



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 26, 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 Michaelson, Deputy Director
Kathy Fowkes, Licensing Specialist

Assistant Attorney General Present

Jeanne Galvin, Esq.

3. REMARKS/ANNOUNCEMENTS

- **Presentation of Committee on Behavior Analysts Service Award – Daniel Davidson, Ph.D., BCBA-D**

Committee and staff members recognized Dr. Davidson for his distinguished service on the Committee and presented him with a plaque commemorating his contributions. Dr. Davidson stated his appreciation for the recognition, and spoke to the privilege of having served as one of the original members of the CBA. He thanked the Committee members and staff for their efforts and for supporting him during his tenure.

- **General Committee Remarks, Announcements and Updates**

Dr. Davis-Wilson reminded the members and the public that the agency and its committees continue to function remotely given the pandemic, and she thanked the members and staff for adapting and functioning effectively in spite of the challenges.

4. APPROVAL OF MINUTES

A. June 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. 20-38; Corinna Ndolo, M.Ed, BCBA

Dr. Davis-Wilson disclosed that she has on occasions in the past collaborated professionally with the licensee, but that she does not have any biases toward Ms. Ndolo and is therefore able to review this case objectively. She summarized the complaint opened by the CBA, the facts of which include that Ms. Ndolo allowed her behavior analyst license to lapse as of August 31, 2018 in spite of reminders issued to her by US mail and electronic mail. She noted that the US mail pieces sent to Ms. Ndolo were returned as undeliverable, indicating Ms. Ndolo was no longer at her address on record and had not filed a change of address with the Board. Dr. Davis-Wilson stated that Ms. Ndolo reinstated her license on October 30, 2018, but in early 2020 an applicant for behavior analyst licensure inquired in an email sent to Board staff whether this lapse of Ms. Ndolo's license might adversely impact the hours of supervision she had completed. Dr. Davis-Wilson stated that the supervision verification form submitted by Ms. Ndolo on behalf of the applicant did not include any indication of her license lapse. She reminded the CBA members that the Committee directed staff to open a complaint concerning possible unprofessional conduct, specifically practicing as a behavior analyst without a license.

Ms. Ndolo responded to the complaint affirming that she did allow her license to lapse, and that from May of 2018 to June of 2019 she supervised the applicant in question. Ms. Ndolo stated in her response that when she realized her license would experience a lapse, she arranged to transfer supervision of the applicant to another member of her staff. Ms. Ndolo admitted that she continued to meet with the applicant as she has previously prearranged appointments on her calendar, explaining that she did so while on "auto-pilot" but did not provide supervision during these meetings.

Ms. Ndolo was present with her attorney, Bryant Barber, and she made a statement to the CBA consisting of an admission that she was not as attentive as she ideally should have been concerning some of the administrative duties she was juggling during the period of time in question, and that her communication to the applicant concerning the purpose of their scheduled meetings during the period of her license lapse should have been more clear. She outlined a series of changes she has made to her role in the organization that are designed to circumvent this type of situation from reoccurring. She further affirmed that she is committed to the profession and to meeting the practice and professional ethics standards required by the Board, and that she had no ill will or intent when she erred in engaging in meetings with the applicant.

The Committee asked Ms. Ndolo whether her school will continue to provide supervision to behavior analyst candidates; she affirmed that a member of her staff is a BCBA and will provide that service for now, and in the future other professionals will be able to do so (once certified and licensed).

The members discussed the facts of the case, noting concerns with Ms. Ndolo's failure to file a timely change of address, and also the issue of her holding pre-scheduled appointments with a former supervisee while not holding an active license. The Committee members further acknowledged that Ms. Ndolo described instituting some significant reforms to her management of the agency, however, and has provided assurance that the conduct under scrutiny has been appropriately corrected. The members further discussed that disciplinary action does not appear to

be warranted since there isn't evidence that Ms. Ndolo actually provided supervision to the applicant. However, given the concerns identified, issuing a Letter of Concern seems to be appropriate.

MOTION: Dr. Davis-Wilson moved to forward complaint 20-38 to the Board with a recommendation to dismiss the complaint but to issue a non-disciplinary letter of concern to Ms. Ndolo. Dr. Stenhoff seconded the motion.

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) Anne Kathleen Palmer, 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.

2) Ashley Elizabeth Adams, 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.

3) Brea Furman, 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. The members discussed the fact that one of the supervisors is in Pennsylvania where BCBA licensure is not required; instead, "behavior specialists" may be certified. The members further discussed that the training required for this work falls far short than that required by Arizona. Based on the discussion, the Committee acknowledged that disregarding the hours of supervision supplied by the Pennsylvania certified behavior specialist does not impact the application, the members directed staff to have the applicant correct the documentation submitted to correctly reflect the relationship. The members discussed with staff the wording of the application question pertaining to the licensure status of the applicant's supervisor(s).

