



STATE OF ARIZONA  
BOARD OF BEHAVIORAL HEALTH EXAMINERS  
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JANET NAPOLITANO  
Governor

CEDRIC DAVIS  
Board Chair

DEBRA RINAUDO  
Executive Director

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BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES  
September 8, 2006

Members Present: Cedric Davis, Diane Brassea, Del Worley, Laura Waterman, Barbara Freeman  
Members Absent: Ruth Lee, Jose Herrera, Dan Wright  
Staff Present: Marc Harris, A.A.G., Christopher Munns, Solicitor Generals Office (out at 1:00 p.m.),  
Debra Rinaudo (in at 12:30), Mary Grossi, Sherry Blatner, Amy Shelton, Kami Thur,  
Mary Wilson

**1. Call to Order**

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on September 8, 2006, at 9:12 a.m. with Dr. Davis presiding.

**2. Roll Call**

See above.

**3. Review and Approval of Minutes**

Dr. Waterman moved, seconded by Ms. Worley, to approve the general meeting minutes from the August 4, 2006, meeting, as submitted. The motion passed unanimously.

**4. Administrative Hearings**

*A. 2006-0095, Thomas Sims, LAC applicant*

Mr. Sims was not present when the Board called the matter at 12:45 p.m.

Mr. Munns, Solicitor General's Office, appeared as the Board's legal advisor.

Mr. Harris, A.A.G., appeared on behalf of the state.

Dr. Davis admitted State's Exhibits 1-8 into evidence.

Following discussion, Dr Davis moved, seconded by Ms. Brassea, to adopt a finding of fact that Mr. Sims was convicted of a Class 4 felony in 1997. The motion passed unanimously.

Dr. Waterman moved, seconded by Ms. Worley, to reconsider the previous motion. The motion passed unanimously.

Ms. Worley moved, seconded by Dr. Waterman, to adopt the following findings of fact:

1. The professional was convicted of a Class 4 felony theft in 1997.
2. The professional failed to disclose a termination from Project Jericho on his LAC application.
3. The professional provided inconsistent statements to the Board during the processing of his application and the investigation of his background.

The motion passed unanimously.

Ms. Worley moved, seconded by Dr. Waterman, to adopt the following conclusions of law:

1. Mr. Sims violated A.R.S. §32-3251(12)(a), conviction of a felony, based on his 1997 felony conviction for theft of funds designated for social services clients in Denver, Colorado.

2. Mr. Sims violated A.R.S. §32-3251(12)(b), the use of fraud or deceit in establishing qualifications pursuant to this chapter, based on his failure to disclose a previous termination from Project Jericho on his LAC application.

The motion passed unanimously.

Dr. Waterman moved, seconded by Ms. Freeman, to uphold the Counseling Credentialing Committee's recommendation to deny the license based upon unprofessional conduct. The motion passed unanimously. See attached roll call.

*B. 2006-0096, Glen Spykerman, LAC applicant*

Dr. Davis reviewed the procedure for a formal hearing and introduced Board members and staff.

Mr. Spykerman appeared on his own behalf.

Mr. Munns, Solicitor General's Office, appeared as the Board's legal advisor.

Mr. Harris, A.A.G., appeared on behalf of the state.

The parties presented their opening statements.

Mr. Spykerman was sworn in and testified on his own behalf. Respondent's Exhibits A through D were admitted into evidence.

Mr. Harris cross-examined Mr. Spykerman.

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

Dr. Aumack was sworn in and testified on behalf of the Board.

State's Exhibits 1 through 11 were admitted into evidence.

The parties gave their closing arguments.

Dr. Waterman moved, seconded by Ms. Worley, to adopt the following findings of fact:

1. Mr. Spykerman submitted a Certified Associate Counselor application in February 2004
2. Mr. Spykerman set fire to his home out of anger
3. Mr. Spykerman pled no contest to domestic violence
4. While the applicant received some court ordered counseling, it did not address the conduct underlying his criminal behavior.

The motion passed unanimously.

