



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

MICHAEL SALAZAR
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
January 7, 2005

Members Present: Cedric Davis, Steve LeGendre, Laura Waterman, Jose Herrera, Kathleen Phillips, Dan Wright

Members Absent: Ruth Lee, Michael Salazar

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

Public Present: John Lare, Charles Lehman, Mary Hofkes, Robert Meighan

1. Call to Order

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on January 7, 2005, at 8:43 a.m. with Mr. LeGendre presiding.

2. Roll Call

See above.

3. Review and Approval of Minutes

Dr. Waterman moved, seconded by Ms. Phillips, to approve the general meeting minutes from the December 3, 2004, meeting as amended. The motion carried with Mr. Wright abstaining.

4. Administrative Hearings

A. John Lare, SA applicant

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

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

Mr. Lare was sworn in and testified on his own behalf.

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

Mr. Lare cross-examined Ms. Rinaudo.

Robert Meighan, was sworn and testified as an expert witness for the Board.

Mr. Lare cross-examined Mr. Meighan.

Mr. LeGendre admitted State's Exhibits 1-11 into evidence.

Mr. Lare made a closing statement and requested that the Board overturn the Committee's denial of his certification application.

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

Following discussion, Dr. Waterman moved, seconded by Mr. Herrera, to affirm the Substance Abuse Credentialing Committee's denial of the professional's certification application. The motion passed unanimously. See attached roll call.

The Board took a break from 10:40 a.m. reconvening at 10:46 a.m.

B. 2002-0025, Albert Tinhorn, LISAC-11007

Ms. Phillips recused herself from all matters involving Mr. Tinhorn.

The hearing that was scheduled for 9:00 a.m. began at 10:50 a.m. to allow Mr. Tinhorn time to appear. Mr. Tinhorn did not appear. Mr. Harris asked the Board to take notice of the fact that Mr. Tinhorn was properly noticed regarding the time and date of this hearing and was advised that the hearing would proceed in his absence.

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 and gave an opening statement.

Ms. Rinaudo, Executive Director of the Board, was sworn in and testified on behalf of the State.

Mr. LeGendre admitted State's exhibits 1-18 into evidence.

Mr. Harris made a closing statement and requested that the Board adopt the factual allegations in the complaint as Findings of Fact and the alleged violations in the complaint as Conclusions of Law and issue an order to revoke the professional's substance abuse license.

Following discussion, Dr. Waterman moved, seconded by Mr. Wright, to adopt the factual allegations paragraphs 1-15 in the complaint as Findings of Fact, and alleged violations paragraphs 16-19 in the complaint as Conclusions of Law. The motion passed unanimously with Ms. Phillips recused.

Following further discussion, Dr. Waterman moved, seconded by Dr. Davis, to issue an Order to revoke the professional's substance abuse license and to deny Mr. Tinhorn's pending social work application based on the Findings of Fact and Conclusions of Law and to impose a \$500 civil penalty to be paid within six months of the date of the Order. The motion carried with Ms. Phillips recused. See attached roll call.

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

A. 2000-0043, 2004-0029 and 20050046, Charles Lehman, LMFT-0479 and LISAC-1373

Ms. Shelton summarized the facts of the three complaints filed against Mr. Lehman.

The Board took an emergency break.

Ms. Rinaudo continued the summary of the facts of the complaints.

Mr. Lehman appeared in person and addressed the Board.

Following discussion, Dr. Waterman moved, seconded by Dr. Davis, to consolidate the three complaints and accept the Marriage and Family Therapy Credentialing Committee's recommendation to remand this matter to formal hearing based on possible violations of A.R.S. §32-3251(10)(b), the use of fraud or deceit in connection with rendering services as a certified behavioral health professional, based on the professional's failure to disclose his previous unemployment and termination from Cottonwood de Tucson on two Providence Corporation employment applications, A.R.S. §32-3251(10)(f), making use of statements of a character tending to deceive or mislead the public, based on the professional's representations in his October 15, 2003, letter to the Board that he was still under Karen Clark's supervision, A.R.S. §32-3251(10)(l), neglecting to comply with any lawful order of the Board or its credentialing committee, based on the professional's failure to comply with the terms of the consent agreements resulting from complaints 2003-0043 and 2004-0029, and A.R.S. §32-3251(10)(j), any conduct, practice or condition that impairs the ability of the professional to safely and competently practice, based on the Board's initial findings regarding the professional's unprofessional conduct as set forth in the consent agreement resulting from complaint 2000-0043 and information from Providence Corporation and Cottonwood de Tucson that the professional remains unable to competently practice. The motion passed unanimously.

B. Richard Giberti, LISAC-1509 and LPC-10574

Mr. Harris reported that the professional has been charged with two counts of sexual conduct with a minor. Mr. Harris indicated that the licensee is also a pastor who operates a charter school. If he posts bond, he can return to practice unless the Board issues an emergency order of summary suspension.

