



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

HEIDI HERBST PAAKKONEN, M.P.A.
Executive Director

Committee on Behavior Analysts

REGULAR SESSION MINUTES

August 7, 2020 - 9:30 a.m.

Held via Zoom

1. CALL TO ORDER

Dr. Davis-Wilson called the meeting to order at 9:30 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

- **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. She also noted that the Executive Session call-in instructions were emailed to Committee members a short time ago should the members need to obtain legal advice.

4. APPROVAL OF MINUTES

A. June 26, 2020 Regular Session

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

VOICE VOTE: The motion was approved 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) Brittany LaShay Jones, 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. The applicant disclosed a previous criminal history and supplied documentation relative to the incident. Ms. Jones was present for the review of her application, and was asked about the discrepancy between the dates she originally indicated the matter was resolved, and the different date indicating when her probation was completed. She explained that she had reported the earlier date as that was the sentencing date and not the date the probation concluded. Ms. Jones was also asked to explain her version of the events, and the description in the police report, as those accounts were different. Ms. Jones admitted to the fact she was very intoxicated on the date under scrutiny, and after sustaining damage to her car she pulled into the gas station where she was later cited by the police. She stated this event was a very significant wake-up call and she realized that she could have been seriously hurt. Ms. Jones affirmed that she now abstains from alcohol. The members discussed the fact that this incident is a fairly recent one, and noted that the applicant's original written description is somewhat vague relative to what she has explained verbally to the Committee. However, the members determined Ms. Jones has provided assurance that she has effectively addressed the matter under review. The consensus of the Committee was to forward the application to the Board with a recommendation for approval contingent on correction of the application page with incorrect information regarding the resolution of the court matter.

2) Carol Bell, 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. The members discussed that Ms. Bell disclosed a previous criminal charge of minor in possession of alcohol, but this event was 9 years ago and she has completed the terms of her sentencing and subsequently the records were expunged. The members concurred that in spite of this event the application can be forwarded to the Board with a recommendation for approval.

3) Carol A. Rodrigues, 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 for approval. It was noted the application requires a few simple corrections including that the applicant should indicate she is not licensed in California as that state does not require licensure.

4) Jenna Lundquist, M.Ed.

Dr. Stenhoff stated for the record that the applicant works for an organization for which he provides consulting services, but he 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 for approval.

5) Jennifer Hawley, 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 for approval.

6) Nicole L. Deopere, M.Ed.

Dr. Davis-Wilson recused from the consideration of this application. 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 for approval.

MOTION: Dr. Stenhoff moved to forward the application of Nicole L. Deopere, M.Ed. to the Board with a recommendation to grant licensure. Dr. Raetz seconded the motion.

VOICE VOTE: The motion was approved 3-0.

7) Rachel Fulciniti, 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 for approval.

MOTION: Dr. Davey moved to forward all applications to the Board (with the exception of Nicole L. Deopere, M.Ed. who was approved under a separate motion reflecting Dr. Davis-Wilson's recusal) with a recommendation to grant licensure. The motion included that the applications of Brittany LaShay Jones, M.S. and Carol A. Rodrigues, M.S. require edits by the applicants as reflected in the discussion. Dr. Stenhoff seconded the motion.

VOICE VOTE: The motion was approved 4-0.

B. Behavior Analyst Application for Licensure by Universal Recognition

1) Kayla Ziolk, M.S.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 for approval.

MOTION: Dr. Stenhoff to forward the application of Kayla Ziolk, M.S.Ed. to the Board with a recommendation to grant licensure. Dr. Davey seconded the motion.

VOICE VOTE: The motion was approved 4-0.

6. A. Behavior Analyst Application for Licensure

1) Colton Oliver, M.A.

Dr. Davis-Wilson recused herself from reviewing this matter. The Committee proceeded with a substantive review of the application. Ms. Michaelsen summarized the applicant's history to include his previously denied license precipitating from a complaint that he falsified treatment records for a client while completing his supervision requirements. She reminded the Committee that it recommended to the Board a finding that Mr. Oliver committed unprofessional conduct, and that finding was upheld by the

Board. Ms. Michaelsen explained that Mr. Oliver did not appeal the denial, but he filed a second application for licensure which is presented to the Committee for its review, along with an investigative report concerning information supplied by Mr. Oliver with the application.

