



STATE OF ARIZONA
BOARD OF BEHAVIORAL HEALTH EXAMINERS
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DOUGLAS A. DUCEY
Governor

TOBI ZAVALA
Executive Director

May 29, 2020

Ashley Ware
[REDACTED]
[REDACTED]

Dear Ms. Ware:

On May 8, 2020, the Arizona Board of Behavioral Health Examiners ("Board") reviewed your application for licensure as a licensed master social worker and determined that you are not eligible for licensure pursuant to A.R.S. § 32-3275(A)(6). Specifically, the Board found that you engaged in conduct that had you been licensed would have constituted grounds for disciplinary action. The Board determined that the disciplinary action invoked the following violations that were based upon the conduct referenced thereafter:

1. A.R.S. § 32-3251(16)(f), engaging in active habitual intemperance in the use of alcohol or active habitual substance abuse.
2. A.R.S. § 32-3251(16)(l), engaging in any conduct, practice or condition that impairs the ability of the licensee to safely and competently practice the licensee's profession.

These violations were based on the following findings:

1. From 2011 – 2018, Ashley Ware ("Applicant") has been arrested and charged for several criminal offenses, which include:
 - a. 11/14/11 – Possession of Marijuana.
 - b. 08/15/12 – Driving without a License, Improper Passing, No seatbelt, No insurance.
 - c. 08/31/12 – Driving under a Suspended License, No Insurance, Following Too Closely.
 - d. 10/08/14 – Possession of Drug Paraphernalia, Driving under Suspended License, Speeding.
 - e. 03/21/16 – Trespassing and Assault.
 - f. 09/10/18 – Shoplifting.
2. From 01/18 – 01/19, Applicant worked at a children's hospital ("Hospital") as a Behavioral Health Technician.
3. Applicant's personnel records from Hospital indicated the following:
 - a. Upon hire, Applicant signed a New Employee Policy, which indicated Hospital was a drug free workplace.
 - b. In 12/18, a co-worker noticed the smell of marijuana in the room where Applicant was doing vitals on a patient.
 - c. When Applicant left the room, the co-worker noticed the smell as Applicant walked by and that the smell was no longer in the room as she left.
 - d. Applicant was issued a controlled substance test based on reasonable suspicion.
 - e. Applicant's test was positive for marijuana and cotinine.

- f. On 01/10/19, Applicant was involuntarily terminated for unsatisfactory performance and a violation of the drug and alcohol policy.
4. From 05/19 – 11/19, Applicant worked for a behavioral health agency (“Agency”) as a Behavioral Health Technician.
5. Applicant’s personnel records from Agency indicated the following:
 - a. Upon hire, Applicant signed the Employee Acknowledgement of Policy & Procedure Manual, which indicated:
 - The use, sale, purchase, possession, or dispensing of illegal drugs on Agency property while on or off duty is against policy and is prohibited.
 - Reporting to work or working under the influence of drugs (legal or illegal) is prohibited and cause for immediate termination.
 - It is also against Agency policy for any employee to report to work or work with the presence of illegal drugs or the metabolite of illegal drugs in the employee’s body.
 - b. In 11/19, the Operations Lead reported that Applicant smelled very strongly like marijuana.
 - c. Two other staff members reported smelling marijuana in the crisis office and no patients had been back to that part of the office that morning.
 - d. The RN Supervisor told Applicant that she needed to submit to a drug test due to a strong odor of marijuana.
 - e. Applicant admitted that a drug test would be positive.
 - f. Applicant was required to provide a urine specimen based on reasonable suspicion/cause.
 - g. Applicant’s test was positive for marijuana.
 - h. On 11/19/19, Applicant was involuntarily terminated due to testing positive for illegal substances.
6. During Board staff’s interview with Applicant’s manager from Hospital, the following information was provided:
 - a. Applicant would sometimes have to work with patients with drug and substance abuse issues.
 - b. Even if Applicant had a valid marijuana card, she would have potentially been terminated due to the concerns brought forth and the fact that employees cannot be impaired at work.
7. During Board staff’s interview with Applicant’s human resources generalist from Agency, the following information was provided:
 - a. Applicant would definitely have been working with clients with drug and substance abuse issues.
 - b. Even if Applicant had a valid medical marijuana card, she would have still been terminated as other employees had concerns with her behaviors that she was using marijuana at work.
8. During Board staff’s interview with Applicant, she relayed the following:
 - a. Applicant’s medical marijuana card was good for a year before it expired and needed to be renewed, but Applicant did not renew it due to financial reasons.
 - b. Applicant continued to use marijuana after her card expired and is still using it.
 - c. When Applicant had her medical marijuana card she would purchase 1oz. of marijuana weekly from a dispensary, but after her card expired she would purchase marijuana from people she knew who still had valid medical marijuana cards.
 - d. On Applicant’s days off, “I’d pretty much medicate all day.”
 - e. Applicant’s medical marijuana card is still currently expired but she admits that she is still using marijuana and plans to continue to use it.
 - f. Applicant denies that she has a substance abuse problem and states, “The DSM would say I do, but no.”
 - g. Applicant understood that her medical marijuana card had expired and that her workplace had a policy against drug use without a valid card, but Applicant continued to use marijuana despite this because, “It helps me, I don’t have any other reason than to say it helps me.”
 - h. When asked what she has learned from [her past criminal] experiences, Applicant responded, “Um, that, I don’t know, to be more responsible I guess, I don’t know.”

9. In conclusion:

- a. Applicant has an extensive criminal history, which includes several charges related to marijuana.
- b. In 01/19, Applicant was terminated from her employment when she tested positive for marijuana in the workplace after her colleagues suspected marijuana use.
- c. Months later, in 11/19, Applicant was again terminated from another behavioral health employment when she tested positive for marijuana in the workplace after her colleagues suspected marijuana use.
- d. During her investigative interview:
 - Applicant acknowledged being aware of her employers' policies prohibiting drug use, yet continued to use marijuana.
 - Applicant acknowledged that she still uses marijuana and plans to continue using it.
- e. Despite her extensive criminal history and employment terminations relating to the use of marijuana, Applicant denies having a substance abuse problem although recognizes that the DMS would say she does.

Pursuant to A.R.S. § 41.1092.03 (B), you may request a formal hearing by notifying the Board, in writing, within 35 days from the date of this letter. The hearing will be held within 60 days after the Board receives your request. (A.R.S. § 41-1092.05)(A)) At the hearing, you will have the burden of proof to demonstrate that you are qualified for licensure regarding the matters set forth above. The Office of the Attorney General will represent the State of Arizona at the hearing. In addition, if you request a hearing, you have the right to request a settlement conference. (A.R.S. § 41-1092.06) Please note that if you do not request a hearing by the close of business on **July 3, 2020**, your file will be closed without recourse to appeal. If you desire licensure in the future you will be required to submit a new application and fee. Please be further advised that pursuant to the Board's licensure statutes only persons holding licenses to practice behavioral health may do so unless they are exempt from licensure pursuant to A.R.S. § 32-3271.

Notice to Licensure Applicant:

Pursuant to A.R.S. § 41-1093.01, an agency shall limit all occupational regulations to regulations that are demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern. Pursuant to A.R.S. § 41-1093.02 and A.R.S. § 41-1093.03, you have the right to petition this agency to repeal or modify the occupational regulation or bring an action in a court of general jurisdiction to challenge the occupational regulation and to ensure compliance with A.R.S. § 41-1093.01.

If you have any questions, I can be reached at (602) 542-1617.

Sincerely,



Tobi Zavala
Executive Director