



STATE OF ARIZONA  
BOARD OF BEHAVIORAL HEALTH EXAMINERS  
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JANET NAPOLITANO  
Governor

DEBRA RINAUDO  
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES  
April 4, 2003

Members Present: Lisa Aumack, Gail Chase, Kirk Bowden, Roberta Gastineau, Kathleen Phillips, Diane Pruetz, Dan Wright, Cedric Davis, Steve LeGendre, Marianne Clinch, Jim Roth

Members absent: Susan Allanson, Milton Mattox, Karl Gauby, Hank Peck, Michael Salazar

Staff Present: Debra Rinaudo, Patricia Reynolds, Marc Harris, A.A.G., Victoria Mangiapane, Solicitor General's Office, Tina Zepeda, Mary Wilson

Public Present: Jerome Froimson, Michael Herzog, Mariann Nelson, Michael Downs

1. **Call to Order**

A meeting of the Arizona Board of Behavioral Health Examiners was called to order on April 4, 2003, at 9:05 a.m. with Gail Chase presiding.

2. **Roll Call**

See above.

3. **Review and Approval of Minutes**

Ms. Aumack moved, seconded by Mr. LeGendre, to approve the general meeting minutes of March 7, 2003, as submitted. The motion carried with Mr. Roth abstaining.

4. **Review, Consideration and Action on Complaints and Other Disciplinary Matters**

*A. 2002-0026, Terry Fischer, CC-0095*

Ms. Chase introduced Board members and staff. Mr. Harris appeared on behalf of the state. Ms. Mangiapane appeared on behalf of the Board.

Ms. Rinaudo read a fax that the Board received from Mr. Fischer at 1:30 a.m. on April 4, 2003, regarding his inability to attend the meeting due to a family death on March 20th. Ms. Rinaudo informed members that Mr. Fischer has not participated in this matter since the first informal meeting.

Mr. Harris informed members that Mr. Fischer has continually misrepresented facts to the Board and requested that, given the timing and the lack of any verification of the fax, the Board proceed with the hearing.

Following discussion, Mr. LeGendre moved, seconded by Ms. Phillips, to deny the request for a continuance and to proceed with the hearing. The motion passed unanimously.

Mr. Harris questioned Ms. Rinaudo, Executive Director for the Board, with regard to misleading information Mr. Fischer provided to the Board regarding his continuing education activities.

State's exhibits 1-13 were admitted into evidence. Exhibit 13 was Mr. Fischer's previous consent agreement. Ms. Mangiapane advised the Board to consider exhibit 13 only during the sanctions phase of the proceeding.

Board members were polled regarding their current view of the case and unanimously supported revocation of Mr. Fischer's certification.

Ms. Phillips moved, seconded by Ms. Aumack, to accept Findings of Fact 1 through 9 with the word "intentionally" deleted from Findings of Fact 3 through 9. The motion passed unanimously.

Ms. Aumack moved, seconded by Ms. Pruetz, to accept the proposed Conclusions of Law 1 through 10. The motion passed unanimously.

Ms. Aumack moved, seconded by Ms. Pruetz, to revoke Mr. Fischer's certification and levy a civil penalty in the amount of \$500, to be paid within 30 days of the effective date of the order. The motion passed unanimously. See attached roll call.

B. 2002-0033, Erica Schwartz, SW-27181  
Tabled

C. 2002-0034, Harold Markson, SW-04701  
Tabled

D. 2002-0035, Carolyn Moore, SW-100341  
Tabled

E. 2002-0037, Lori Martinez, CC-2395 and SA-1650  
Tabled

F. 2002-0018, Linda Marcello, CC-0441  
Ms. Rinaudo summarized the facts of the case. Ms. Marcello appeared telephonically and her attorney, Mr. Herzog, appeared in person to address the Board.

Following review and discussion by Board members, Mr. Bowden moved, seconded by Ms. Phillips, to approve the Counseling Credentialing Committee's recommendation to dismiss the complaint as unsubstantiated. The motion passed unanimously. See attached roll call.

*The Board took a break from 10:25 a.m. to 10:31 a.m.*

G. 2002-001, Mariann Nelson, SW-applicant  
Ms. Rinaudo summarized the complaint, the continuances to date, the alleged violations and the Social Work Credentialing Committee's findings and recommendation. The professional has signed the consent agreement which stipulates completion of a 3-hour ethics course. Ms. Rinaudo also provided members with new documentation from the professional's personnel file indicating that she misled Little Colorado with regard to having submitted a CMSW application in December 2000. The complainant, Mr. Downs, appeared in person and addressed the Board. Ms. Nelson and her attorney, Mr. Froimson appeared in person and addressed the Board.

