



STATE OF ARIZONA
BOARD OF PSYCHOLOGIST EXAMINERS
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DOUGLAS A. DUCEY
Governor

HEIDI HERBST PAAKONEN
Executive Director

Committee on Behavior Analysts

MINUTES OF TELEPHONIC MEETING

February 5, 2020
Scheduled at 9:30 a.m.

1740 W Adams Street
Conference Room B (1st Floor)
Phoenix, AZ 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners Committee on Behavior Analysts was called to order by Chairman Davidson at 9:30 a.m.

2. ROLL CALL

Committee Members Participating by Telephone

Daniel Davidson, Ph.D., BCBA-D - Chair
Diana Davis-Wilson, DBH, BCBA
Paige Raetz, Ph.D., BCBA-D
Donald Stenhoff, Ph.D., BCBA-D

Committee Members Absent

Bryan Davey, Ph.D., BCBA-D

Staff Present

Heidi Herbst Paakkonen, Executive Director
Kathy Fowkes – Licensing Specialist

Assistant Attorney General Present

Jeanne Galvin, Esq.

A quorum of members was established.

3. CALL TO THE PUBLIC

There were no requests to address the Committee.

4. APPROVAL OF MINUTES

January 6, 2020 - Regular Session

MOTION: Dr. Raetz moved to approve the minutes. Dr. Stenhoff seconded the motion and offered a friendly amendment that agenda item #4 needs to reflect that the applicants listed at 3, 6, 7 and 8 should indicate they were previously, and not currently, his students. Dr. Raetz agreed to modify her motion accordingly.

VOICE VOTE: The motion carried by a vote of 4-0.

January 6, 2020 - Executive Session

MOTION: Dr. Stenhoff moved to approve the minutes as drafted. Dr. Davis-Wilson seconded the motion.

VOICE VOTE: The motion carried by a vote of 4-0.

5. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RECOMMENDATION TO THE BOARD PERTAINING TO APPROVAL OF BEHAVIOR ANALYST APPLICANTS

A. Behavior Analyst Application for Licensure

1) Amy-Lee Schanck, M.Ed.

Dr. Davis-Wilson stated that she is recused from review of the application. Dr. Stenhoff stated he was previously the applicant's instructor but he can review the application without bias. The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

2) Brandi Nichole Dufek, M.Ed.

Dr. Davidson recused from consideration of the application as he previously served as one of the applicant's supervisors. Dr. Davis-Wilson summarized the contents of the application, noting the disclosure made relative to criminal charges and the ensuing sentencing terms that have been addressed. The applicant also disclosed she was named in a lawsuit by a former employer that appears to have been resolved, although the facts surrounding this matter are unclear. Dr. Davis-Wilson noted that the applicant's description of the events leading to the criminal charge were inconsistent to those described by the police. She also raised some questions concerning the supervision documentation submitted in that one of the supervisors indicated she did not directly observe some of the applicant's activities. The Committee members noted the questions raised during the discussion would be best addressed through an interview with the applicant, and that could be accomplished by phone at a future meeting.

MOTION: Dr. Davis-Wilson moved to table the application and invite the applicant for an interview with the Committee on Behavior Analysts. Dr. Raetz seconded the motion.

VOICE VOTE: The motion carried by a vote of 3-0.

3) Charissa L. Devlin, M.Ed.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

4) Cristina M. Fauste, M.A.

Dr. Raetz disclosed that she and the applicant work for the same organization but do not work together and therefore she can consider the application without bias. The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

5) Eric Sam Harris, M.Ed.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

6) Gabriela Rothleutner, M.S.

