



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
1400 WEST WASHINGTON, SUITE 350
PHOENIX, AZ 85007
PHONE: 602.542.1882 FAX: 602.364.0890
Website: www.az.gov
Website: www.bbhe.state.az.us
E-mail address: azbbhe@bbhe.state.az.us

JANET NAPOLITANO
Governor

KATHLEEN PHILLIPS
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
April 1, 2005

Members Present: Cedric Davis, Dan Wright, Jose Herrera, Kathleen Phillips (out at 1:00 p.m.), Ruth Lee, Steve LeGendre (in at 8:40 a.m.)

Members by telephone: Laura Waterman

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

Public Present: Julie Holmes, Lola Craer, George Curi, W. Murray Smith, Kim Robinson, James Frisbie, Jill Jones Soderman, Erin Cassius

Public by telephone: Luis Araiza, Gaye Adams

1. Call to Order

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on April 1, 2005, at 8:36 a.m. with Ms. Phillips presiding.

2. Roll Call

See above.

3. Review and Approval of Minutes

Dr. Davis moved, seconded by Mr. Wright, to approve the general meeting minutes from the March 4, 2005, meeting. The motion carried with Dr. Waterman abstaining.

4. Administrative Hearings

A. Erin Cassius, CSAC applicant

Mr. LeGendre recused himself from all matters involving Ms. Cassius.

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. Cassius appeared in person and gave an opening statement. Mr. Harris, A.A.G., appeared on behalf of the State and gave an opening statement.

Ms. Cassius was sworn in and testified on her own behalf. Ms. Cassius submitted materials regarding her training and education. These materials were marked as Respondent's Exhibit A and admitted into evidence.

Ms. Rinaudo, Executive Director of the Board, was sworn in and testified regarding the basis for the Substance Abuse Credentialing Committee's denial of Ms. Cassius' Certified Substance Abuse Counselor application.

Ms. Cassius offered her resume as Respondent's Exhibit B, a copy of the skills evaluation page from the Board's application as Respondent's Exhibit C, and a Pima Community College course catalog as Respondent's Exhibit D. Mr. Harris objected to the admission of these exhibits on the grounds of relevancy and weight. Ms. Phillips did not admit these exhibits into evidence based on a finding of irrelevancy.

Ms. Cassius cross-examined Ms. Rinaudo.

Mr. Harris offered State's Exhibits 1 through 8 into evidence. Ms. Cassius objected to the admission of Exhibit 1, a copy of her certification application, based on relevancy.

Ms. Phillips admitted State's Exhibits 1 through 8 into evidence.

Ms. Cassius made a closing statement and requested that the Board overturn the Substance Abuse Credentialing Committee's denial of her certification application.

Mr. Harris made a closing statement and requested that the Board affirm the Committee's denial of Ms. Cassius' certification application.

Following discussion, Ms. Lee moved, seconded by Mr. Wright, to affirm the Substance Abuse Credentialing Committee's denial of the professional's certification application based on the professional's failure to establish that she meets minimum educational requirements. The motion passed unanimously with Mr. LeGendre recused. See attached roll call.

B. Luis Araiza, CISW applicant

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

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

Ms. Rinaudo reported that she spoke with Mr. Araiza by telephone yesterday, March 31, 2005, with regard to his request for a continuance of this hearing. She advised him that he should submit his request in writing for consideration by the Board. She then distributed his faxed request for a continuance.

Mr. Araiza addressed the Board regarding his request for a continuance. He stated that he was working with staff in the Human Resources department at CPSA to resolve outstanding issues regarding his termination at Southern Arizona Mental Health Center (SAMHC). Once those issues were resolved, he would be able to establish his eligibility for certification.

Ms. Rinaudo advised the Board that Mr. Araiza had been provided with appropriate written notice of the date and time of his formal hearing. She also advised the Board that Mr. Araiza had been given sufficient time prior to the hearing to resolve issues involving his termination at SAMHC, which occurred in 2002. She also advised the Board that he had failed to appear for either of the interviews scheduled by Board staff.

