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Executive Director

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## Committee on Behavior Analysts

### REGULAR SESSION MINUTES

October 30, 2020 - 9:30 a.m.

Held via Zoom

#### 1. CALL TO ORDER

Dr. Davey called the meeting to order at 9:31 a.m.

#### 2. ROLL CALL

##### Committee Members Present

Bryan Davey, Ph.D., BCBA-D (interim chair)

Paige Raetz, Ph.D., BCBA-D

Donald Stenhoff, Ph.D., BCBA-D

##### Committee Members Absent

Diana Davis-Wilson, DBH, BCBA

##### 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. Davey, serving in the role of Interim Chair, expressed his gratitude to the Committee members, Board staff, and to Ms. Galvin for their efforts to prepare for this meeting.

#### 4. APPROVAL OF MINUTES

##### A. September 28, 2020 Regular Session

##### B. September 28, 2020 Executive Session

**MOTION:** Dr. Stenhoff moved to approve both sets of minutes as drafted. Dr. Raetz seconded the motion.

**VOTE:** The motion was approved 3-0.

## 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) **Austin Sargent, M.Ed.**

Dr. Stenhoff disclosed that he was the applicant's instructor but 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. The Committee determined the application can be forwarded to the Board with a recommendation for approval.

#### 2) **Breanna Mosca, 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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

#### 3) **Heather Phillips, 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. The Committee determined the application can be forwarded to the Board with a recommendation for approval.

#### 4) **Hope Laurance, 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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

#### 5) **Rachel K. de Jesus, 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. The Committee determined the application can be forwarded to the Board with a recommendation for approval.

#### 6) **Sonja Timm, 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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

#### 7) **Maria Antoinette Land, M.Ed.**

The Committee proceeded with a substantive review of the application. Ms. Land was present for the review. Dr. Davey advised her that she was invited to the meeting to speak to the application disclosure she made relative to her prior conviction of DUI. She explained she had experienced a couple of troubling years in her past, was in a bad relationship at that time, and during the disclosed event she had consumed alcohol and drove to a destination where she witnessed an upsetting situation. While fleeing, she made a poor driving decision which resulted in the charge. She explained that she understands the necessity of the Committee and Board ensuring individuals are safe to provide behavior analytic services. Ms. Land affirmed she is much more stable at this time, and is prepared to be a successful licensed behavior analyst

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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

**8) Nicole Collins Duffy, 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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

**MOTION:** Dr. Stenhoff moved to forward the applications in section A to the Board with a recommendation for approval. Dr. Raetz seconded the motion.

**VOTE:** The motion was approved 3-0.

**B. Behavior Analyst Application for Licensure by Universal Recognition**

**1) Julie Hickerson, 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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

**2) Teresa Cardon, Ph.D.**

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 Committee determined the application can be forwarded to the Board with a recommendation for approval.

**MOTION:** Dr. Stenhoff moved to forward the applications in section B to the Board with a recommendation for approval of licensure. Dr. Raetz seconded the motion.

**VOTE:** The motion was approved 3-0.

**6. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RECOMMENDATION TO THE BOARD PERTAINING TO APPROVAL OR DENIAL OF BEHAVIOR ANALYST APPLICANT**

**1) Colten Oliver, M.A.**

Ms. Michaelsen reminded the Committee that the matter before them is Mr. Oliver's second application for licensure. She explained that while his initial application was pending in 2019, the Board received a complaint against Mr. Oliver from his former employer, Aspen Behavioral Consulting, who terminated Mr. Oliver after it was determined that he forged a caregiver signature and falsified session service times. In January of 2020, the Board denied that application based on the investigative findings and because Mr. Oliver admitted to the conduct. Mr. Oliver did not appeal the denial and subsequently submitted a second application for licensure.

Ms. Michaelsen further reminded the Committee that during its previous review of this application on August 8, 2020, the members discussed application misrepresentations relative to Mr. Oliver's work activities at his current employment, the Center for Autism & Related Disorders ("CARD"). The Committee requested additional information be obtained from CARD to include some of his billing records and progress notes from for the clients he served. Ms. Michaelsen explained she was notified by CARD that Mr. Oliver's employment was terminated on August 14, 2020 given Mr. Oliver's intentional deception regarding his previous employer and the circumstances surrounding his departure from that employment, and due to several untruthful statements he made to CARD leadership and to the Committee.

Ms. Michaelsen further noted that the BCBA suspended Mr. Oliver's BCBA certification for one year, and imposed several corrective action measures in order for certification to be restored at the end of that year.

Ms. Michelsen stated that Mr. Oliver's pending behavior analyst application is before the Committee today to determine if he meets the requirements for licensure and to make a recommendation to the Board whether to approve or deny that application. She commented that the Committee may want to reference A.R.S. §32-2091.02 at the following subsections when determining if Mr. Oliver meets the requirements for licensure (3) possesses good moral character; (6) has not committed any act that constitutes unprofessional conduct, and (7) has not had a professional certification or license suspended in any U.S. jurisdiction.

