



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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JANET NAPOLITANO
Governor

CEDRIC DAVIS
Board Chair

DEBRA RINAUDO
Executive Director

BOARD OF BEHAVIORAL HEALTH EXAMINERS MEETING MINUTES
February 1, 2008

Members Present: Cedric Davis, Jose Herrera, Julian Pickens, Diane Brassea, Laura de Blank, Robert Evans

Members Absent: Kahryn Nix, Ruth Lee

Staff Present: Debra Rinaudo, Marc Harris, A.A.G., Christopher Munns, Solicitor General's Office, Sherry Blatner, Kami Thur, Sheila Perry-Johnson, Lynanne Chapman, Patricia Reynolds, Mary Wilson, Elma Brambila

1. Call to Order

The meeting of the Arizona Board of Behavioral Health Examiners was called to order on February 1, 2008, at 9:10 a.m. with Dr. Davis presiding.

2. Roll Call

See above.

3. Minutes: review, consideration and action

Dr. Pickens moved, seconded by Ms. Brassea, to approve the general meeting minutes from January 4, 2008, as submitted. The motion passed unanimously. Mr. Evans abstained from the vote.

Dr. Pickens moved, seconded by Ms. de Blank, to approve the executive session minutes from January 4, 2008 as amended. The motion passed unanimously. Mr. Evans abstained from the vote.

4. Consent Agenda: review, consideration and action

A. 2004-0042, Carol Galanos, LPC-0157

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

B. 2008-0031, Jeffrey Jensen, LCSW applicant

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

C. 2008-0048, Amy Kisner, LMSW applicant

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to dismiss the complaint and issue a letter of concern.

D. 2005-0110, Julio Landero, LISAC-1697

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

E. 2008-0053, Debra Luster, LPC-2478 and LISAC-0831

Review, consideration and action regarding the Counseling Credentialing Committee's recommendation to dismiss the complaint and issue a letter of concern.

F. 2004-0009, Mary Menacker, LMFT-0135

Review, consideration and action regarding the professional's request for release from the consent agreement.

G. 2005-0072, Valerie Parker-Vail, LISAC-10570

Review, consideration and action regarding the Substance Abuse Credentialing Committee's recommendation to dismiss the complaint and issue a letter of concern.

H. 2007-0058, Donna Schmidt, LPC-12511

Review, consideration and action regarding the professional's request for release from the consent agreement.

I. 2005-0144, Marjorie Schulte, LCSW-0820

Review, consideration and action regarding the Social Work Credentialing Committee's recommendation to dismiss the complaint and issue a letter of concern.

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

Review, consideration and action regarding the professional's request for release from the consent agreement.

Mr. Evans moved, seconded by Mr. Herrera, to approve the consent agreement items A through J. The motion passed unanimously. See attached roll call.

5. Administrative Hearings

A. 2007-0159, Balazs Batyka, LISAC-10370 and LCSW-10631

Dr. Davis reviewed the procedures for conducting a formal administrative hearing and introduced Board members and staff.

The professional was properly noticed, but did not appear.

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

Patricia Reynolds, Deputy Director, was sworn and testified on behalf of the State.

State's Exhibits 1 through 20 were admitted into evidence.

Respondent's Exhibit A was admitted into evidence.

Mr. Harris, A.A.G., made a closing argument.

Following discussion by members, Dr. Davis moved, seconded by Ms. Brassea, to adopt Factual Allegations 1 through 21 from the Notice of Hearing as Findings of Fact and to adopt Charges 1 through 17 from the Notice of Hearing as Conclusions of Law. The motion passed unanimously.

Following further discussion, Dr. Davis moved, seconded by Ms. Brassea, to issue an order revoking the professional's license, to charge the professional the Board's investigation costs, and to impose a civil penalty in the amount of one thousand dollars. The motion passed unanimously. See attached roll call.

B. 2008-0001, John Zegar, LISAC-10658

Dr. Davis reviewed the procedures for conducting a formal administrative hearing and introduced Board members and staff.

The professional was properly noticed, but did not appear.

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

Patricia Reynolds, Deputy Director, was sworn and testified on behalf of the State.

One of Mr. Zegar's former clients, DS* was sworn and testified.