Mr. Harris noted that the Board properly notified Mr. Araiza in January and early in March of this hearing. He also noted that Mr. Araiza failed to appear for the settlement conference he requested, which was scheduled for March 30, 2005. Mr. Harris then requested that Mr. Araiza's request for a continuance of this hearing be denied based on his failure to establish good cause.

Dr. Davis moved, seconded by Mr. Herrera, to deny the request for a continuance based on Mr. Araiza's failure to establish good cause for his request. The motion passed unanimously.

Ms. Mangiapane attempted to explain to Mr. Araiza that the Board denied his request for a continuance and that the burden of proof was on him to establish his eligibility for certification. Mr. Araiza refused to participate further in the proceeding and terminated his telephone connection with the Board.

Mr. Harris asked the Board to take judicial notice of all of the information previously submitted in this matter and to affirm the Social Work Credentialing Committee's recommendation to deny Mr. Araiza's certification application based on unprofessional conduct.

Following discussion, Dr. Davis moved, seconded by Mr. Wright, to affirm Social Work Credentialing Committee's recommendation to deny Mr. Araiza's certification application. The motion passed unanimously. See attached roll call.

The Board took a break from 11:15 a.m., reconvening its public meeting at 11:25 a.m.

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

A. Michael Kennedy, LCSW-10321

Mr. Harris summarized the facts of the consent agreement and the ongoing serious criminal charges against Mr. Kennedy. Mr. Kennedy was noticed, but did not appear.

Following review and discussion, Mr. LeGendre moved, seconded by Dr. Davis, to accept the signed interim consent agreement not to practice. The motion passed unanimously.

B. 2003-0045, Gaye Adams, LPC-10249

Ms. Rinaudo summarized the facts of the complaint. Ms. Adams addressed the Board telephonically regarding her refusal to sign the proposed consent agreement.

Following review and discussion, Dr. Davis moved, seconded by Mr. Wright, to remand the case to formal hearing. The motion passed unanimously.

C. 2005-0052, Steve LeGendre, LPC-0829 and LMFT-0325

Mr. LeGendre and Dr. Waterman recused themselves from all matters involving Mr. LeGendre.

Ms. Rinaudo summarized the facts of the case. The professional appeared in person.

Following review and discussion, Dr. Davis moved, seconded by Mr. Herrera, to accept the Counseling Credentialing Committee's recommendation to dismiss the complaint. The motion passed unanimously.

D. 2003-0010, Kathleen McGuire, LPC-10650

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 was noticed, but did not appear.

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

E. Jill Jones Soderman, LCSW-11621

Ms. Rinaudo summarized information obtained by the Board indicating that Ms. Jones Soderman failed to disclose the following information on her April 2004 certification application:

1. A previous social work license she held in New Jersey.
2. A July 2003 order issued by the Board of New Jersey Social Work Examiners finding that she engaged in unprofessional conduct and suspending her license for 9 months.
3. A January 2004 order issued by the Board of New Jersey Social Work Examiners finding that she continued to practice after the July 2003 suspension of her license and permanently revoking her social work license.
4. A previous malpractice lawsuit filed by an elderly client alleging that Ms. Soderman accepted more than \$70,000 from the client for in vitro fertilization procedures.

Ms. Rinaudo also reported that Ms. Jones Soderman failed to disclose this information on a licensure application she submitted in Texas.

Ms. Jones Soderman and her attorney, Mr. Frisbee, appeared in person and addressed the Board.

Following review and discussion, Mr. LeGendre moved, seconded by Dr. Davis, to make a finding of public emergency, adopt the preliminary findings of fact and conclusions of law presented and to summarily suspend Ms. Jones Soderman's license. The motion passed unanimously. See attached roll call.

F. NJ04-0023, Michael Wethey

Ms. Rinaudo summarized the facts of the complaint.

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

Following further discussion, Mr. LeGendre moved, seconded by Ms. Phillips , to direct staff to obtain additional information to determine if the professional is engaged in the unlicensed practice of psychotherapy.

