

STATE OF ARIZONA
BOARD OF PSYCHOLOGIST EXAMINERS
1740 W. ADAMS STREET, SUITE 3403
PHOENIX, ARIZONA 85007
PH: 602-542-8162 FX: 602-926-8095
WEBSITE: www.psychboard.az.gov

DOUGLAS A. DUCEY
Governor

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

Regular Session Meeting Minutes

Held virtually via Zoom on October 16, 2020

Board Members

Tamara A. Shreeve, MPA – Chair
Diana Davis-Wilson, DBH, LBA, BCBA – Vice-Chair
Ramona N. Mellott, Ph.D. – Secretary
Bob Bohanske, Ph.D., FNAP
Linda Caterino, Ph.D., ABPP
Bryan Davey, Ph.D., BCBA-D
Aditya Dynar, Esq.
Stephen Gill, Ph.D.
Melanie Laboy, Esq.
Matthew A. Meier, Psy.D.

1. CALL TO ORDER

Chairwoman Shreeve called the Board's meeting to order at 8:30 a.m.

2. ROLL CALL

The following Board members were present: Chairwoman Shreeve, Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Caterino, Dr. Davey, Dr. Gill, and Dr. Meier. The following Board members were absent: Dr. Mellott, Mr. Dynar and Ms. Laboy.

ALSO PRESENT

The following Board staff participated in the virtual meeting: Heidi Herbst Paakkonen, Executive Director; Jennifer Michaelsen, Deputy Director; Jeanne Galvin, Assistant Attorney General (AAG); Kathy Fowkes, Licensing Specialist; and Krishna Poe, Program & Project Specialist.

3. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION PERTAINING TO AUSTIN MCCALL, PSY.D., AND POSSIBLE NON-COMPLIANCE WITH THE CONSENT AGREEMENT AND ORDER FOR COMPLAINT NO. 20-47 INCLUDING, BUT NOT LIMITED, TO THE POSSIBLE SUMMARY SUSPENSION OF HER LICENSE TO PRACTICE PSYCHOLOGY, REFERRAL TO FORMAL HEARING OR OTHER ADMINISTRATIVE REMEDIES AVAILABLE TO THE BOARD.

Ms. Shreeve reminded the Board to refrain from stating confidential health information in public session.

Ms. Michaelsen advised the Board that the purpose of the meeting is to review Dr. McCall's compliance status with her monitoring program given recently obtained information in the form of two positive screening texts. She summarized the Board's previous review of this case and outlined the case disposition consisting of a consent agreement prescribing a series of substance abuse monitoring requirements, one of which is to submit to random drug screenings. She further indicated that two such screenings, conducted in September, were received by the Board with positive results for an opioid for which Dr. McCall does not

have a current prescription. Ms. Michaelsen reported that Dr. McCall asserts the results are a false positive, and are likely the result of having taken an over-the-counter medication. Ms. Michaelsen further reported that Dr. McCall subsequently submitted to a hair follicle test that reflected a negative result for the substance identified in the previous tests, but yielded a positive for a different opioid. Ms. Michaelsen noted that Dr. Faria, Dr. McCall's treating psychiatrist, is present to inform the Board, as is Michelle Smith, Executive Director of Rising Phoenix, where Dr. McCall is receiving therapy and drug screenings. Additionally she noted Dr. McCall and her attorney are also present.

Ms. Galvin advised the Board that the first item on the agenda consists of a request for a continuance of this matter that was filed by Tammy Thibodeau, counsel for Dr. McCall. Ms. Thibodeau indicated that given the recently obtained hair follicle results, the request is withdrawn.

Ms. Thibodeau addressed the Board, stating that it is her client's position that the test results cannot be relied upon as no confirmatory tests were performed. She also stated that the substance detected in the hair follicle test is not to be considered a failed result as Dr. McCall has a prescription for the substance. The members asked for confirmation of the prescription, and were reminded that it was obtained for purposes of treating a condition that was disclosed to the Board during the July review of this matter. Ms. Thibodeau confirmed the prescription was last updated by Dr. McCall's nurse practitioner on April 26, and that it was for 20 tablets (5 mg). She referred the Board members to the record capturing this information. Following Ms. Thibodeau's suggestion that Dr. Mark Rohde, Dr. McCall's practice monitor, opine on the credibility of the laboratory testing protocol, Ms. Galvin asserted that Dr. Rohde is present today as a fact witness specific to his role as her practice monitor. Dr. Rohde opined that the lab is well-credentialed and the protocols "look solid" but some practitioners have a negative opinion of the laboratory's customer service.

Dr. Faria explained her role as her treating psychiatrist. She advised the Board that she and Dr. McCall have met on 2 occasions, and that she has discussed with her the prescription for the medication revealed in the hair follicle test. She noted that the last time the script was filled was March 24, and it was possible the April 26 renewal was not reported, or that the medication was not picked up by the patient in April. With respect to questions concerning how sensitive is the hair follicle test, Dr. Faria spoke to the different variables involved, but indicated studies have shown the test to be highly accurate with respect to consumption timing. The Board members questioned how urine and hair follicle tests can yield different results. She explained that there are physiological factors that can impact the outcome (such as metabolism and secretion rates). She stated that it is Dr. McCall's responsibility to state to her, her monitor, and to the testing personnel what substances she is taking. She affirmed that Dr. McCall never mentioned to her having taken the substance identified in the hair follicle test. Dr. Faria reminded the Board that Dr. McCall is in the very early stages of her recovery and her monitoring; she opined that her failure to share this information is attributed to a lack of information and possibly fear. She further indicated she believes that Dr. McCall is not a danger to the public as long as she is transparent and forthcoming with the members of her recovery support team.