Dr. Waterman moved, seconded by Ms. Worley, to adopt the following conclusions of law:

1. Mr. Spykerman violated A.R.S. §32-3275(7), based on the Board's previous decision to deny him a professional license for reasons related to unprofessional conduct where he failed to present meaningful evidence that the conduct that led to the unprofessional conduct had been monitored and corrected.
2. Mr. Spykerman violated A.R.S. §32-3275(6), based on Mr. Spykerman's arrest and conviction for domestic violence which would have constituted grounds for disciplinary action had he been licensed at the time the conduct occurred.

The motion passed unanimously.

*The Board took a break at 12:30 p.m., reconvening its public meeting at 12:39 p.m.*

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

*A. 2003-0052, Mary Kay Nelson, LPC-1166 and LISAC-0510*

Dr. Davis reviewed the process for reviewing recommended decisions by the Office of Administrative Hearings.

Ms. Nelson and her attorney, Ms. Rakestraw, appeared in person and addressed the Board.

Mr. Munns, Solicitor General's Office, appeared as the Board's legal advisor.

Mr. Harris, A.A.G., appeared on behalf of the State.

Ms. Rakestraw indicated that the Administrative Law Judge's recommended decision sent to Ms. Nelson was missing page 5 and that she has been unable to obtain a copy of page 5.

Mr. Harris reported he could provide a copy of page 5 from the recommended decision. The Board took a break at 9:27 a.m. for copies of page 5 to be made and distributed.

Ms. Rakestraw indicated that Ms. Nelson was willing to waive any and all rights to appeal or administrative relief if the Board adopted a modified order revoking both of her licenses and waiving the fees, costs and penalties included in the recommended decision.

Following discussion by members, Ms. Worley moved, seconded by Dr. Waterman, to accept the Findings of Fact and Conclusions of Law as recommended by the Administrative Law Judge. The motion passed unanimously.

Following further discussion, Dr. Waterman moved, seconded by Ms. Worley, to accept the Order as recommended by the Administrative Law Judge modified to delete the paragraph with regard to the assessment of fees and costs against Ms. Nelson. The motion passed unanimously. See attached roll call.

*B. 2005-0138, June Polatsek, LPC-0672*

Tabled due to a recusal that resulted in a loss of quorum.

*C. 2004-0027, Judith Fitkin, LCSW-2274*

Ms. Shelton summarized the facts of the case.

The professional and her attorney, Mr. Myers, appeared in person and addressed the Board.

Following review and discussion, Ms. Worley moved, seconded by Ms. Freeman, to dismiss the complaint. The motion passed unanimously.

*D. 2006-0059, Barbara Thompson, LISAC-10806*

Ms. Thur summarized the facts of the case.

The professional was noticed, but did not appear.

Following review and discussion, Ms. Worley moved, seconded by Ms. Freeman, to accept the Social Work Credentialing Committee's recommendation to accept the proposed consent agreement for surrender of the professional's license. The motion passed unanimously. See attached roll call vote.

*E. 2004-0009, Mary Menacker, LMFT-0135*

Ms. Grossi summarized the facts of the case.

Ms. Menacker appeared in person and addressed the Board. She requested modifications to the consent agreement regarding early release after one year and allowing her to continue to treat children as the clinical supervision is to be focused on contested court cases involving children.

The complainant addressed the Board telephonically.

Following review and discussion, Ms. Worley moved, seconded by Ms. Brassea, to offer the professional a modified consent agreement to allow her to seek early release after 12 months if all other terms and conditions of the consent agreement have been met and to delete the provision that prohibits her from working with issues involving children. The motion passed unanimously.

*F. 2004-0002, Robert Wall, LISAC-0539 and LPC-1047*

Ms. Grossi summarized the facts of the case.

Mr. Wall appeared in person and addressed the Board. He requested modifications to the consent agreement regarding early release after one year and allowing him to continue to treat children as the clinical supervision is to be focused on contested court cases involving children.

The complainant addressed the Board telephonically.

Following review and discussion, Ms. Worley moved, seconded by Dr. Waterman, to offer the professional a modified consent agreement to allow him to seek early release after 12 months if all other terms and conditions of the consent agreement have been met and to delete the provision that prohibits him from working with issues involving children. The motion passed unanimously.

