by Mr. Roth, to approve 49 applicants for Substance Abuse Counselor certification. The motion passed unanimously.

Social Work

Dr. Davis moved, seconded by Ms. Allanson, to approve one applicant for Baccalaureate Social Worker certification, 6 applicants for Master Social Worker certification and 22 applicants for Independent Social Worker certification. The motion passed unanimously.

Counseling

Dr. Aumack moved, seconded by Ms. Allanson, to approve 10 applicants for Associate Counselor certification and 19 applicants for Professional Counselor certification. The motion passed unanimously.

Marriage and Family Therapy

Mr. Roth moved, seconded by Ms. Allanson, to approve 4 applicants for Associate Marriage and Family Therapist certification and 2 applicants for Marriage and Family Therapist certification. The motion passed unanimously.

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

Nominating Committee

Ms. Chase reported that she has to resign effective July 1, 2004, due to additional responsibilities in her work. She thanked members and staff for their commitment and noted how rewarding her time has been serving on this Board.

Following discussion by members, Mr. Gauby moved, seconded by Mr. Peck, to appoint Ms. Gastineau as the nominating committee representative. The motion passed unanimously. Any member who is interested in serving as Chair, should notify Ms. Gastineau.

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

A. Monthly report

Mr. LeGendre reported that revenues continue to exceed expenditures.

9. Report from the Executive Director and/or staff

A. Agency operations

Ms. Rinaudo reported that applications continue to increase.

B. Licensure rules

Ms. Rinaudo reported that the Rules Subcommittee has a public hearing scheduled for April 16, 2004, at 1:00 p.m., in room B-2. All Board members are welcome to attend.

Ms. Rinaudo reported that she has met with many entities and there have been technical and limited suggestions for changes to the rules draft. The Rules Subcommittee has worked hard considering all comments and suggestions and making changes where they are needed. All comments will have been considered and necessary changes made when the final draft comes before the Board for consideration.

C. Licensure update

Ms. Rinaudo reported that there is no movement at the legislature regarding licensure.

D. AzPCFL lawsuit for injunctive relief

Ms. Rinaudo reported that the Board has been served with a lawsuit seeking injunctive relief regarding licensure. Mr. Harris, A.A.G., indicated that he will file a reply within 20 days.

E. Maricopa Community College District request for substantive policy statement

Ms. Rinaudo reported that the Maricopa County Community College District has requested a substantive policy statement regarding counselors that work at the community colleges in Maricopa County. Ms. Rinaudo directed Board members to the information provided by the district.

Ms. High, Chairperson of the Counseling Instructional Council of the district, addressed the Board by telephone regarding the activities performed by the counselors the district employs. Ms. High assured Board members that any student requiring psychotherapy is immediately referred to an appropriate entity for therapy.

Following discussion, Board members agreed that Ms. Rinaudo and Ms. High will continue to work toward identifying which activities performed by the counselors would not be under the jurisdiction of the Board.

F. Extra substance abuse exam

Ms. Rinaudo reported that ICRC/AODA has agreed to have scores from the June 11th and 12th exams forwarded to the Board by June 22, 2004. Ms. Rinaudo indicated that this is an extraordinary turnaround time for examination scores and demonstrates how organizations are working with the Board to make the transition into licensure as smooth as possible.

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 May 7, 2004, at 9:00 a.m. in room B-2.

15. Adjournment

Mr. Peck moved, seconded by Dr. Aumack, to adjourn. The motion passed unanimously and the meeting was adjourned at 11:50 a.m.

Steve LeGendre
Secretary/Treasurer

Date