



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
November 7, 2008

1st amended (1/20/09)

Members Present: Laura de Blank, Gloria Gabler, Ruth Lee, Jose Herrera, Teresa Menchaca, Kahryn Nix
(in at 9:30 a.m. and out at 2:20 p.m.)

Members by phone: Diane Brassea

Members absent: Robert Evans

Staff Present: Debra Rinaudo, Marc Harris, A.A.G., Christopher Munns, Solicitor General's Office,
Mary Wilson, Elma Brambila

1. Call to Order

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on November 7, 2008, at 9:05 a.m. with Ms. de Blank presiding.

2. Roll Call

See above.

3. Minutes: review, consideration and action

Mr. Herrera moved, seconded by Dr. Gabler, to approve the general meeting minutes from October 3, 2008, as submitted. The motion passed unanimously. Ms. Menchaca and Ms. Nix abstained from the vote.

4. Consent Agenda: review, consideration and action

A. 2006-0110, Gladys Ambrose, LCSW-11432

Review, consideration and action regarding the Social Work Credentialing Committee's recommendation to dismiss the complaint.

B. 2006-0093, Julia Coffey, LCSW-11467

Review, consideration and action regarding the Social Work Credentialing Committee's recommendation to accept the proposed signed consent agreement.

C. 2009-0028, Paul Harris, LSAT applicant

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to accept the proposed signed consent agreement.

Following review and discussion by members, Ms. de Blank moved, seconded by Ms. Menchaca, to approve the Substance Abuse Credentialing Committee's recommendation to accept the proposed signed consent agreement. The motion passed unanimously. See attached roll call.

D. 2006-0118, Cheryl Hawley, LISAC-0869

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to dismiss the complaint.

E. 2006-0061, Robert Hicks, LISAC-11456

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to dismiss the complaint.

F. Donald Langford, LPC-1598

Review, consideration and action to open a complaint and accept the proposed signed Interim Consent Agreement.

G. 2009-0031, Wesley Lore, LAC-12159

Review, consideration and action regarding the Counseling Credentialing Committee's recommendation to accept the proposed signed consent agreement.

H. 2006-0074, Barbara Mardian, LCSW-4153

Review, consideration and action regarding the Social Work Credentialing Committee's recommendation to dismiss the complaint.

I. 2006-0124, Dorothy Pedro, LCSW-1215

Review, consideration and action regarding the Social Work Credentialing Committee's recommendation to dismiss the complaint.

J. 2005-0147, Thomas Roach, LISAC-10911

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to accept the proposed signed consent agreement.

Following review and discussion by members, Ms. Lee moved, seconded by Mr. Herrera, to approve the Substance Abuse Credentialing Committee's recommendation to accept the proposed signed consent agreement. The motion passed unanimously. See attached roll call.

K. 2008-0101, Paul Salcido, LSAT-12005

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to release the professional from the Interim Consent Agreement and to accept the proposed signed consent agreement.

L. 2007-0035, Rex Smyly, LISAC-10486

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to dismiss the complaint.

M. 2006-0048, Rachel Thrall, LMSW-11735 and LCSW applicant

Review, consideration and action regarding the Marriage and Family Therapy Credentialing Committee's recommendation to dismiss the complaint.

N. 2007-0167, Mary Ann Turner, LCSW-10951

Review, consideration and action regarding the Social Work Credentialing Committee's recommendation to dismiss the complaint and to accept the proposed signed non-disciplinary consent agreement.

Following review and discussion by members, Ms. Lee moved, seconded by Mr. Herrera, to find a violation of A.R.S. R32-3251(12)(p), failing to conform to minimum practice standards, as it relates to A.A.C. R4-6-1102 and R4-6-1103(H), and to offer the professional a consent agreement that stipulates the following:

- The license will be placed on probation for 12 months
- The professional is restricted from independent practice for the term of probation
- The professional shall complete 6 clock hours of continuing education in clinical recordkeeping
- The professional shall complete a 3-semester credit hour graduate level course in diagnosis, assessment and treatment planning
- The professional shall receive clinical supervision at the rate of 1 hour per 40 hours of clinical work
- The clinical supervisor shall be a pre-approved independently licensed behavioral health professional
- The clinical supervisor shall submit quarterly reports for approval
- The clinical supervision shall focus on clinical recordkeeping requirements, and diagnosis, assessment and treatment planning

The motion passed unanimously. Ms. Nix abstained from the vote. See roll call.

O. 2008-0030, Renee White, LCSW-10131

Review, consideration and action to accept the proposed signed consent agreement for the voluntary surrender of the professional's license.

P. NJ08-0005, Joseph Parham

Review, consideration and action to dismiss the complaint as non-jurisdictional.

Ms. Lee moved, seconded by Dr. Gabler, to approve consent agenda items A, B, D-I, K-M, O and P as presented. The motion passed unanimously. See attached roll call.

5. Administrative Hearings 11:00 AM

A. 2006-0072, Brenda Sheets, LISAC-1529

Ms. de Blank reviewed the procedures for considering a request for review or rehearing.

Christopher Munns appeared as the Board's legal representative.