Dr. Stenhoff disclosed that he was previously an instructor of the applicant but that he can review the application without bias. Dr. Davis-Wilson disclosed that she has exchanged professional correspondence with the applicant's supervisor but can review the matter without bias. Dr. Davidson disclosed he was previously an instructor for the applicant's supervisor. Ms. Rothleutner was present by phone for the consideration of her application. Ms. Fowkes advised the Committee that it is necessary to revisit Ms. Rothleutner's application given new information submitted following the Committee and Board review and action. She reminded the Committee that on January 6, 2020 the members reviewed the application and recommended licensure be granted by the Board. The Board concurred and on January 10, 2020 approved a motion to grant licensure. However, that same day Ms. Rothleutner reported to Ms. Fowkes via electronic mail that one of her supervisors, Corrina Ndolo, appeared to have not been licensed during a portion of the period during which she supplied supervision. Ms. Fowkes investigated Ms. Ndolo's license history in the database and found that there was a period of expired licensure from September 1, 2019 to October 29, 2019. Ms. Fowkes explained that since the report of this matter, the applicant has supplied documentation of having acquired additional supervision hours in excess of those that are in question. Ms. Fowkes indicated that she asked Ms. Rothleutner at what point in time did she become aware of the status of Ms. Ndolo's expired license. Ms. Rothleutner responded that she had awareness of that status after applying but wasn't certain that Ms. Ndolo would actually follow through with completing and submitting a supervision report on her behalf for her application. Ms. Galvin advised the Committee that she directed staff to inquire if the applicant knew of this with the filing of her application. Ms. Rothleutner explained she made attempts to contact Ms. Ndolo via email to submit her forms but didn't receive responses; she was therefore unaware whether Ms. Ndolo would actually follow through and submit the form, or whether instead meeting the required hours of supervision would be accomplished with the other supervision reports. She affirmed that because she was confident she had well in excess of the required 1,500 hours collectively, she wasn't concerned about whether Ms.

Ndolo submitted her hours of supervision. She reiterated that she didn't expect Ms. Ndolo would actually follow through with submitting the hours, but if she did, the issue with the expired license would be apparent. The Committee members questioned whether the applicant is admitting to knowing of the problem, but chose to not report this to the Board until after action was taken on the application. Dr. Davis-Wilson reminded the Committee that behavior analysts working in a school setting are exempted from licensure, and this sometimes has implications for supervision; some applicants assume this exemption – applicable to their supervisor – “covers” them. She advised that had this fact been caught by the Committee during the January 6, 2020 review of the application, additional hours would have been requested by the Committee at that time from the applicant. Dr. Davis-Wilson stated that the supervision system and process has revealed some faults and shortcomings that ideally need to be addressed and corrected. The members discussed that the facts suggest the applicant reported her concern in a timely fashion relative to the lack of timely responses from her supervisor, and acknowledged the fact that her application very quickly became administratively complete with the submission of the required number of hours of supervision. Ms. Galvin suggested that given the history of the matter, the Committee consider a motion to rescind the previous motion recommending licensure, and to subsequently perform a review of the application materials and adopt a new motion accordingly.

MOTION: Dr. Davis-Wilson moved to rescind the Committee recommendation of January 6, 2020. Dr. Raetz seconded the motion.

VOICE VOTE: The motion carried by a vote of 4-0.

MOTION: Davis-Wilson moved to recommend the application for licensure to the full Board for approval. Dr. Stenhoff seconded the motion.

VOICE VOTE: The motion carried by a vote of 4-0.

The Committee stated for the record that until the Board grants the license, the applicant needs to refrain from independent practice.

7) Holland Faith Thompson, M.Ed.

Dr. Raetz disclosed they work for the same organization but do not work together and therefore she can consider the application without bias. The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

8) Jennifer Santoemma, M.Ed.

Dr. Davis-Wilson advised she is recused from consideration of this application. Dr. Stenhoff and Dr. Davidson disclosed they were former instructors of the applicant but both stated they can consider the application without bias. The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

9) Julie S. Martin, M.A.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

10) Kathryn Lynn Sacco, M.S.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

11) Kelsey Lee Anderson, M.S.

Dr. Davidson disclosed they once worked in the same organization for a brief period but they had no interaction and therefore he can consider the application without bias. The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

12) Kirsten Elizabeth Murphy, M.Ed.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

13) Lauren Daily, M.A.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

14) Liam O. Hagarty, M.S.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

15) Megan Bluemke, M.A.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

16) Nicole Rogers, M.S.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

17) Stephanie Jane Miller, M.Ed.

The Committee proceeded with a substantive review of the application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to grant the license.

MOTION: Dr. Stenhoff moved to recommend all applicants with the exception of Brandi Nichole Dufek, M.Ed. be forwarded to the full Board with a recommendation to grant licensure, and to direct staff to invite Ms. Dufek to an interview before the Committee. Dr. Raetz seconded the motion.

VOICE VOTE: The motion carried on a vote of 4-0.

**6. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING
RECOMMENDATION TO OPEN A COMPLAINT CONCERNING CORINNA NDOLO, M.Ed.
(BEH-000174)**

Dr. Davidson disclosed he was one of the licensee's instructors and oversaw the courses she completed, but that he can review this matter objectively and without bias. Dr. Davis-Wilson disclosed she was formerly a student with the licensee in the same program but they did not have any interaction such that would create a bias. She further disclosed that they currently have a limited professional relationship but she is able to review this matter objectively.

