



STATE OF ARIZONA
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
February 6, 2004

Members Present: Gail Chase, Kathleen Phillips, Michael Salazar (9:08), Jim Roth, Lisa Aumack, Susan Allanson, Roberta Gastineau, Karl Gauby, Dan Wright

Member by Telephone: Milton Mattox

Members Absent: Cedric Davis, Jose Herrera, Steve LeGendre, Hank Peck

Staff Present: Debra Rinaudo, Robert Pulver, A.A.G., Victoria Mangiapane, Solicitor General's Office, Mary Wilson

Public Present: Larry Cohen, Patricia Ferree, Patricia Metcalf, Galen Ward, Steve Myers, Sandra Leal, Mark Ameli, Lara Scott

1. **Call to Order**

A meeting of the Arizona Board of Behavioral Health Examiners was called to order on February 6, 2004, at 9:03 a.m. with Gail Chase presiding.

2. **Roll Call**

See above.

3. **Review and Approval of Minutes**

Dr. Aumack moved, seconded by Ms. Allanson, to approve the general meeting minutes of January 9, 2004, as amended. The motion carried with Mr. Gauby and Mr. Wright abstaining.

4. **Administrative Hearings**

A. 2003-0015, Ed Newton, SA-10404

Ms. Chase postponed consideration of this case at 9:05 a.m. to give Mr. Newton time to arrive.

Ms. Chase recalled the case at 10:25 a.m. Mr. Newton was properly noticed but did not appear. Ms. Mangiapane from the Solicitor General's Office appeared on behalf of the Board. Mr. Pulver, A.A.G., appeared on behalf of the state and gave an opening statement.

Ms. Rinaudo, Executive Director of the Board, was sworn in and testified regarding the agency's investigation of this matter.

Ms. Chase admitted exhibits 1-6 into evidence. Mr. Pulver gave a closing argument.

Following review and discussion by Board members, Ms. Gastineau moved, seconded by Mr. Gauby, to adopt paragraphs 1-7 of the Complaint and Notice of Hearing as findings of fact. The motion passed unanimously. Ms. Aumack moved, seconded by Mr. Salazar, to add an additional finding of fact that Respondent admitted providing untruthful information to the Board on multiple occasions with regard to the nature of his relationship with AH. He also admitted that he attempted to influence AH so that she would continue to provide misleading information to the Board with regard to the nature of her relationship with Respondent. The motion passed unanimously.

Ms. Phillips moved, seconded by Mr. Wright, to adopt paragraphs 8, 9 and 10 as conclusions of law. The motion passed unanimously.

Mr. Gauby moved, seconded by Ms. Allanson, to issue an order revoking Mr. Newton's certification. The motion passed unanimously. See attached roll call.

Dr. Aumack moved, seconded by Mr. Roth, to make the order revoking certification effective immediately after finding that immediate effectiveness is necessary to preserve the health, safety and welfare of the public based upon Respondent's continuation of his personal and sexually intimate relationship with a former client while under investigation by the Board and his lack of understanding regarding the negative impacts of such behavior on his clients, which leave him unable to engage in the practice of substance abuse counseling safely and competently. The motion passed unanimously. See attached roll call.

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

Ms. Metcalf and her attorney, Mr. Ward, appeared in person. Mr. Roth stated that he is no relation to Judge Roth who is mentioned in the complaint documents.

Mr. Pulver, A.A.G., gave his opening statement, requesting that the Board approve the Administrative Law Judge's recommendation to revoke certification.

Mr. Ward gave an opening statement on behalf of Ms. Metcalf.

Following review and discussion by Board members, Dr. Aumack moved, seconded by Ms. Phillips, to adopt findings of fact 1-21 as written. The motion passed unanimously.

Ms. Phillips moved, seconded by Ms. Allanson, to adopt conclusions of law 1-5 as written. The motion passed unanimously.

Mr. Roth moved, seconded by Mr. Gauby, to adopt the recommended order to revoke certification. The motion failed. See attached roll call.