Mr. Harris appeared on behalf of the State.

The professional and her attorney, Michael Wolver, appeared in person and addressed the Board.

Following review and discussion by members, Mr. Herrera moved, seconded by Ms. Menchaca, to deny the professional's request for a review or rehearing. The motion carried with Ms. Nix opposed. See attached roll call.

6. Formal Interviews

None

7. Complaints and other disciplinary matters: review, consideration and action

A. 2006-0065, Francine Akins-Arbuckle, LPC-11723

Ms. Rinaudo summarized the results of the Board's investigation and indicated that the professional has not signed the proposed consent agreement.

The professional appeared in person and addressed the Board.

Following review and discussion by members, Dr. Gabler moved, seconded by Ms. Nix, to offer a non-disciplinary consent agreement requiring completion of the NASW "Staying Out of Trouble" continuing education course or a pre-approved equivalent course. The motion passed unanimously. See attached roll call.

Following further discussion by members, Ms. Menchaca moved, seconded by Ms. Lee, that if the non-disciplinary consent agreement is not signed, to invite the professional to participate in a formal interview and, if not accepted, to remand the matter to formal hearing. The motion passed unanimously. See attached roll call.

B. 2008-0065, Nadine Bowen-Wilson, LISAC-10299

Tabled

C. 2006-0086, Christine Heyde, LISAC-0880

Ms. Rinaudo summarized the results of the Board's investigation and indicated that the professional has not signed the proposed consent agreement.

The complainant was properly noticed, but did not appear.

The professional was properly noticed, but did not appear.

Following review and discussion by members, Ms. Lee moved, seconded by Mr. Herrera, to offer a modified consent agreement that adds a violation of A.R.S. §32-3251(12)(l), impairment. The motion passed unanimously.

Following further discussion by members, Ms. Lee moved, seconded by Mr. Herrera, to modify the clinical supervision requirement in the consent agreement to focus generally on client rights and specifically regarding informed consent and, if not signed, to invite the professional to participate in a formal interview and, if not accepted, to remand the matter to formal hearing. The motion passed unanimously. See attached roll call.

The Board took a break at 10:30 a.m., reconvening its public meeting at 10:42 a.m.

D. 2006-0083, Susan Rassas, LPC-2288 and LISAC-1393

Ms. Rinaudo advised the Board that written notice of all meetings was sent to the professional by regular and certified mail. USPS records indicate that the professional does not retrieve her certified mail. The notices sent by regular mail have not been returned to the Board as undeliverable, indicating that the professional has received those mailings. The professional did attend the credentialing committee meeting. This also indicates she has received Board notices. Prior to the Board meeting, the professional had not complained about her failure to receive Board notices.

The professional has now retained an attorney, Larry Cohen. Written notice of the Board meeting was not sent to Mr. Cohen because he was retained after the Board meeting notice was mailed. Ms. Rinaudo distributed a letter from Mr. Cohen requesting that the Board postpone its review of this matter because he did not receive adequate notice of the meeting.

Following review and discussion, Ms. Nix moved, seconded by Ms. Menchaca, to deny the request for a continuance, to reoffer the proposed consent agreement and, if not signed, to invite the professional to participate in a formal interview and, if not accepted, to remand this matter to formal hearing. The motion passed unanimously. See attached roll call vote.

E. 2009-0032, Melissa Waldrip, LCSW-1712

Ms. Rinaudo summarized the results of the Board's investigation and indicated that the professional has not signed the proposed consent agreement.

The complainant was properly noticed, but did not appear.

The professional and her attorney, Alicia Aguirre, appeared in person and addressed the Board.

Following review and discussion by members, Ms. de Blank moved, seconded by Mr. Herrera, to modify the consent agreement to change the violation to A.R.S. §32-3251(12)(c)(iii), to remove the possibility for early release, to add a requirement that the professional will be clinically supervised by a pre-approved clinical supervisor twice a month for the term of the consent agreement and if not signed, to invite the professional to participate in a formal interview and, if not accepted, to remand the matter to formal hearing. The motion passed unanimously. See attached roll call.

F. NJ08-0006, Ronald Leebove

Ms. Rinaudo summarized the results of the Board's investigation.

Mr. Leebove was present and addressed the Board.

Ms. Menchaca moved, seconded by, Dr. Gabler, to dismiss the complaint as non-jurisdictional. The motion passed unanimously.

The Board took a break at 1:25 p.m., reconvening its public meeting at 1:34 p.m.

8. Applications for licensure: review, consideration and action

Social Work

Ms. Menchaca moved, seconded by Ms. de Blank, to approve 5 applicants as Licensed Clinical Social Workers and 20 applicants as Licensed Master Social Workers. The motion passed unanimously.

Ms. Menchaca moved, seconded by Mr. Herrera, to deny 6 applicants based on failure to pass the required exam. The motion passed unanimously.

Counseling

Ms. de Blank moved, seconded by Mr. Herrera, to approve 10 applicants as Licensed Associate Counselors, 7 applicants as Licensed Professional Counselors and 3 applicants as Reciprocal Licensed Professional Counselors. The motion passed unanimously.