*The Board took a break at 1:22 p.m., reconvening its public meeting at 1:30 p.m.*

*G. 2006-0160, Eric Putnam, LAC*

Ms. Thur summarized the facts of the case.

Mr. Putnam appeared in person and addressed the Board.

Following review and discussion, Dr. Waterman moved, seconded by Ms. Worley, to offer an amended consent agreement to allow the professional to request early release after 26 sessions of individual therapy in no less than 6 months. The motion passed unanimously. See attached roll call vote.

*H. 2003-0071, 2003-0081 and 2006-0109, Barbara Waldman, LCSW-3559*

Ms. Shelton summarized the facts of the case.

The professional was noticed, but did not appear.

Following review and discussion, Dr. Davis moved, seconded by Dr. Waterman, to accept the Social Work Credentialing Committee's recommendation to accept the proposed consent agreement. The motion passed unanimously. See attached roll call vote.

*I. 2005-0005, Kathy Radina, LPC-1404*

Ms. Blatner summarized the facts of the case.

The professional was noticed, but did not appear.

Following discussion by members, Dr. Davis moved, seconded by Ms. Brassea, to accept the Marriage and Family Therapy Credentialing Committee's recommendation to dismiss the complaint. The motion passed unanimously.

*J. 2005-0007, Nancy Koller, LPC-1487*

Ms. Blatner summarized the facts of the case.

The professional was noticed, but did not appear.

Following discussion by members, Ms. Worley moved, seconded by Dr. Waterman, to accept the Marriage and Family Therapy Credentialing Committee's recommendation to dismiss the complaint. The motion passed unanimously.

*K. 2004-0007, Sherry Burk, LPC-1730*

Mr. Harris summarized the facts of the case.

Ms. Burk and her attorney, Mr. Gaffney, appeared in person and addressed the Board.

The complainant was present, but did not address the Board.

Mr. Harris reported that the Board's July motion to offer the professional a consent agreement for the issuance of a LAC is problematic legally. He recommended that the Board rescind its previous motion and offer a modified agreement that restricts the professional's practice to that of a LAC.

Following review and discussion, Dr. Davis moved, seconded by Ms. Worley, to rescind the Board's July motion to offer a consent agreement for the issuance of a LAC. The motion passed unanimously.

Following further discussion, Dr. Davis moved, seconded by Dr. Waterman, to direct staff to negotiate a consent agreement that restricts the scope of practice of the professional's LPC to match the restrictions of an LAC. The motion passed unanimously.

*L. 2003-0049, Marlene Joy, LPC-0321*

Ms. Grossi summarized the facts of the case.

The professional was noticed, but did not appear.

Following discussion by members, Ms. Brassea moved, seconded by Ms. Worley, to accept the Marriage and Family Therapy Credentialing Committee's recommendation to dismiss the complaint. The motion passed unanimously.

*M. 2006-0112, Daniel Huyser, LPC-12345*

Ms. Blatner summarized the facts of the case.

The professional appeared in person and addressed the Board.

Following review and discussion, Dr. Waterman moved, seconded by Ms. Worley, to release the professional from the terms of the consent agreement. The motion passed unanimously.

*N. NJ06-0017, Sandy Lennon*

Ms. Rinaudo summarized the facts of the case.

Ms. Worley moved, seconded by Ms. Brassea, to dismiss the complaint as non-jurisdictional. The motion passed unanimously.

*O. NJ06-0011, Lori Deen*

Ms. Rinaudo summarized the facts of the case.

Ms. Deen did not respond to the Board's request for information regarding allegations that she represented herself as a LCSW to her former employer and others.

Dr. Waterman moved, seconded by Ms. Worley, to dismiss the complaint as non-jurisdictional and issue a cease and desist order prohibiting Ms. Deen from representing herself as a licensed behavioral health professional. The motion passed unanimously.

*P. NJ07-0001, Price Murillo*

Ms. Rinaudo summarized the facts of the case.