Mr. Oliver affirmed he was present for the review of his application. He stated that he hoped to instill some trust with the Committee that he is deserving of a license as a behavior analyst. The Committee noted that this application was filed about 60 days following the denial of his previous application, and recalled the basis of denial for that application concerned falsified entries made by Mr. Oliver on client treatment records when he worked as a behavioral technician for a former employer. Additionally it was noted that the BACB has yet to take any action relative to Mr. Oliver's certification. The Committee asked Mr. Oliver why he omitted his previous employment, from which he was terminated, on his current employment's application. Mr. Oliver stated he did so in an effort to separate himself from the organization and to avoid any conflicts of interest going forward. It was noted on the record that the CEO of Mr. Oliver's former employer serves on the CBA but is recused from the consideration of this matter. He further indicated he felt it was appropriate to obtain a recommendation from a former co-worker of his former employer given that individual no longer worked for the company from which he was terminated. Mr. Oliver stated he is attempting to be as honest and as transparent as possible concerning his current application. Ms. Michaelsen advised the Committee that the investigation revealed Mr. Oliver failed to notify his current employer of his previously denied application. Mr. Oliver indicated he has been walking a fine line concerning his application history but he is doing his best to be truthful.

In response to questions, Mr. Oliver affirmed that he is engaging in activities under the direction of his supervisor. He stated his title is "clinical supervisor designee" but that he is still in the training process, and he is training behavior technicians. He then clarified he is functioning as a behavior technician for Arizona clients under the supervision of a licensed behavior analyst, but he acts as a BCBA for clients in states where licensure isn't required. He explained that he is providing services under 'direct therapy' codes but isn't certain which specific codes are being billed. The members questioned why his position description does not appropriately reflect his duties. He replied that he is acting appropriately in Arizona and in accordance with his employer's direction. The Committee stated that Mr. Oliver needs to be educated relative to what constitutes lawful practice as a behavior analyst in Arizona, citing activities described in his current position description as requiring licensure. The Committee questioned how he manages to clarify his role when working with Arizona clients and colleagues. Mr. Oliver stated that he has been clear and direct at all levels in his organization, and with his clients. The Committee asked how he is ensuring he doesn't perform activities requiring a license. He replied that he applies self-awareness and accepts that he requires guidance and support from his licensed supervisor. The Committee asked how this is documented, and whether he can establish proof that he has rehabilitated the conduct that led to the denial of his first application. Mr. Oliver indicated his role and supervision of his activities is well documented.

The members reminded Mr. Oliver that being truthful is an expectation of and requirement to be licensed as a behavior analyst.

MOTION: Dr. Davey moved to meet in Executive Session for the purpose of receiving legal advice. Dr. Raetz seconded the motion.

VOICE VOTE: The motion was approved 3-0.

The Executive Session began at 10:39 AM and concluded at 10:53. Following a break the Committee resumed meeting in public session at 11:00.

Upon resuming the meeting in public session the members deliberated on the application noting that the primary basis for denial of the original application was forged documentation on the part of Mr. Oliver. The Committee and Board noted that he was advised at that time that he would need to provide evidence that he has rehabilitated the conduct and that his character meets the ethical standards required of the

profession with a subsequent application. The Committee members indicated they are struggling with the misrepresentations he has made with this application, with his description and scope of his work activities, and with his answers that did not directly address their questions and failed to provide the required level of clarity. The Committee discussion reflected the need to learn more from Mr. Oliver's employer and his supervisor to include obtaining some of his billing records from January 1 through July 31, 2020, also some of his daily progress notes for the clients he served.

MOTION: Dr. Davey moved to table action on the application, and subpoena the employer to obtain supervisor(s) testimony on Mr. Oliver's roles and responsibilities, the supervision notes, and a client list of those served from which staff will randomly select 5 records to review. The records to be reviewed will focus on the daily billing logs, dates of services provided, the provider of record, the credentials of the individuals providing services, the service description, the CPT code billed, the supervising BCBA, and the provider signature. Dr. Stenhoff seconded the motion.