G. NJ04-0026, Travis Ptak

Ms. Rinaudo summarized the facts of the complaint.

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

Following further discussion, Mr. LeGendre moved, seconded by Ms. Phillips, to direct staff to obtain additional information to determine if the professional is engaged in the unlicensed practice of psychotherapy. The motion passed unanimously.

H. NJ04-0027, N. George Curi

Ms. Rinaudo summarized the facts of the complaint. Dr. Curi appeared in person and addressed the Board regarding his practice. Dr. Smith addressed the Board on behalf of Dr. Curi.

Members questioned Dr. Curi regarding the types of services he provides. Dr. Curi stated that he provides clinical hypnotherapy, neurolinguistic programming and timeline therapy. He also stated that he has started the process to submit a licensure application.

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

Following further discussion, Mr. LeGendre moved, seconded by Dr. Davis, to find that the professional is engaged in the practice of psychotherapy and to issue a cease and desist order. The motion passed unanimously.

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

Social Work

Dr. Davis moved, seconded by Mr. LeGendre, to approve one applicant as a Licensed Clinical Social Worker and ten applicants as Licensed Master Social Workers. The motion passed unanimously.

Counseling

Mr. LeGendre moved, seconded by Ms. Lee, to approve five applicants as Licensed Professional Counselors and fourteen applicants as Licensed Associate Counselors. The motion passed unanimously.

Mr. LeGendre moved, seconded by Mr. Wright, to deny two applicants for counseling licensure based on not meeting minimum requirements. The motion passed unanimously.

Substance Abuse

Dr. Davis moved, seconded by Mr. Wright, to approve one applicant as a Licensed Independent Substance Abuse Counselor and one applicant as a Licensed Associate Substance Abuse Counselor. The motion passed unanimously.

Dr. Davis moved, seconded by Ms. Lee, to deny six 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 Mr. LeGendre, to approve one applicant as a Licensed Marriage and Family Therapist and four applicants as Licensed Associate Marriage and Family Therapists. The motion passed unanimously.

7. Report from the Chair

A. Member request for reconsideration of possible rules change excluding work experience acquired as a behavioral health technician

Ms. Phillips recused herself from these deliberations.

Ms. Rinaudo reported regarding previous credentialing committee and Board discussions regarding the issues of whether the Board should adopt a rule to exclude supervised work experience by unlicensed behavioral health

technicians doing psychotherapy under the exemption provided in A.R.S. §32-3271. She also summarized the history of the exemption and the various factors to be considered when making this decision. She also reviewed the need for the Board to consider the whether any exclusion considered should be broadened to include anyone working without a license under any of the exemptions available under that statute.

Members weighed the burden likely to be place on professionals by excluding such work experience versus the significant public protection benefits obtained by requiring professionals engaged in the practice of psychotherapy to be licensed while acquiring supervised work experience in order to obtain a license allowing them to practice independently.

Following discussion by members, Mr. Wright moved, seconded by Mr. Herrera, to adopt a rule change to exclude supervised work experience acquired after December 31, 2005, by professionals practicing under an exemption provided in A.R.S. §32-3271. The motion carried with Dr. Waterman opposed.

8. Report from the Treasurer

A. Monthly financial report

Mr. LeGendre provided the monthly treasurer's report.

B. Budget update

Ms. Rinaudo reported that final approval of the Board's budget has been delayed by the Governor's veto of the Legislature's budget proposal.

9. Report from Executive Director and/or staff.

A. General Agency Operations

Ms. Rinaudo reported regarding agency plans to increase investigative staff and the use of contract investigators to address the current complaint backlog.

Ms. Rinaudo reported that the public meetings in Phoenix and Tucson regarding the proposed rules changes were well attended.

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 May 6, 2005 at 8:30 a.m. in room B-2.

15. Adjournment

Mr. LeGendre moved, seconded by Mr. Herrera, to adjourn. The motion passed unanimously and the meeting was adjourned at 1:59 p.m.

Steve LeGendre
Secretary/Treasurer

Date