Ms. Fowkes summarized the matter, noting that Ms. Ndolo verified with Ms. Gabriela Rothleutner's application materials, and also to the BACB, that she provided up to 260 hours of supervision for Ms. Rothleutner from September 1, 2018 to October 29, 2018 during which time she was unlicensed. This would mean that she was unlawfully practicing as a behavior analyst in Arizona during that period of time. Ms. Fowkes noted she submitted the BACB Final Verification Form to the Board, and did not indicate in the accompanying correspondence that she was unlicensed during that period of time. Additionally, Ms. Ndolo submitted with her renewal/reinstatement form a notarized affidavit that states, "I swear that I have not practiced as a behavior analyst in Arizona since August 31, 2018." Finally Ms. Fowkes noted Ms. Ndolo did not provide an address change as per required by R4-26-413(A). She concluded that Ms. Ndolo has never disclosed to the Board that she provided supervision to an individual applying for licensure as a behavior analyst during a period when she did not have a license.

The Committee members questioned whether the licensure exemption for school-based behavior analysts applies to this case, but concurred that the fact that Ndolo signed the affidavit affirming she did not practice while unlicensed is problematic.

The members discussed whether enough information has been presented to warrant recommending opening a complaint for investigation.

MOTION: Dr. Davis-Wilson moved to open a complaint under the following jurisdiction:

- A.R.S. § 32-2091(12), Unprofessional Conduct, at (m), using fraud, misrepresentation or deception to obtain or attempt to obtain a behavior analysis license;
- A.R.S. § 32-2091(12), Unprofessional Conduct at (dd), violating an ethical standard adopted by the board;
- A.R.S. § 32-2091.12(A), it is a class 2 misdemeanor for a person who is not licensed pursuant to this article to engage in the practice of behavior analysis;

- A.R.S. § 32-2091.12(B)(1), it is a class 2 misdemeanor for any person to secure a license to practice pursuant to this article by fraud or deceit;
- A.R.S. § 32-2091.12(C), it is a class 2 misdemeanor for a person who is not licensed pursuant to this article to use any combination of words, initials and symbols that leads the public to believe the person is licensed to practice behavior analysis in this state; and
- A.A.C. R4-26-413(A), the Board shall communicate with a licensee using the contact information provided to the Board. To ensure timely communication from the Board, a licensee shall notify the Board, in writing, within 30 days of any change of name, mailing address, e-mail address, or residential or business telephone number.

Dr. Stenhoff seconded the motion.

VOICE VOTE: The motion carried by a vote of 4-0.

7. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING POSTING OF A COURTESY NOTICE TO THE PUBLIC CONCERNING EVENTS ATTENDED BY COMMITTEE MEMBERS

Ms. Herbst Paakkonen stated this matter was placed on the agenda as the Committee members may not have had the benefit of participating in Arizona Open Meeting Law as it relates to a gathering of a quorum or a possible quorum of members of the same public body. She noted that A.R.S. §38-431(4) defines a “meeting” as a gathering of a quorum of a public body at which members discuss, propose or take legal action, including any deliberations by a quorum with respect to that action. She advised it is a best practice to post a “courtesy notice” announcing that members of a public body are attending an event and advising that a quorum might be present; such notice should also state that no business of the public body will be discussed and no legal action will be proposed or taken. Ms. Herbst Paakkonen further commented that members need to be conscientious of the potential appearance of their collective presence and be scrupulous to avoid improper discussions; she summarized a recently posted courtesy notice when it became known that some members of this Committee were attending the same educational session. Ms. Galvin advised members that if they find themselves in a setting with fellow Committee members that they should notify Board staff of that fact so they can post the courtesy notice.

8. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING CONTINUATION OF THE ARIZONA BOARD OF PSYCHOLOGIST EXAMINERS, AND PROPOSED LEGISLATION INCLUDING BUT NOT LIMITED TO HB2184, SB1054, HB2224, HB2288, SB1142, SB1212, AND SB1274

Ms. Herbst Paakkonen referred the members to the bill tracking report prepared for the Committee’s review, noting several bills of interest to members of the Committee. In response to questions posed she confirmed that HB2224 psychology board; licensure; fingerprinting contains the modifications requested by the Committee to A.R.S. §32-2091.03. The Committee members posed additional questions concerning the agency continuation bill (SB1054) and also questioned whether rulemaking would be necessary should HB2224 be adopted into law. Ms. Herbst Paakkonen advised that ideally the rules would be promptly revised to align with the changes to statute that HB2224 would establish, but that new rule promulgation requirements will be challenging in light of new requirements. The members concurred that ensuring the statutes and rules are not in conflict with the certification requirement

changes coming to the Behavior Analyst Certification Board on January 1, 2022 must continue to be a top priority.

9. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION CONCERNING NORTH CAROLINA BEHAVIOR ANALYSTS LICENSURE, INDEPENDENT PRACTICE RESTRICTIONS IN THAT STATE, AND POTENTIAL IMPLICATIONS FOR BEHAVIOR ANALYST APPLICANTS IN ARIZONA

Dr. Davis-Wilson summarized the matter, advising the Committee that she recently became aware of the very restricted nature of behavior analyst practice in North Carolina; current law in that state limits behavior analysts to be only ancillary providers under licensed psychologists and they don't have independent licensure. She stated that not only is this potentially an issue relative to the validity of the supervision provided to Arizona applicants for licensure, but the practice restrictions in North Carolina law also impact the ability of an applicant to practice the full scope as defined in Arizona. Dr. Davis-Wilson noted that North Carolina may enact legislation establishing licensure and a scope of practice for behavior analysts, but until such time this Committee and the Board may have to carefully consider applicants who present with supervision provided by North Carolina behavior analysts.

10. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING REACTIVATION REQUEST FROM KARALYN SEMENCHUK, M.ED.

Dr. Davis-Wilson announced she is recusing from the consideration of this agenda item. The Committee proceeded with a review of the reactivation application. Upon review, the Committee noted that the materials submitted were complete and fulfilled the requirements of statutes and rules, and that the application can be forwarded to the Board with a recommendation to reactivate the license.

MOTION: Dr. Raetz moved to forward the application to the Board for approval. Dr. Stenhoff seconded the motion.

VOICE VOTE: The motion carried by a vote of 4-0.

11. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING ADDITIONAL INFORMATION PROVIDED IN NEW BACB ONLINE REGISTRY RESULTS

Ms. Fowkes advised the Board that the new BACB online registry of certificants contains a number of enhancements. She questioned whether the Committee wants to see all of the data results that are now returned by the system for a certificant, and asked whether the irrelevant data be eliminated to only present that specific to BACB certification. She confirmed when asked by the members that she is taking a screenshot of the data that is returned by the search process. The members agreed by consensus that Ms. Fowkes' suggested procedure effectively meets the needs of the Committee for purposes of reviewing application data, and that only the data germane to BACB status needs to be supplied for review.

12. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING COMMITTEE RECOMMENDATIONS TO BOARD ON PROCESS AND OPTIONS CONCERNING ISSUING CEASE AND DESIST LETTERS TO BCBA SUPERVISORS PRACTICING IN ARIZONA WITHOUT A LICENSE

Ms. Herbst Paakkonen summarized A.R.S. §32-2091.12. Violations; classification and A.A.C. R4-26-404.2(C)(4) as the language of both stipulate that behavior analyst supervision is inclusive of all activities of a supervised experience which occurs where the supervisee is located. She stated supervised experiences in Arizona require that the supervisor be licensed in Arizona, regardless of the state in which the supervisor is located. She advised the committee that this matter was placed on the committee meeting agenda for purposes of recommending a consistent course of action when a supervisor, regardless of location, is providing supervision of a trainee in Arizona and is unlicensed by this Board. Dr. Davis-Wilson stated that this is more than a remote supervision issue as there is awareness of certain companies operating under a supervision provision model, however the individuals providing supervision are not licensed. Additionally there are other known instances where supervision is being provided in educational programs by unlicensed persons without the appropriate regulatory oversight. In response to Committee questions concerning what actions can be taken by the Committee and the Board when information is received that unlicensed supervision is being provided, Ms. Galvin advised the Board could open a complaint investigation and determine whether to issue a Cease and Desist letter to the individual. She also explained the option to then seek an injunction in Arizona Superior Court if the Committee and Board learn that the conduct continues past the issuance of the Cease and Desist letter. Ms. Fowkes outlined a potential process whereby unlicensed supervisors are identified by her while in the course of preparing application files for review, and that information can be flagged for the Committee's attention. The Committee can then recommend the Board open a complaint with issuance of a Cease and Desist letter if warranted. The members agreed by consensus to implement this practice.

13. NEW AGENDA ITEMS FOR FUTURE MEETINGS

No agenda items were suggested.

14. ADJOURNMENT

MOTION: Dr. Raetz moved to adjourn the meeting. Dr. Stenhoff seconded the motion.

VOTE: The motion carried by a vote of 4-0.

The meeting adjourned at 12:07 PM.