VOICE VOTE: The motion was approved 3-0.

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

Ms. Herbst Paakkonen summarized the communication received from the BACB on regulatory issues consisting of an electronic email message explaining the role of the organization relative to its role in the profession, and some guidance for current and future applicants for certification given the changing requirements to be implemented January 1, 2022. Dr. Davis-Wilson advised the Committee that she and Ms. Herbst Paakkonen recently reviewed the rules and the newly implemented rule changes to again affirm there were no unintended tripwires that would impede a certified BCBA from qualifying for Arizona licensure. She acknowledged that there are instances where the language between the two entities differs, but nothing has been identified that would create unintended barriers to licensure. Dr. Davis-Wilson indicated that on a future meeting agenda the CBA will discuss the fact that the BACB recently modified their continuing education requirements such that they are less aligned with the Board's requirements than was previously the case.

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

Ms. Herbst Paakkonen called to the Committee's attention the article recommending certain actions be taken by behavior analyst regulatory bodies relative to the COVID-19 pandemic, noting that the CBA and Board has already taken many of the actions described in the article. She also described the draft waiver tracking tool under development and its intent which is to offer guidance to the CBA and to the Board in the future to ascertain waiver eligibility. The Committee members provided positive feedback to the draft and acknowledged that it can be useful not only to the CBA and the Board, but also to members of the profession and future applicants for licensure.

9. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING COMMITTEE VACANCY

Ms. Herbst Paakkonen reported that she recently learned from Trista Guzman-Glover, Director of the Governor's Office of Boards and Commissions, that there is at least one candidate who has reached the background check stage of the appointment consideration process. She stated that she hopes to have an appointment update to share at the next CBA meeting. Dr. Davis-Wilson also reported that the state association is making some progress in terms of development of a nomination process of members to forward to the Governor's office for consideration.

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

Ms. Herbst Paakkonen reported that there are no specific updates at this time, but that this item is on the agenda in the event the Committee wishes to discuss the topic or take specific actions relative to the topic. She noted that unless given updated direction from the Governor, the Board and its committees are able to continue to meet virtually. She also remarked that virtual meetings is resulting in some cost savings. The Committee questioned how the staff is tracking attendance by the public attending meetings for purposes of meeting education requirements or for continuing education credit. Ms. Galvin and Ms. Herbst Paakkonen reviewed the rule A.A.C. R4-26-409. Continuing Education Requirement and discussed with the Committee the need for staff to determine a process for confirming meeting attendance. This topic will be placed on a future meeting agenda for discussion and possible action.

11. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING MODIFICATION TO LICENSE APPLICATION LANGUAGE SPECIFIC TO VERIFICATION OF SUPERVISED WORK EXPERIENCE OR INDEPENDENT FIELDWORK, AND ELIGIBILITY TO SUPERVISE

Ms. Herbst Paakkonen reminded the Committee that this matter was placed on the agenda given the discussions that were held at the previous meeting. She called to the members' attention the draft revisions made by Ms. Fowkes as a starting point for the discussion. The members commented on the proposed revisions and provided edits and direction to the staff to incorporate into a revised agenda.

12. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING MODIFICATION TO LICENSE APPLICATION LANGUAGE FOR PURPOSES OF IDENTIFYING APPLICANTS WHO COMPLETED EDUCATION PROGRAM SPONSORED PRACTICUM TRAINING

Ms. Herbst Paakkonen advised the Committee members that this is a closely related item to the previous one in that Board staff prepared some application edits for review and consideration by the members, and requested direction. The members noted that during the previous meeting, the Committee learned that the schools place the onus entirely on the students where verification of licensure-qualifying supervision hours are concerned. A suggestion was made to add a question to capture whether any training hours were supervised by program faculty as a component of the educational program and, if so, how many and by whom.

13. NEW AGENDA ITEMS FOR FUTURE MEETINGS

The Committee requested a future meeting agenda include the CEU requirements discrepancy between the BACB and the Board, and potentially other rule revisions (inclusive of anticipated statutory changes). Additionally the Committee requested an agenda item to discuss a process by which licensees can obtain continuing education credit for Board meeting attendance.

14. 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 12:00 p.m.