Dr. Pickens moved, seconded by Mr. Evans, to go into Executive Session for the purpose of reviewing medical information exempt from public inspection pursuant to A.R.S. §38-431.03(A)(2). The motion passed unanimously and the Board went into Executive Session at 9:43 a.m., reconvening its public meeting at 9:46 a.m.

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

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

Respondent's Exhibit A was admitted into evidence.

Mr. Harris, A.A.G., made a closing argument.

Following discussion by members, Mr. Evans moved, seconded by Ms. Brassea, to adopt preliminary Findings of Fact 1-7 from the Notice of Public Emergency as Findings of Fact and to adopt preliminary Conclusions of Law 1-8 from the Notice of Public Emergency as Conclusions of Law. The motion passed unanimously.

Following further discussion, Dr. Davis moved, seconded by Mr. Herrera, to issue an order revoking the professional's license, to charge the professional the Board's investigation costs, and to impose a civil penalty in the amount of one thousand dollars. The motion passed unanimously. See attached roll call.

The Board took a break at 10:50 a.m., reconvening its public meeting at 11:04 a.m.

6. Formal Interviews

None

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

A. William Riedel, LPC-10358

Ms. Reynolds summarized the facts of the case.

The professional was properly noticed, but did not appear.

Following review and discussion by members, Dr. Davis moved, seconded by Mr. Evans, to open a complaint and to adopt the proposed order summarily suspending the professional's license. The motion passed unanimously. See attached roll call.

B. Kelly Finn, LISAC-10886

Ms. Blatner summarized the facts of the self-report of recent substance abuse and results of the investigation.

Mr. Finn and his supervisor, Ms. Scholten, appeared in person and addressed the Board.

Following review and discussion by members, Dr. Davis moved, seconded by Ms. de Blank, to open a complaint and to find violations of the following:

- A.R.S. §32-3251(12)(g), using a controlled substance that is not prescribed for use during a prescribed course of treatment
- A.R.S. §32-3251(12)(l), any, conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession

and, to accept a consent agreement that stipulates the following:

- The license will be placed on probation for a minimum of 12 months
- Evaluation by a pre-approved addictionologist
- Substance abuse treatment and development of a relapse prevention program by Beverly Price
- Clinical supervision by a pre-approved supervisor
- Clinical supervisor and 12-step sponsor will submit quarterly reports
- Attend 12-step program a minimum of 3 times a week
- Random bodily fluid testing at least twice weekly

and, if the professional does not sign the consent agreement by Monday, to summarily suspend the license. The motion passed unanimously. See attached roll call.

C. 2005-0102, Christy Graham, LCSW-2721

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

The professional appeared and addressed the Board.

Following review and discussion by members, Dr. Davis moved, seconded by Ms. Brassea, to direct staff to re-offer the consent agreement and, if not signed, to invite the professional to participate in a formal interview and, if not accepted, to remand the case to formal hearing. The motion passed unanimously. See attached roll call.

D. 2008-0008, Cachora Standifer, LISAC-11774

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

The professional was properly noticed, but did not appear.

Following review and discussion by members, Dr. Davis moved, seconded by Mr. Evans, to accept the signed consent agreement. The motion passed unanimously. See attached roll call.

The Board took a break at 12:25 p.m., reconvening its public meeting at 12:30 p.m.

8. Applications for licensure: review, consideration and action

Social Work

Dr. Davis moved, seconded by Ms. Brassea, to approve 7 applicants as Licensed Clinical Social Workers and 8 applicants as Licensed Master Social Workers. The motion passed unanimously.

Dr. Davis moved, seconded by Ms. de Blank, to approve 1 applicant as a Licensed Clinical Social Worker. The motion passed unanimously.

Dr. Davis moved, seconded by Ms. Brassea, to deny 5 applicants for social work licensure based on failure to pass the required exam, 1 applicant based on a finding of unprofessional conduct and 1 applicant based on a finding of unprofessional conduct and failure to establish meeting minimum requirements in education and/or work experience. The motion passed unanimously.

Counseling

Ms. de Blank moved, seconded by Mr. Evans, to approve 1 applicant as a Licensed Associate Counselor. The motion passed unanimously.