4) Judith Johnson, 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.

5) Michal Reed, M.Ed.

Dr. Davis-Wilson stated for the record that she is recused from the consideration of this agenda item.

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) Nancy J. Potter, 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.

7) Samantha Murdoch, M.Ed.

Dr. Raetz disclosed for the record that the applicant completed her supervision with the agency where she is employed but they didn't have any interactions with the applicant 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. The members noted that the applicant erroneously indicated she was "employed only" with the supervising agency which requires only a simple correction be made; Board staff was directed to facilitate the correction.

MOTION: Dr. Stenhoff 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.

B. Behavior Analyst Application for Licensure by Universal Recognition

1) Christan Griffin, 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. The members noted she disclosed a previous arrest for possession of a controlled substance, but the records concerning this matter were destroyed by the agency of jurisdiction in accordance with their retention policy and therefore this information could not be supplied. Given the length of time that has passed since the conviction, the members concurred it did not warrant any investigation or action.

MOTION: Dr. Stenhoff moved to forward all applications to the Board with a recommendation to grant licensure. Dr. Davis-Wilson 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 consists merely of an electronic email message affirming the BACB does not intend to delay the implementation of the changes to requirements for certification that are scheduled to begin January 1, 2022. She also noted that the message included a reminder of the BACB's temporary waiver or deviation from the requirements for in-person contact with clients. She reminded the CBA that this waiver has also been approved by the Board and affirmed by the Arizona Department of Health Services (AZDHS). Ms. Herbst Paakkonen advised the Committee that she is currently drafting a tracking tool for purposes of helping the Committee recall which waivers were granted for specific time frames. She will bring the draft to the Committee for review and feedback on the next meeting agenda. She further advised the CBA members that the staff attorney for AZDHS informed her that he is of the opinion that

waivers cannot be backdated; given that the BACB deviation described above was granted in March, but the board's waiver can't be considered as effective until May 8, there will be individuals who accrued supervision hours during that time frame who will be eligible for certification, but ineligible for licensure due to a deficit of hours between March and May 8. The Committee members noted that a supervision gap may, or may not, be apparent with future applicants which will be challenging. The members discussed whether incorporating some additional questions or documentation for the application process might be useful. This potential strategy will be further explored in the near future.

Dr. Davis-Wilson noted that the rules prescribe the requirements for course content for BCBA's based on the BACB education requirements that will cease to exist starting January 1, 2022. She noted that while this isn't problematic from an implementation standpoint, cleaning up the rules at some point is ideal.

8. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RESPONSES RECEIVED FROM BEHAVIOR ANALYST LICENSURE APPLICANT SUPERVISORS POTENTIALLY PRACTICING IN ARIZONA WHILE UNLICENSED

Ms. Herbst Paakkonen summarized the matter, noting that earlier in the year three application files indicated that collectively six individuals (behavior analysts) submitted documentation indicating that supervision was provided to those applicants, but those supervisors are not licensed in Arizona. She reminded the Committee that with some input from a substitute legal advisor it determined the agency's investigative process required complaints be opened against those individuals; however Ms. Galvin subsequently advised the staff insert an intermediate step consisting of notifying the six alleged supervisors of the concerns and providing them an opportunity to respond. She called to the Committee's attention the inquiries and responses received by those individuals and noted that the materials are presented to the Committee to determine next steps.

Dr. Davis-Wilson recognized that representatives of the programs employing the behavior analysts who were contacted, as well as the behavior analysts subject to these inquiries, were present. She acknowledged their participation and invited them to offer statements to the CBA for purposes of bringing clarity to the inquiries. Dr. Thomas Szabo summarized the guidance and supervision that he provides to students through the auspices of the educational program at Florida Tech University, clarifying that it is not intended for purposes of meeting licensure requirements. He noted that the supervision agreement he submitted with his response affirms this fact, and he explained that students are advised of their responsibility to be informed of any state laws and requirements where they intend to work in the future as behavior analysts. Dr. Szabo advised the Committee that he was erroneously submitted as a supervisor for an applicant, but that once the error was discovered it was appropriately corrected. He stated that he has never performed behavior analytic services in Arizona. In response to questioning, Dr. Szabo explained that faculty members of his program are charged with assisting students with preparation for BACB certification, but students are advised throughout the program that they alone are responsible for navigating the licensure application process. Dr. Jose Martinez-Diaz, program director at Florida Tech University, was present for the discussion and advised the CBA that he teaches ethics content in addition to instruction consisting of the responsibility for applying for licensure. Dr. Martinez-Diaz stated that he routinely informs and tests students relative to their responsibility to know the requirements concerning obtaining supervision from licensed behavior analysts when they intent to apply for licensure. He further explained the challenge of program faculty assuming responsibility for managing this information which justifies placing the onus on the students to be aware of state requirements as the appropriate course of action. Dr. Martinez-Diaz admitted that students can get confused at times as they are navigating an unfamiliar set of laws and requirements. The members discussed that perhaps the solution is to disregard the group faculty supervised experience hours that students obtain as this small subset of hours are likely to be overseen by faculty members who aren't licensed in Arizona.

