



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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JANET NAPOLITANO
Governor

KATHLEEN PHILLIPS
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
September 5, 2005

Members Present: Cedric Davis, Dan Wright, Kathleen Phillips, Del Worley, Laura Waterman, Barbara Freeman, Jose Herrera (2:00 p.m. – 2:05 p.m. by telephone)

Members Absent: Ruth Lee

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

Public Present: Donna Cross, Erin Cassius, Julie La Mantia, Jackie Kahn, Flynn Cleary, Joe Garcia, Nancy Groppenbacher

1. Call to Order

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on September 9, 2005, at 9:04 a.m. with Ms. Phillips presiding.

2. Roll Call

See above.

3. Review and Approval of Minutes

Mr. Wright moved, seconded by Dr. Davis, to approve the general meeting minutes from the August 5, 2005, meeting, as amended. The motion carried with Dr. Waterman and Ms. Freeman abstaining.

Mr. Wright moved, seconded by Dr. Davis, to approve the 10:55 a.m. executive session minutes from the August 5, 2005, meeting. The motion carried with Dr. Waterman and Ms. Freeman abstaining.

Dr. Davis moved, seconded by Ms. Worley, to approve the 1:07 p.m. executive session minutes from the August 5, 2005, meeting. The motion carried with Dr. Waterman and Ms. Freeman abstaining.

4. Administrative Hearings

A. 2003-0038, Patricia Kelly, LISAC-1428

Board members and staff were introduced. 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.

Ms. Kelly was properly noticed, but did not appear.

Mr. Harris, A.A.G., made an opening statement on behalf of the State.

Ms. Thur, Board Investigator, was sworn in and testified on behalf of the State.

Ms. Phillips admitted State's Exhibits 1-4 into evidence.

Mr. Harris made a closing argument.

Following discussion, Dr. Waterman moved, seconded by Mr. Wright, to adopt factual allegations 3-5 from the Notice of Hearing as findings of fact. The motion passed unanimously.

Mr. Wright moved, seconded by Ms. Worley, to adopt factual allegations 6-8 from the Notice of Hearing as conclusions of law. The motion passed unanimously.

Dr. Waterman moved, seconded by Ms. Worley, to revoke the professional's license to practice substance abuse counseling. The motion passed unanimously. See attached roll call.

The Board took a break at 12:20 p.m., reconvening its public meeting at 12:35 p.m.

B. Joe Garcia, LASAC applicant

Board members and staff were introduced. 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. Garcia 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. Garcia was sworn in and testified on his own behalf.

Ms. Thur, Board Investigator, was sworn in and testified regarding the basis for the Substance Abuse Credentialing Committee's denial of Mr. Garcia's Licensed Associate Substance Abuse Counselor application.

Mr. Garcia cross-examined Ms. Thur.

The Board took a break at 11:07 a.m., reconvening its public meeting at 11:20 a.m.

Ms. Phillips admitted State's Exhibits 1-12 into evidence.

The Board took a short break to allow Mr. Harris time to review Mr. Garcia's written statement.

Ms. Phillips admitted Mr. Garcia's written statement into evidence as Respondent's Exhibit A.

Board members reviewed the statement.

Mr. Garcia made a closing argument and requested that the Board overturn the Committee's denial of his application.

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

Following discussion, Ms. Worley moved, seconded by Mr. Wright, to find that Mr. Garcia's termination from several employers constituted repeated violations of A.R.S. §32-3251(10)(j), any conduct, practice or condition that impairs the ability of the certified behavioral health professional to safely and competently practice that profession, and that his failure to disclose his termination from Hardin and Associates on his certification application constituted a violation of A.R.S. §32-3251(10)(b), the use of fraud or deceit in establishing qualifications. The motion passed unanimously. See attached roll call.

C. Erin Cassius, CSAC applicant

Ms. Worley recused herself from all matters involving Ms. Cassius.

Ms. Rinaudo reported that the Board held a formal hearing in April and upheld the denial of Ms. Cassius' application. Ms. Cassius then requested a review/rehearing of that decision. The Board's review of her request for a review or rehearing was postponed at her request. After this matter was scheduled for Board review, Ms. Cassius requested a second continuance. Following discussion, Ms. Cassius indicated that she wanted to withdraw her request for a continuance and proceed with her request for review/rehearing.

Board members and staff were introduced. 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.

Ms. Cassius indicated that she was requesting a review/rehearing pursuant to A.A.C. R4-6-1003(A)(3) based on new information regarding her coursework.

Mr. Harris reviewed the information the Board considered at the formal hearing and requested that the Board deny the request for review/rehearing based on Ms. Cassius' failure to establish that her new information was not available at the time of the formal hearing.

Following discussion, Dr. Waterman moved, seconded by Mr. Wright, to deny the request for a review/rehearing. The motion passed unanimously. Ms. Worley was recused from the vote. See attached roll call.

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

A. 2006-0006, Janet Vall, LCSW-3558

Ms. Rinaudo reported that the professional has requested a continuance.

Dr. Davis moved, seconded by Ms. Worley, to continue consideration of the matter. The motion passed unanimously.

B. 2005-0132, Constance Danks, LPC-11013

Ms. Thur summarized the facts of the case. Ms. Danks was noticed, but did not appear.

Following review and discussion, Dr. Waterman moved, seconded by Dr. Davis, to accept the signed consent agreement for revocation of Ms. Dank's license. The motion passed unanimously.

C. 2005-0017, Nancy Groppenbacher, LMFT-0380

Ms. Rinaudo summarized the facts of the case. Ms. Groppenbacher appeared in person and addressed the Board. The complainant was noticed, but did not appear.

