



STATE OF ARIZONA
BOARD OF PSYCHOLOGIST EXAMINERS
1740 WEST ADAMS STREET, SUITE 3403
PHOENIX, AZ 85007
PH: 602.542.8162 FX: 602.542.8279
WEBSITE: www.psychboard.az.gov
EMAIL: kathy.fowkes@psychboard.az.gov

DOUGLAS A. DUCEY
Governor

HEIDI HERBST PAAKONEN
Executive Director

Committee on Behavior Analysts

REGULAR SESSION MINUTES

June 1, 2020 - 9:30 a.m.

Held via Zoom

1. CALL TO ORDER

Dr. Davis-Wilson called the meeting to order at 9:32 a.m.

2. ROLL CALL

Committee Members Present

Diana Davis-Wilson, DBH, BCBA - Chair
Bryan Davey, Ph.D., BCBA-D
Paige Raetz, Ph.D., BCBA-D
Donald Stenhoff, Ph.D., BCBA-D

Staff Present

Heidi Herbst Paakkonen, Executive Director
Jennifer Michaelsen, Deputy Director
Kathy Fowkes, Licensing Specialist

Assistant Attorney General Present

Jeanne Galvin, Esq.

3. REMARKS/ANNOUNCEMENTS

Dr. Davis-Wilson thanked the Board staff for their efforts in implementing a series of directives in response to COVID-19, and in spite of all the challenges, continuing to ensure information is shared with the Committee members in a timely fashion. She also thanked the Committee members for the extra investment of time preparing for meetings given the many issues being addressed.

4. APPROVAL OF MINUTES

A. May 1, 2020 Regular Session

MOTION: Dr. Stenhoff moved to approve the minutes as drafted. Dr. Raetz seconded the motion.

VOICE VOTE: The motion was approved 4-0.

5. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING COMPLAINTS AND RECOMMENDATION TO THE BOARD

A. Complaint No. 20-25, Robyn Marian

Dr. Stenhoff summarized the complaint filed by S.T., a Speech Language Pathologist (SLP), who alleged that during the course of a client observation for which she sought clinical advice, Ms. Marian acted unprofessionally by speaking over her, interfered with the treatment session, provide recommendations to the Occupational Therapist without S.T.'s involvement or inclusion, and that she questioned the goals S.T. established for the client and also questioned her competence which amounted to undermining the care she was providing. The complaint further alleged that Ms. Marian established a plan of care for another client without an evaluation and without obtaining informed consent for treatment she provided. Dr. Stenhoff noted that Ms. Marian stated in her response that she appropriately provided input to a colleague based on her expertise and that she was performing only in a consultative role and not as a provider of services to S.T.'s clients. The response also noted that S.T. left the company following the events described in the complaint.

S.T. was present for the review of the case and stated she would be happy to answer questions. Mandi Karvis, legal counsel to Ms. Marian, stated that her client heard the members' concerns relative to how her documentation and her interpersonal communication could be improved. She further stated that Ms. Marian completed 32 hours of continuing education in ethics and documentation standards, and she has suggested improvements to the documentation forms used by the company. Ms. Karvis advised the Committee that Ms. Marian believes her conduct was appropriate, but she took the concerns seriously and independently elected to further educate herself to prevent any problems in the future.

The Committee asked S.T. to identify some of the steps the company took to determine how to better coordinate the care provided. She explained there were miscommunications relative to which sessions Ms. Marian was supposed to attend. The members questioned whether, prior to the complaint being filed, did she address her concerns directly to Ms. Marian. She stated that she and another professional attempted to do so by email. When no response was received S.T. requested the meeting with their clinical director. S.T. affirmed that because she was unhappy with how the company resolved the issue, she elected to leave and to file the complaint. The members asked whether after the November 18, 2019 incident mentioned in the complaint was there an attempt to immediately resolve the issue. S.T. explained that she did express concerns to Ms. Marian that her skill was called into question by someone who isn't an SLP; when the issue wasn't completely resolved she took her concerns to the clinical director.

Ms. Karvis affirmed Ms. Marian spoke with the team members relative to the concern that were expressed by S.T.

The Committee questioned Ms. Marian relative to where in the notes the PECS recommendation was documented. Ms. Marian explained the child wasn't responding verbally during session, so she suggested using pictures. She stated that she never spoke directly to the child's parents relative to her thoughts on his speech treatment, and that her role and purpose was well documented in email messages. She also stated she was not aware of any contention with the child's mother. She explained that because they are a teaching facility, multidisciplinary discussions take place with the families and because of this she didn't think that her sharing ideas, after being requested to do so, was unethical. Ms. Marian affirmed that her purpose was only to provide a second voice to the speech services. She further affirmed that she complied with section 3.4 of the Behavior Analyst Certification Board (BACB) Code with respect to providing consultation. The Committee members affirmed that the informed consent documentation did exist; this issue is whether the documentation addresses Ms. Marian's role in terms of providing behavior support to the staff and not to treat the child. Ms. Marian confirmed that the clients named in the complaint were not her clients. The members questioned Ms. Marian whether as a member of team, could she see the necessity to not provide in-the-moment consultations without being better informed and without having been involved in a collaborative process where patient consultations are concerned? Ms. Marian concurred that she sees the potential for issues to occur in these instances.

The members discussed the possible violations to include A.R.S. §32-2091(12) at subsections (g) and also (dd) relative to the BACB code at 1.02, 1.05(A), 2.03(B), 2.04, 3.01(A), 3.03(A).