Mr. Herrera moved, seconded by Ms. Menchaca, to approve 1 applicant as a Licensed Associate Counselor. The motion passed unanimously. Ms. de Blank was recused from the vote.

Ms. de Blank moved, seconded by Mr. Herrera, to deny 3 applicants based on failure to meet minimum requirements in education and/or supervised work experience. The motion passed unanimously.

Substance Abuse

Mr. Herrera moved, seconded by Ms. Menchaca, to approve 6 applicants as Licensed Associate Substance Abuse Counselors. The motion passed unanimously.

Mr. Herrera moved, seconded by Ms. de Blank, to deny 1 applicant based on failure to meet minimum requirements in education and/or supervised work experience. The motion passed unanimously.

Marriage and Family Therapy

Dr. Gabler moved, seconded by Ms. Menchaca, to approve 1 applicant as a Licensed Marriage and Family Therapist, 1 applicant as a Licensed Associate Marriage and Family Therapist and 1 applicant as a Reciprocal Licensed Marriage and Family Therapist. The motion passed unanimously.

9. Report from Chair.

A. Chair report

No report.

B. Member reports

No report.

C. Review of A.R.S. §32-3206

Tabled

D. Procedures for professionals on restricted practice to transition clients

Members discussed the issue of professionals in private practice who need to transition clients when they are required by the Board to practice in a licensed facility.

Members asked staff to develop general guidelines for transition for consideration by the committees when drafting consent agreements.

E. Discussion regarding processes for member and public input into rules and policy changes

Ms. de Blank suggested developing a process to obtain input from the professional associations and Board and committee members regarding proposed rule changes.

Ms. Rinaudo advised the Board regarding the 5-year rule review process the Board is scheduled to complete by 07/09. Members requested that Ms. Blatner provide a written summary of this process.

Ms. de Blank also suggested developing a process to obtain Board and committee member input regarding revision of Board policies and procedures.

Ms. Rinaudo reviewed the Board's strategic plan goals for FY 2009. The main goal for this fiscal year is to reduce/eliminate the complaints backlog. Board staff has been instructed to focus all available resources on this goal. Achieving the goal of eliminating the complaints backlog has been made more difficult by the Board's inability to hire an additional investigator because of the current state-wide hiring freeze. Ms. Rinaudo reminded members that directing staff to develop new processes for consideration of Board rules and policies would redirect resources away from complaints. Members agreed to table further discretionary projects until the complaints backlog is eliminated.

F. Discussion regarding policies and procedures regarding elimination of investigations backlog

Ms. de Blank suggested that the Board dismiss complaints if they are not processed within three years. Mr. Harris advised members that they do not have the statutory authority to dismiss cases without review.

Ms. Rinaudo advised members that investigation staff revised procedures to maximize investigator resources by having the Executive Director or Deputy Director present complaints at committee and Board meetings. Members were invited to provide other suggestions for maximizing the Board's investigation resources.

G. Development of a policy for assessing costs

Ms. Lee requested that information regarding an investigator's time for cost assessment purposes should only include information regarding the complaint at issue.

Ms. Rinaudo reviewed the Board's procedures for capturing investigator time. This information is kept on a spread sheet and captures time spent on all complaints being processed. Members agreed not to revise the process for capturing time, but to redact all irrelevant information before providing this information to a licensee or the Board.

10. Report from the Treasurer

A. Monthly Financial Report

Dr. Gabler moved, seconded by Mr. Herrera, to accept the monthly financial report as presented. The motion passed unanimously.

B. Discussion regarding FY2010-2011 budget submission

Ms. Rinaudo reviewed the FY2010-2011 budget submission and answered questions from members.

11. Report from the Executive Director and/or staff

A. General Agency Operations

No report.

B. Approval of rule change allowing qualifying bachelor degree for LSAT

Ms. Menchaca moved, seconded by Dr. Gabler, to approve the proposed rule change to modify LSAT requirements to accept a qualifying bachelor degree effective January 1, 2009. The motion passed unanimously.

C. Challenges of licensees practicing within the behavioral health system

Ms. Menchaca indicated that the Board should improve communications with the Department of Health Services and the Governor's Office regarding increased client case loads for licensees working in licensed agencies. She indicated that higher caseloads will inevitably lead to increased Board complaints because unreasonably high case loads significantly increase the likelihood of inappropriate practice or documentation errors.

No action was recommended regarding this item.

12. Committee Reports

None

13. National and regional news regarding the profession(s)

None

14. Future agenda items

Discussion regarding Board review of proposed consent agreements before they are signed.

15. Call for public comment

None

16. Establishment of future meeting dates

The next meeting is scheduled for December 5, 2008, at 9:00 a.m., at 3443 North Central Avenue, Room 908.

Dr. Gabler moved, seconded by Ms. Menchaca, to approve the Board's proposed 2009 meeting calendar. The motion passed unanimously.

17. Adjournment

Dr. Gabler moved, seconded by Ms. Lee, to adjourn. The motion passed unanimously and the meeting was adjourned at 3:05 p.m.

Gloria Gabler
Secretary/Treasurer

Date