Ms. Aumack moved, seconded by Mr. Roth, to go into executive session for the purpose of receiving legal advice pursuant to A.R.S. §38-431.03(A)(3). The motion passed unanimously and the Board went into executive session at 12:04 p.m., reconvening their public meeting at 12:17 p.m.

Members agreed not to consider new information received today when considering the complaint.

Following further discussion, Ms. Aumack moved, seconded by Ms. Phillips, to modify the findings of fact in the consent agreement to include falsification of clinical records to obtain reimbursement, as evidenced by the Wal-Mart receipt and Phoenix/St.Johns trip, and Ms. Nelson's unauthorized contact with a client. The motion carried with Mr. Bowden and Ms. Gastineau opposed.

Ms. Aumack moved, seconded by Ms. Phillips, to modify the conclusions of law to add a violation of A.R.S. 32-3151(10)(j), any conduct which impairs the ability of the certified behavioral health professional to safely and competently practice his profession. The motion carried with Mr. Bowden and Ms. Gastineau opposed.

Dr. Davis moved, seconded by Ms. Phillips, to modify the order to stipulate:

- 2 years probation;
- Completion of a 3-semester hour graduate level course in social work ethics;
- Supervision for the 2 years of probation;
- Supervisor will be a CISW or equivalent;
- Supervisor will be approved by the committee chair;
- Supervision will address issues raised in the consent agreement;
- Ms. Nelson will meet monthly face-to-face with the supervisor;
- Ms. Nelson will not provide clinical supervision while on probation;
- Supervisor will submit quarterly reports;
- Option for early termination of supervision after one year upon request by supervisor and approval by committee chair.

The motion carried with Mr. Bowden opposed. See attached roll call.

Following all discussion, Mr. Bowden moved, seconded by Ms. Pruetz, to open a complaint based on the new information presented today. The motion passed unanimously.

**5. Review, Consideration and Action on Applicants Recommended for Certification**

*Substance Abuse*

Ms. Pruetz moved, seconded by Mr. Roth, to accept sixteen applicants for Certified Substance Abuse Counselor. The motion passed unanimously.

*Social Work*

Dr. Davis moved, seconded by Ms. Clinch, to accept three applicants for Certified Master Social Worker and twelve applicants for Certified Independent Social Worker. The motion passed unanimously.

*Counseling*

Mr. Bowden moved, seconded by Ms. Pruetz, to accept three applicants for Certified Associate Counselor and eleven applicants for Certified Professional Counselor. The motion passed unanimously.

*Marriage & Family Therapy*

Mr. Wright moved, seconded by Mr. LeGendre, to accept one applicant for Certified Marriage & Family Therapist. The motion passed unanimously.

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

*A. Substantive Policy Statement regarding supervised work experience guidelines*

Ms. Rinaudo reported that the proposed substantive policy statement would replace the current substantive policy statement on this issue. The change is necessary to reflect changes requested by the credentialing committees.

Following review and discussion, Ms. Aumack moved, seconded by Mr. Bowden, to adopt the substantive policy statement as written. The motion passed unanimously.

*B. Substantive Policy Statement regarding school counselors*

Ms. Rinaudo reported that the proposed substantive policy statement is the result of a request from the Department of Education. The substantive policy statement clarifies that a school counselor who is certified or endorsed by the Department of Education and who is providing services within his or her job description will be deemed not to be practicing psychotherapy.

Following review and discussion, Ms. Aumack moved, seconded by Mr. Roth, to adopt the substantive policy statement regarding school counselors. The motion passed unanimously.

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

*A. Monthly report*

*B. Governor's request for donation of reserve funds*

Ms. Rinaudo reported that the Governor's office has requested a donation of reserve funds from the 90-10 boards to the general fund. Ms. Rinaudo and Mr. LeGendre recommend that the agency indicate that it needs six months of operating income based on its 2004 appropriation.

Following discussion, Board members agreed to adopt this recommendation.

**8. Report from the Executive Director and/or staff**

*A. General Agency Operations*

*B. Update on licensure*

Ms. Rinaudo reported that technical changes were made to the bill during Senate committee reviews. The bill will move forward for final approval in the Senate and then the House.

*1. Letters of intent regarding the effect of licensure on entities not providing psychotherapy*

Tabled

*C. Consolidation of 90-10 Boards*

Tabled

**9. Committee reports**

No report.

**10. National and regional news regarding the profession(s)**

None

**11. Future agenda items**

1. Letters of intent regarding effect of licensure
2. Consolidation of 90-10 Boards

**12. Call for public comment**

None

**13. Establishment of future meeting dates**

The next meeting is scheduled for May 2, 2003, at 9:00 a.m. in room B-2.

**14. Adjournment**

Ms. Aumack moved, seconded by Ms. Phillips, to adjourn. The motion passed unanimously and the meeting was adjourned at 1:24 p.m.

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Steve LeGendre  
Secretary/Treasurer

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Date