Following discussion, Ms. Gastineau moved, seconded by Ms. Allanson, 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 carried with Ms. Chase, Mr. Gauby and Mr. Roth opposed. See attached roll call.

The Board took a break from 11:20 to 11:30 a.m.

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

A. 2002-0025, Beatrice Duran Johnson, SA-1341

Ms. Duran Johnson was noticed, but did not appear. Dr. Scott, psychologist for the complainant, appeared in person and addressed the Board.

Following review and discussion by Board members, Mr. Gauby moved, seconded by Ms. Allanson, to accept the signed consent agreement to revoke certification. The motion passed unanimously. See attached roll call.

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

Ms. Leal and her attorney, Mr. Myers, appeared in person and addressed the Board. Ms. Leal addressed the Board regarding what she has done correctively since this complaint was opened. She assured members that she takes this matter seriously and is addressing how she got into this situation initially so she can prevent problems in the future.

Following discussion, Ms. Phillips moved, seconded by Ms. Allanson, to continue consideration of this matter to allow the professional and her attorney additional time to review the proposed consent agreement and contact Board staff regarding proposed changes. The motion passed unanimously.

C. 2003-0043, Linda Slone, CC-0042

Ms. Rinaudo summarized the facts of the case. The professional was noticed, but did not appear.

Following review and discussion by Board members, Mr. Roth moved, seconded by Ms. Allanson, to accept the Counseling Credentialing Committee's recommendation to accept the signed consent agreement as modified. The motion passed unanimously. See attached roll call.

D. 2003-0014, James Krehbiel, CC-1847

Ms. Rinaudo summarized the facts of the case. Mr. Krehbiel and his attorney, Mr. Cohen, appeared in person and Mr. Cohen addressed the Board.

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

E. 2003-0024, Miriam de Levie, SW-1778I

Ms. Rinaudo summarized the facts of the case. The professional was noticed, but did not appear.

Following review and discussion by Board members, Ms. Phillips moved, seconded by Dr. Aumack, to accept the Social Work Credentialing Committee's recommendation to dismiss the complaint as unsubstantiated. The motion passed unanimously.

The Board requested that staff notify the Office of Behavioral Health Licensure of the Board's concern regarding the delay in services to a suicidal patient caused by CONTACT Behavioral Health Services.

F. NJ03-0016, Jan Fooks

Continued

G. NJ03-0017, Edwin Torrejon

Continued

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

Substance Abuse

Mr. Salazar moved, seconded by Mr. Roth, to approve 34 applicants for Substance Abuse Counselor certification. The motion passed unanimously.

Social Work

Ms. Gastineau moved, seconded by Ms. Allanson, to approve one applicant for Baccalaureate Social Worker certification, 11 applicants for Master Social Worker certification and 28 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 18 applicants for Professional Counselor certification. The motion passed unanimously.

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

No report

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

A. Monthly report

No report.

9. Report from the Executive Director and/or staff

A. Agency operations

Ms. Rinaudo reported the agency continues to receive and process an extraordinary number of applications.

B. Licensure rules

Ms. Rinaudo reported that the final meeting of the rules subcommittee is Monday, February 9, 2004. The rules draft will be posted on the Board's website from February 15th through April 15th and public comment meetings in Phoenix, Flagstaff and Tucson will be held during that time. The subcommittee will meet to consider the comments received by the Board.

C. Licensure update

Ms. Rinaudo reviewed pending bills affecting licensure.

D. Authorization for ED to respond on behalf of the Board

Ms. Rinaudo reported that issues regarding proposed legislation affecting licensure regularly come up that require comment quickly and requested that the Board authorize her to respond on its behalf to these issues.

Mr. Salazar moved, seconded by Mr. Gauby, to authorize the Executive Director to respond on behalf of the Board to any issues regarding proposed changes to licensure or any legislation that could affect licensure. The motion passed unanimously.

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 March 5, 2004, at 9:00 a.m. in room B-2.

15. Adjournment

Ms. Allanson moved, seconded by Mr. Gauby, to adjourn. The motion passed unanimously and the meeting was adjourned at 12:12 p.m.

Steve LeGendre
Secretary/Treasurer

Date