Dr. Bobbie Gallagher with the University of Chicago addressed the CBA and explained their program requirements, noting it was very similar to that of Florida Tech University. She explained the purpose of the unrestricted hours of supervision faculty provides to students as focused on improving their assessment and writing skills. She explained that much of this time is directly tied to course requirements, and the intent is entirely removed from meeting qualifications for licensure.

The members discussed the information presented by the programs' faculty as revealing that the practicum class is an academic requirement; the students are of the mistaken impression at times that their practicum supervisors are performing supervision that qualifies them for licensure. The members further discussion whether obtaining a copy of the agreement between the school, the site and the student would assist the CBA in understanding which hours are to be considered for purposes of licensure and which hours are related to program instruction. Ms. Galvin suggested augmenting the application to delineate what constitutes supervision for purposes of licensure, and what does not. It was noted that because the rule language requires the submission of the BACB supervision verification form, this doesn't effectively clarify what the CBA needs to know about the supervised hours. Another potential solution involves Board staff seeking that clarification when circumstances warrant. Committee members questioned Ms. Galvin whether receipt of verification forms from identified programs can trigger the staff to request the agreement documentation that would clarify the nature and purpose of the supervision provided. Ms. Galvin affirmed that the rule R4-26-404(2)(C)(7) supports this approach. The members concurred that a future meeting agenda item to address how to circumvent this situation in the future and how to arrive at a proactive solution is appropriate.

Ms. Galvin and Ms. Herbst Paakkonen advised the Committee that its previous motion to open complaints against the six supervisors will need to be rescinded should the Committee agree that action should be reversed.

MOTION: Dr. Davey moved to rescind the action to open complaints against the individuals identified in the Committee report. Dr. Davis-Wilson seconded the motion.

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

Committee members requested the meeting attendees to consider informing the Committee as it works to craft solutions to this matter. The meeting participants agreed to provide such assistance.

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

Ms. Herbst Paakkonen reported that there has been no updated guidance issued by AzDHS, nor from Governor Doug Ducey. She noted that at this time fewer than 10 behavior analysts have applied for temporary licensure. Additionally she advised that given its lengthy meeting agendas, the Board has not had opportunity to have similar discussions to those held by the CBA on COVID-19 and its impact on regulation of psychologists and behavior analysts. She reported that the Board will have its initial discussion on its July 9, 2020 meeting agenda and that she will update the Committee on the outcome.

10. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING COMMITTEE VACANCY

Ms. Herbst Paakkonen reported that the Governor's Office of Boards and Commissions recently affirmed that there is one application for the Committee vacancy, and that the Office staff is working on completing a series of appointments for a number of boards. Dr. Davis-Wilson invited a member of the Arizona Association for Behavior Analysis (AzABA), Kyle Lininger, who was present to speak to whether the association has been working on establishing a nomination process to identify and recommend members to the Governor for consideration for appointment. Mr. Lininger stated that the AzABA leadership has discussed this opportunity and is interested in defining such a process. Dr. Davis-Wilson stated that as a key stakeholder group, AzABA's input could be valuable and informative to the Governor. Ms. Herbst Paakkonen promised to request the Arizona Psychological Association members who coordinated its recent nomination effort to contact Mr. Lininger to outline that process in the event it is useful to AzABA.

11. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING CURRENT PUBLIC MEETINGS AND PUBLIC SAFETY ORDERS

Ms. Herbst Paakkonen reported that given the current circumstances, Board staff has elected to stay the course with respect to extensive teleworking and conducting meetings virtually. She noted that she is following the lead of other state agencies who continue to hold meetings open to the public online. Members and staff discussed some challenges associated with shifting to conducting business online with insufficient systems in place, both internally and externally, but acknowledged the efforts currently being explored to make this transition.

12. NEW AGENDA ITEMS FOR FUTURE MEETINGS

The members requested an item consisting of considering re-wording language on the application for licensure to better capture information concerning the verification of supervised work experience or independent fieldwork, and to look into timelines with respect to the BACB supervision forms in order to determine when an individual becomes eligible to supervise. Additionally, the members requested an agenda item to address application revisions to include revising question #9 of the supervised work experience or independent fieldwork verification in order to obtain clarity with respect to the licensure status of the supervisor. This agenda item could also explore how to implement a practical solution to identify students who are completing supervision under the auspices of a university program – when does this information trigger the need to obtain a copy of the training plan and supervision agreement.

13. ADJOURNMENT

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

VOICE VOTE: The motion was approved 4-0 and the Committee adjourned at 12:36 p.m.