Substance Abuse

Mr. Evans moved, seconded by Ms. Brassea, to approve 1 applicant as a Licensed Independent Substance Abuse Counselor, 4 applicants as Licensed Associate Substance Abuse Counselors and 1 applicant as a Licensed Substance Abuse Technician. The motion passed unanimously.

Mr. Evans moved, seconded by Ms. Brassea, to deny 3 applicants based on failure to establish that they meet minimum requirements in education and/or supervised work experience and 2 applicants based on not passing the required exam. The motion passed unanimously.

Marriage & Family Therapy

Dr. Pickens moved, seconded by Ms. Brassea, to approve 1 applicant as a Licensed Marriage & Family Therapist. The motion passed unanimously.

9. Report from Chair.

A. Chair report

No report.

B. Member reports

No report.

C. Discussion regarding disclosure of confidential records pursuant to A.R.S. §32-3206

Tabled

D. Review regarding investigative materials

Members reviewed Board processes regarding investigative materials sent to members. The consensus of the Board was to continue with the current processes.

E. Adoption of a resolution regarding proposed fee increase

Ms. Rinaudo reported regarding the timing of increased Board fees requested by the professional associations.

Mr. LeGendre indicated that the Marriage & Family Therapy Association is in support of the fee increase because the proposed reduction of continuing education required to 30 hours will help members cover the increased license fee.

Dr. Davis moved, seconded by Mr. Evans, to seek a rules change reducing the Board's continuing education requirement from 40 to 30 hours if HB2325 passes. The motion passed unanimously.

Dr. Pickens moved, seconded by Mr. Evans, to adopt the resolution as presented. The motion carried with Mr. Herrera opposed.

Mr. Herrera explained that he opposed limiting the fee increase as requested by AzNASW where the Board has not increased its fees for eighteen years and where such limits will have significant negative effects for the near future on the Board's ability to provide services.

10. Report from Treasurer

A. Monthly financial report

Ms. Rinaudo reported regarding the monthly financial report.

Dr. Pickens moved, seconded by Mr. Herrera, to accept the monthly financial reports for November and December as presented. The motion passed unanimously.

11. Report from the Executive Director and/or staff

A. General Agency Operations

No report.

B. Discussion regarding member attendance

Ms. Rinaudo reported regarding the negative effects created by recent cancellations of public meetings because of a loss of quorum.

C. Draft legislation for 2008 legislative session

Ms. Rinaudo reported regarding the proposed legislation.

Dr. Davis moved, seconded by Dr. Pickens, to support the amendment to HB2325 proposed by the Behavioral Health Professional's Coalition. The motion passed unanimously.

Dr. Davis moved, seconded by Mr. Evans, to support the amendment to HB2325 modifying the timing of implementation of a confidential impaired professionals program,. The motion passed unanimously.

D. Review of Sunset Hearing report

Ms. Rinaudo reported regarding the Sunset Hearing report and distributed copies of SB1286.

E. On-line courses

Following discussion, members agreed that on-line courses can be accepted as a condition of a consent agreement unless prohibited by the terms of the consent agreement.

F. Substantive Policy Statements

Ms. Rinaudo reviewed two draft substantive policy statements developed by the reciprocity workgroup.

Ms. de Blank moved, seconded by Dr. Pickens, to adopt Substantive Policy Statement 2008-0002. The motion passed unanimously.

Ms. de Blank moved, seconded by Mr. Evans, to adopt Substantive Policy Statement 2008-0003. The motion passed unanimously.

G. Website Grant

Ms. Rinaudo reported that Ms. Ahumada has offered to attempt to acquire grant money to help fund improvements to the Board's website.

Following discussion, members agreed that Ms. Ahumada may pursue grant money to fund improvements to the Board's website.

12. Committee reports

None

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

None

14. Future agenda items

None

15. Call for public comment

None

16. Establishment of future meeting dates

The next meeting is scheduled for February 29, 2008, at 9:00 a.m., at 3443 North Central Avenue, Room 908.

17. Adjournment

Mr. Evans moved, seconded by Ms. Brassea, to adjourn. The motion passed unanimously and the meeting was adjourned at 3:10 p.m.

Julian Pickens
Secretary/Treasurer

Date