After review and discussion, Ms. Phillips moved, seconded by Mr. Wright, to issue an emergency order of summary suspension of the professional's licenses. The motion passed unanimously. See attached roll call.

C. 2002-0036 and 2003-0018, Jacqueline Uhlemann, LAMFT-10078

Ms. Rinaudo reviewed the facts of the case. Ms. Uhlemann was noticed, but did not appear.

After review and discussion, Ms. Phillips moved, seconded by Mr. Wright, to approve the release of the professional from the terms of the consent agreement. The motion passed unanimously.

D. 2003-0031, Mary Hofkes, LPC-2441

Ms. Rinaudo reviewed the facts of the case. Ms. Hofkes appeared in person and addressed the Board.

Ms. Hofkes has requested that the words "billing document" be changed to "a receipt" in the consent agreement.

After review and discussion, Ms. Phillips, moved, seconded by Mr. Wright, to accept the consent agreement as modified to change the words "billing document" to "a receipt". The motion passed unanimously. See attached roll call.

E. 2005-0048, Richard Young, LMFT-0452

Ms. Thur summarized the facts of the complaint. Mr. Young was noticed, but did not appear.

After review and discussion, Dr. Davis moved, seconded by Mr. Wright, to approve the Marriage and Family Therapy Credentialing Committee's recommendation to accept the signed consent agreement. The motion passed unanimously. See attached roll call.

The Board took a break from 11:40 a.m. reconvening at 11:55 a.m.

F. 2005-0039, Tracy Morris, LCSW-10949

Ms. Rinaudo summarized the facts of the case and the interim consent agreement. Ms. Morris was noticed, but did not appear.

After review and discussion, Ms. Phillips moved, seconded by Dr. Davis, to approve the interim consent agreement. The motion passed unanimously.

G. NJ04-0011, James Richards

H. NJ04-0012, Dianne Richards

I. NJ04-0022, Fred Rose

Ms. Rinaudo indicated that these individuals are not licensed by the Board.

After review and discussion, Dr. Waterman moved, seconded by Ms. Phillips, to dismiss these complaints as non-jurisdictional. The motion passed unanimously.

Following further discussion, Dr. Waterman moved, seconded by Mr. Herrera, to direct Board staff to continue the investigation regarding whether James and Diane Richards are engaged in the unlawful practice of psychotherapy. The motion passed unanimously.

Following further discussion, Ms. Phillips moved, seconded by Dr. Waterman, to direct Board staff to continue the investigation regarding whether Fred Rose is engaged in the unlawful practice of psychotherapy. The motion passed unanimously.

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

Social Work

Dr. Davis moved, seconded by Mr. Wright, to approve 2 applicants as Licensed Clinical Social Workers, 8 applicants as Licensed Master Social Workers, and 1 applicant as a Licensed Baccalaureate Social Worker. The motion passed unanimously with Dr. Waterman recused.

Counseling

Dr. Waterman moved, seconded by Dr. Davis, to approve 9 applicants as Licensed Professional Counselors and 7 applicants as Licensed Associate Counselors. The motion passed unanimously.

Substance Abuse

Mr. LeGendre moved, seconded by Dr. Davis, to approve 5 applicants as Licensed Independent Substance Abuse Counselors and 2 applicants as a Licensed Associate Substance Abuse Counselors. The motion passed unanimously.

7. Report from the Chair

A. Election of officers.

Ms. Rinaudo reported that Mr. Salazar has resigned from the Board. Board members must elect a Chair.

Dr. Davis, Ms. Phillips and Dr. Waterman expressed interest in the position.

Members discussed various ways that a Chair could be selected and agreed to elect a Chair at the February meeting.

8. Report from the Treasurer

Ms. Rinaudo reported that the monthly expenses and expenditures report has been provided to members as requested.

Ms. Rinaudo explained the various statements in the report and how the agency's appropriation is spent throughout the year.

9. Report from Executive Director and/or staff.

General Agency Operations

Ms. Rinaudo reviewed the process of the Board and committees for electing officers and the process for appointments to the Board and committees.

Ms. Rinaudo reported on the Counseling Credentialing Committee's and the Marriage & Family Therapy Credentialing Committee's review of proposed changes to their curriculum rules.

Possible efforts to obtain statutory changes to licensure

Ms. Rinaudo reported regarding the potential for the introduction of bills to modify the licensure statute. Staff will monitor all such legislation.

10. Committee Reports.

None

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

None

12. Future agenda items

Election of chair

13. Call for public comment

None.

14. Establishment of future meeting date(s)

The next meeting is scheduled for February 4, 2005 at 8:30 a.m. in room B-2.

15. Adjournment

Mr. Herrera moved, seconded by Mr. Wright, to adjourn. The motion passed unanimously and the meeting was adjourned at 1:03 p.m.

Steve LeGendre
Secretary/Treasurer

Date