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

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

### *Social Work*

Dr. Davis moved, seconded by Ms. Brassea, to approve eight applicants as Licensed Clinical Social Workers and fourteen applicants as Licensed Master Social Workers. The motion passed unanimously.

Dr. Davis moved, seconded by Dr. Waterman, to deny two applicants for social work licensure based on the applicants' failure to pass the required exam and one applicant based on not meeting minimum licensure requirements in education and/or supervised work experience. The motion passed unanimously.

### *Counseling*

Dr. Waterman moved, seconded by Ms. Brassea, to approve seven applicants as Licensed Professional Counselors and sixteen applicants as Licensed Associate Counselors. The motion passed unanimously.

Dr. Waterman moved, seconded by Ms. Brassea, to deny ten applicants for counseling licensure based on their failure to establish that they meet minimum licensure requirements in education and/or supervised work experience. The motion passed unanimously.

*Substance Abuse*

Ms. Worley moved, seconded by Ms. Brassea, to approve six applicants as Licensed Associate Substance Abuse Counselors. The motion passed unanimously.

*Marriage & Family Therapy*

Dr. Davis moved, seconded by Dr. Waterman, to approve one applicant as a Licensed Associate Marriage and Family Therapist. The motion passed unanimously.

Dr. Davis moved, seconded by Ms. Worley, to deny three applicants for marriage and family therapy licensure based on their failure to establish that they meet minimum requirements in education and/or supervised work experience. The motion passed unanimously.

**7. Report from the Chair**

No report

**8. Report from the Treasurer**

*A. Monthly financial report*

Dr. Waterman summarized the monthly financial report.

*B. Review, consideration and action regarding approval of the FY08-09 budget proposal*

Ms. Rinaudo reviewed the budget proposal that will be submitted by October 1, 2006.

Following review and discussion, Ms. Worley moved, seconded by Ms. Freeman, to approve the proposed budget request for FY08 and FY09. The motion passed unanimously.

Ms. Rinaudo asked members to note that this meeting was the time scheduled for review and approval of the Board's FY08-09 budget proposal and that all members were given the opportunity to raise any issues or concerns with the proposed budget. Having heard no issues or concerns, staff will now submit the budget proposal reviewed and approved by the Board.

*C. Review, consideration and action regarding approval of the FY07 strategic plan*

Members reviewed the FY07 strategic plan as developed by the Personnel Subcommittee. Objective A(8) was modified to read, 'To continuously disseminate information of potential interest to customers within two business days of receipt.' The related performance measure was modified to read, 'Percent of received information disseminated within 2 business days.'

Dr. Waterman moved, seconded by Ms. Freeman, to adopt the FY07 strategic plan as amended. The motion passed unanimously.

**9. Report from Executive Director and/or staff.**

*A. General Agency Operations*

No report.

*B. Review, consideration and action regarding development of a procedure to implement the requirements of A.R.S. §32-3210*

Mr. Harris reviewed suggested language to be added to the Board's renewal application in order to comply with statutory changes to A.R.S. §32-3210.

*C. Review, consideration and action regarding development of a policy for processing files of professionals who allow their license to expire prior to completion of the stipulations of a consent agreement*

Mr. Harris reviewed appropriate procedures to be implemented where a professional fails to renew a license while he or she is still subject to a consent agreement. The Board retains jurisdiction if it has a complaint pending against the professional. If there is no pending complaint, Mr. Harris recommended that the file be closed based on the lack of jurisdiction over a professional who has allowed a license to lapse. The Board's records in such cases will clearly note that the professional failed to comply with the terms of a consent agreement or Board Order.

Members agreed to the procedures Mr. Harris recommended.

**10. Committee Reports.**

None

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

None

**12. Future agenda items**

Member attendance policy

Consent agenda procedure

**13. Call for public comment**

None

**14. Establishment of future meeting date(s)**

The next meeting is scheduled for October 6, 2006, at 9:00 a.m., at 3443 North Central Avenue, Room 908.

**15. Adjournment**

Dr. Waterman moved, seconded by Ms. Freeman, to adjourn. The motion passed unanimously and the meeting was adjourned at 3:45 p.m.

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Laura Waterman  
Secretary/Treasurer

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Date