Ms. Galvin advised the Committee their options to resolve this case include recommending dismissal, or recommend to the Board citing possible violation(s). She further stated that a Letter of Concern would need to be accompanied by some potential violations. Ms. Galvin reviewed A.R.S. §32-2091.01(9)(d) which states the Committee shall submit recommendations to the full board, explaining that when a complaint is adjudicated a final decision has been made with respect to the outcome.

Committee discussion reflected concerns in that while Ms. Marian was performing within her scope, did she appropriately conduct herself as a professional in the multidisciplinary context or did she inappropriately insert herself into the care plan. The members acknowledged behavior analysts have opportunity to review the literature and pursue continuing education on this topic, and that Ms. Marian would benefit from doing so. The members also discussed concerns about the tone and appropriateness of the email communications issued relative to this matter, noting it was “heated” and needs to be dialed down going forward. It was noted that conflict resolution training could be useful to avoid these types of situations going forward. The discussion further noted that behavior analysts need to be careful when making suggestions in these types of situations as they can be perceived as being actual treatment recommendations in the absence of the other required elements of an appropriate plan of care. Finally, the members discussed that one of the inherent responsibilities of behavior analysts is to collaborate with other professionals of the care team.

MOTION: Dr. Davey moved to forward complaint 20-25 to the Board with a recommendation to issue a non-disciplinary letter of concern to Ms. Marian. Dr. Stenhoff seconded the motion.

DISCUSSION: Ms. Galvin affirmed that either Dr. Davey or Dr. Davis-Wilson may be tasked with reviewing the Letter of Concern prior to its issuance, assuming the Board accepts the recommendation, in order to ensure that all of the Committee’s concerns are effectively addressed. The member requested the continuing education recently completed by Ms. Marian be forwarded to the Board with the complaint and the CBA recommendation.

VOICE VOTE: The motion was approved 4-0.

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

A. Behavior Analyst Application for Licensure

1) Amanda George, 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.

2) Aspen Leigh Grant, M.Ed.

Dr. Raetz stated for the record that she and the applicant previously worked together but they didn’t have any contact so she can review the application objectively. 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.

3) Sarah Elizabeth Kelley, 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.

MOTION: Dr. Davey moved to forward all applications to the Board with a recommendation to grant licensure. Dr. Raetz seconded the motion.

VOICE VOTE: The motion was approved 4-0.

7. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RECENT UPDATES FROM THE BEHAVIOR ANALYST CERTIFICATION BOARD (BACB)

Ms. Herbst Paakkonen reported that the only communication received from the BACB on regulatory issues include an update on test center capacity, and also an update relative to continuing education accommodations being granted by the BACB during the pandemic. The Committee members noted that only meeting the BACB continuing education requirements will result in not meeting those required by the Board's rules given that the Board has established additional requirements above that of the BACB. The discussion also reflected that the Committee and the Board will look at this when the next rulemaking opportunity presents.

8. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING COVID-19 WAIVERS APPROVED BY THE BOARD OF PSYCHOLOGIST EXAMINERS

Ms. Herbst Paakkonen advised the Committee that all of the waivers adopted by the Board have been approved by the Arizona Department of Health Services. She reported that the information has been posted on the website, and has been supplied to stakeholder groups including the Arizona Association of Behavior Analysts. She further commented that given the nature of many of the waivers, the Committee and the Board do not have the ability to collect any information to measure their impact. The Committee members questioned whether the waivers could be applied retroactively. Ms. Galvin stated that typically a decision is effective the day it is issued and is not retroactive, but guidance should be sought from the Department of Health Services as there will be implications for future applicants for licensure.

9. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING LICENSURE AND REGULATORY ISSUES RELATIVE TO COVID-19

Ms. Herbst Paakkonen reminded the Committee she distributed some articles and other pieces of information addressing regulatory issues in light of the pandemic. She noted that some policy makers are advocating for waivers and relaxed regulatory requirements to remain in place post-pandemic, but regulators are expressing different concerns, such as how to effectively restore normalcy. She further commented that most of the waivers do not lend themselves to capturing or tracking of data that would inform the CBA and the Board. Only the temporary license holders are tracked with a registry and therefore can receive communications when the license is cancelled; this raises some concerns relative to ensuring they cease practicing and appropriately make care transfer arrangements. Ms. Herbst Paakkonen reported that she learned in a recent webinar that some regulatory bodies are taking a very close look at the current emergency circumstances when considering complaints and factoring in those considerations to a higher degree than would typically be the case. In certain situations those bodies are concluding that the licensee would have behaved differently if not in an emergency situation. She also shared that some boards are substituting providing supports for issuing discipline, and are triaging highly egregious cases over those that involve lower risks to the public. She further reported that many regulators are expecting expansion of telepractice. The Committee members discussed the fact that these questions can't be answered today, but the conversations can start and the CBA can reach out to the Board to initiate this process. The members acknowledged that the Board has

been extremely challenged with special meetings, lengthy agendas, and members who have agreed to remain well past their term conclusion dates, but perhaps an ad-hoc committee focusing on these topics is a strategy that can be employed.

10. NEW AGENDA ITEMS FOR FUTURE MEETINGS

The members requested an item consisting of a status update on the vacant Committee position, and possibly information on any directives or guidance concerning public safety and public bodies meeting. The discussion reflected the recent order issued by Governor Doug Ducey for state employees and appointees to work and meet remotely and to leave the Capitol area by 4:00 PM each day. Committee members also discussed the advantages of using Zoom for their meetings, albeit with security precautions in place given potential hacking concerns.

11. ADJOURNMENT

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

VOICE VOTE: The motion was approved 4-0 and the Committee adjourned at 11:10 a.m.