Following review and discussion, Dr. Davis moved, seconded by Mr. Wright, to accept the Marriage and Family Therapy Credentialing Committee's recommendation to dismiss the complaint as unsubstantiated. The motion passed unanimously.

D. 2006-0015, Flyn Cleary, LISAC-1337

Ms. Shelton summarized the facts of the case. Ms. Cleary appeared in person and addressed the Board.

Following review and discussion, Dr. Waterman moved, seconded by Mr. Wright, to accept the Substance Abuse Credentialing Committee's recommendation to issue a Letter of Concern and dismiss the complaint. The motion carried with Ms. Phillips and Dr. Davis opposed.

E. 2006-0017, Andrew Greene, LMFT applicant

Ms. Rinaudo summarized the facts of the case. Mr. Greene was noticed, but did not appear.

Following review and discussion, Ms. Phillips moved, seconded by Dr. Davis, to accept the Marriage and Family Therapy Credentialing Committee's recommendation to issue a Letter of Concern and dismiss the complaint. The motion passed unanimously.

F. NJ04-0029, Daniel Duffy

Ms. Shelton summarized the facts of the case.

Dr. Waterman moved, seconded by Dr. Davis, to dismiss the complaint as non-jurisdictional, issue a cease and desist order and report the professional to the county attorney's office for prosecution. The motion passed unanimously.

Ms. Worley moved, seconded by Dr. Davis, to direct staff to also report this Board's action to the entity that issued his nursing certificate with a copy to the Arizona Nursing Board. The motion passed unanimously.

G. NJ04-0028, Ana Clemans

Ms. Shelton summarized the facts of the case.

Ms. Rinaudo presented information that Ms. Lee requested the Board take into consideration.

Ms. Phillips moved, seconded by Mr. Wright, to dismiss the complaint as non-jurisdictional and to forward a copy of the complaint to the appropriate Regional Behavioral Health Authority and the Department of Health Services Office of Behavioral Health Licensure. The motion carried with Ms. Worley opposed.

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

Dr. Waterman moved, seconded by Mr. Wright, to rescind the Board's August 5, 2005, motion to license Patricia Seek as a Licensed Associate Counselor. The motion passed unanimously.

Social Work

Dr. Davis moved, seconded by Dr. Waterman, to approve ten applicants as Licensed Clinical Social Workers and seven applicants as Licensed Master Social Workers. The motion passed unanimously.

Dr. Davis moved, seconded by Dr. Waterman, to deny four applicants for social work licensure based on the applicants' failure to establish that they meet minimum licensure requirements. The motion passed unanimously.

Counseling

Dr. Waterman moved, seconded by Mr. Wright, to approve twelve applicants as Licensed Professional Counselors and sixteen applicants as Licensed Associate Counselors. The motion passed unanimously.

Dr. Waterman moved, seconded by Mr. Wright, to deny nine applicants for counseling licensure based on the applicants' failure to establish that they meet minimum licensure requirements. The motion passed unanimously.

Mr. Herrera appeared telephonically for the following motion.

Dr. Davis moved, seconded by Mr. Wright, to license Renata Inigo as a Licensed Professional Counselor. The motion passed unanimously. Dr. Waterman was recused from the vote.

Substance Abuse

Ms. Worley moved, seconded by Dr. Davis, to approve two applicants as Licensed Independent Substance Abuse Counselors and one applicant as a Licensed Associate Substance Abuse Counselor. The motion passed unanimously.

7. Report from the Chair

A. Attorney General's opinion regarding e-mail communication by a public body

Mr. Harris reported regarding the Attorney General's opinion regarding e-mail communication by members of public bodies.

B. Review of Administrative Law Judges' recommended decisions

Mr. Harris discussed the procedures for the Board to use when reviewing a recommendation made by an Administrative Law Judge.

C. Consideration of non-jurisdictional complaints being made available by public record request

Mr. Harris reported regarding Board procedures prohibiting the disclosure of complaints against non-licensed professionals pursuant to public records requests. Members agreed no change to these procedures is needed at this time.

8. Report from the Treasurer

A. Monthly financial report

Dr. Davis provided the monthly treasurer's report.

9. Report from Executive Director and/or staff.

A. General Agency Operations

Ms. Rinaudo reported that she met with Representative Knaperek, members of the Behavioral Health Professionals' Coalition and members of the Therapeutic Practitioners Alliance.

Dr. Waterman expressed concern regarding safety issues for members while attending meetings. Ms. Rinaudo reported that a security guard will be available for all meetings where security may be an issue.

B. Appointment of a subcommittee to develop reciprocity guidelines

Ms. Rinaudo reported that the agency has received a number of reciprocity applications and committees have started the process of interpreting new reciprocity rules.

Following discussion, members agreed that each discipline has its own committee specific issues and that there are no broad reciprocity issues to be considered by the Board at this time. Members agreed that each committee will address reciprocity issues based on the specific requirements of each discipline.

C. Development of a complaint triage process

Ms. Rinaudo reported regarding the complaint triage process.

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

Jackie Kahn addressed the Board on behalf of the Therapeutic Practitioners Alliance of Arizona.

14. Establishment of future meeting date(s)

The next meeting is scheduled for September 21, 2005, at 9:00 a.m., at 3443 North Central Avenue, Room 908, to review the budget and strategic planning issues.

The next regular monthly meeting is scheduled for October 7, 2005, at 8:45 a.m., at 3443 North Central Avenue, Room 908.

15. Adjournment

Dr. Waterman moved, seconded by Dr. Davis, to adjourn. The motion passed unanimously and the meeting was adjourned at 2:45 p.m.

Cedric Davis
Secretary/Treasurer

Date