Ms. Marina Bulkin and Ms. Breanne Krakora of CARD were present and agreed to answer questions as they formerly served as Mr. Oliver's supervisors until his termination from the organization. Ms. Bulkin stated that he performed as a behavior technician for Arizona clients, but as a BCBA for their New Mexico clients. She also explained he was in training to become a clinical supervisor. Ms. Krakora informed the Committee that CARD first learned of the review of Mr. Oliver's application by attending its August meeting.

**MOTION:** Dr. Stenhoff moved to meet in Executive Session to obtain legal advice. Dr. Raetz seconded the motion.

**VOTE:** The motion was approved 3-0.

The Committee met in Executive Session from 9:50 a.m. to 10:12 a.m.

Upon returning from Executive Session the Committee provided an opportunity for Mr. Oliver, who was present, to speak. The applicant declined. The Committee then reviewed the application history of Mr. Oliver, noting the conduct resulting in the denial of his first application. The Committee indicated that Mr. Oliver has not provided any evidence that he has effectively remediated his behavior. The Committee emphasized that its purpose, in tandem with the Board, is to protect the public. The members discussed the fact that there are several examples in the record that point to the absence of good moral character. Additionally, the members noted that A.R.S. §32-2091.02 (7) requires that applicants for licensure maintain BACB certification in good standing.

**MOTION:** Dr. Raetz moved to recommend to the Board denial of Mr. Oliver's application as he is in violation of A.R.S. §32-2091.02 at (3), (6), (7), and A.R.S. §32-2091(12) at (b) betraying professional confidences, (c) making or using statements of a character tending to deceive or mislead, and (dd) violating an ethical standard adopted by the Board (the Professional and Ethical Compliance Code for Behavior Analysts) specific to sections within 1.04, 10.01 and 10.02. Dr. Stenhoff seconded the motion.

**ROLL CALL VOTE:**

Dr. Davey – yes

Dr. Raetz – yes

Dr. Stenhoff – yes

Ms. Michaelsen informed the Committee the recommendation will be presented to the Board on its next meeting agenda for a final determination.

**7. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING ALLEGATIONS OF POSSIBLE UNPROFESSIONAL CONDUCT CONCERNING BEHAVIOR ANALYSTS IDENTIFIED IN INVESTIGATIVE RECORD FOR COMPLAINT 21-01**

This item was tabled and will be rescheduled for the December 3, 2020 meeting of the CBA.

**8. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON DRAFT REVISIONS TO BEHAVIOR ANALYST APPLICATION FOR LICENSURE**

Ms. Fowkes provided a status update relative to proposed edits to the application under consideration by the Committee. She noted that Dr. Davey supplied some marked-up edits to the application, and that document has

been shared with the CBA members. The members reviewed, discussed and concurred with the suggested edits. The members also discussed the questions that would compel the Committee to meet in Executive Session with the applicant given the confidential nature of the information that was disclosed and submitted. Ms. Paakkonen advised the Committee that staff is working with the development team of the eLicensing system to restore the initial application intake functions; the goal is to achieve this by the end of the calendar year.

The Committee reviewed and discussed A.R.S. §32-2091.08 and 32-2091.12 as it relates to unlicensed persons who represent as a behavior analyst, not providing behavior analyst services, but are working in a closely related capacity such as organizational behavior management. Ms. Galvin opined that any exemptions to licensure are clearly articulated in the statute; any additional exemptions would require changes to the statute. Additional discussion shaped an application question to discern when an applicant's termination from employment was due to a furlough or reduction-in-force as opposed to termination for cause or for unprofessional conduct.

**MOTION:** Dr. Stenhoff moved to approve the edits as reflected in the draft document and by the discussion. Dr. Raetz seconded the motion.

**VOTE:** The motion was approved 3-0.

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

Ms. Paakkonen advised the Committee that the BACB has not supplied any new information or updates to regulators since its last meeting.

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

Ms. Paakkonen reported that the recently held Annual Meeting of the Association of State and Provincial Boards of Psychology (ASPPB) revealed that every jurisdiction is struggling with the challenges of protecting the public during a pandemic. She indicated she would share the meeting summary with the members of the Committee once it is received.

**11. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING COMMITTEE VACANCY**

Ms. Paakkonen reported that the Governor's Office of Boards and Commissions has not yet notified her of an appointment to the vacant position.

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

Ms. Paakkonen indicated that she directed staff to refrain from going into the office, given its proximity to the Capitol, on Election Day and the days that follow until there is assurance there are no safety threats. She further noted increased cybersecurity warnings have been issued, but that she is confident the Arizona Department of Administration is actively working to ward off any attacks.

**13. NEW AGENDA ITEMS FOR FUTURE MEETINGS**

Committee members requested an item to allow for discussion of expansion of the scope of behavior analysis beyond that focused on behavioral health. The members concurred this discussion would ideally involve members of the professional association, and this will be a topic to include on the special meeting planned for early 2021 that is intended to focus on policy issues and recommendations. Committee members also requested an item allowing for discussion of adopting parameters for whether and when application interviews to discuss disclosures are appropriate and necessary.

**14. ADJOURNMENT**

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

**VOICE VOTE:** The motion was approved 3-0. The meeting adjourned at 11:30 a.m.