The members questioned whether additional procedures or requirements can be put into place to ensure Dr. McCall's program is properly managed. Dr. Faria indicated that her prescription needs to be strictly managed, and that opioids be avoided. She also indicated that the medication needs to be managed by someone other than those who are providing her with therapeutic services, and that going forward communications need to more effectively be exchanged among the various providers involved in her recovery.

The Board posed questions relative to the roles and responsibilities of the persons and organizations involved in Dr. McCall's recovery program, noting that it appears there are cracks between those roles and responsibilities with respect to communications. The discussion also reflected that Dr. McCall must be honest and forthright with those professionals involved. Dr. Faria described the September 28 and October 5 conversations with Dr. McCall during which the drug screening results were discussed, explaining that she gave her the benefit of the doubt with respect to Dr. McCall's explanation. The Board questioned how

the treatment team can be more cohesive. Dr. Faria assured the Board that she will execute all of the necessary release forms so that she can communicate in a timely fashion with everyone involved in Dr. McCall's recovery.

In response to Board questioning concerning whether Dr. McCall was directed to discard old medication, Dr. Faria stated she did not do so as there was no indication that any remained in her possession, and opioids were not identified as a substance of concern. She stated, however, going forward she will be more vigilant. Dr. Faria also noted the delays in obtaining test results which explains why her October 6 treatment notes do not reflect that information.

The Board questioned why a certain medication for which she indicated she has a prescription did not appear in the test results. Dr. Faria explained that she advised Dr. McCall to refrain from using it if possible, given the potential adverse effects to her pregnancy,

Dr. Rhode explained to the Board his role relative to this case and stated his concerns that the monitoring is insufficient. He stated there is too much opportunity for potential abuse to occur and not be detected. He also noted that the different test results are concerning, and described a more effective type of DNA testing that could be used in this case. He stated that he believes he could be more effective as a monitor if permitted.

The Board questioned whether updated and current copies of all prescriptions can be obtained for the file. Ms. Thibodeau stated that Dr. McCall reported having taken medication for pain back in July. She reviewed the timeline of events concerning the test collection dates, the dates where she was advised of the positive test results, and the discussions that ensued that led to confusion relative to whether Dr. McCall has been untruthful. Ms. Thibodeau represented the screening results from the September tests as "unconfirmed" and "false positives", and stated that the hair follicle test negates those results. With respect to the missed test date on September 15, Ms. Thibodeau explained that Dr. McCall was very ill that day and took a COVID-19 test. Ms. Smith explained that the screens are as random as they can be, noting that they are done with a scheduled appointment or appearance in the office. Dr. Faria added that other testing approaches exist and that other Boards with whom she has worked have directed licensees to submit to those types of tests.

In response to Board questioning, Dr. Rhode stated that during their two sessions together he has not identified any concerns about Dr. McCall's ability to practice. He noted that she has been candid with him, and has identified to him the potential triggers that would be detrimental to her recovery. The Board noted that recovery programs should be client-driven and are dependent on the licensee ensuring information flows freely and promptly among the program providers. The Board questioned whether Dr. McCall tested positive prior to September. Ms. Smith replied that while she does not have access to those records at this moment, their protocol is to notify the Board of that fact promptly. Ms. Michaelsen affirmed she has no record of receiving notification of positive tests prior to the two September reports.

The Board discussed the case, noting that its role is to protect the public. The discussion acknowledged that while there is room for error, the Board has evidence of positive results spanning 3 tests with some inconsistent results. The Board discussion reflected the lack of coordination in the recovery program, and noted that Dr. McCall is currently able to practice. The Board noted that Dr. Rhode's role could be clarified and enhanced which would address many of the concerns discovered during this review. The Board members questioned whether the current consent agreement could be modified to expand Dr. Rhode's role so he becomes more involved in the monitoring of Dr. McCall's recovery. Dr. Rhode affirmed that he could assume the role of monitoring her testing, and suggested some more reliable testing programs (e.g. a DNA cheek-swab test). The Board discussed the necessity that Dr. Faria continue to see Dr. McCall and to communicate with Rising Phoenix and with Dr. Rhode. The Board discussion reflected that all medication use would need to be disclosed to Dr. Faria. Dr. Rhode indicated randomized testing four times each month for the next four months would be appropriate in this case. Ms. Galvin advised the Board to inform Dr. McCall that any new or modified monitoring requirements will be presented in a revised consent

agreement; should Dr. McCall not agree to the terms by the prescribed date, the matter will be remanded to a formal hearing. Dr. Faria addressed the Board and spoke to the value of Dr. McCall establishing a sober social network with other health professionals as one additional layer of support, noting that the advantage to the Board is the receipt of quarterly reports prepared by highly training and qualified treatment professionals. The Board discussed including a requirement that Dr. McCall's primary care physician and her obstetrician be included in the recovery team, and emphasized that all professional execute releases of information to share information with one another. Dr. Faria emphasized that any additional supports in which Dr. McCall participates will be helpful to her recovery.

MOTION: Ms. Shreeve moved to offer Dr. McCall a revised consent agreement with additional terms to include that Dr. Rhode assumes responsibility for the coordination and monitoring of Dr. McCall's recovery program to include random DNA testing at least 4 times per month, that she attend weekly facilitator-led group recovery sessions at Rising Phoenix with quarterly reports to be issued, and that her primary care physician be required to issue communications to the members of the team relative to medications prescribed. The motion included the provision that all existing terms stipulated in the current consent agreement shall stay in place, and that if Dr. McCall fails to sign the modified agreement within ten days, the matter will be referred to formal hearing.

SECOND: Dr. Davis-Wilson

VOTE: The following Board members voted in favor of the motion: Chairwoman Shreeve, Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Caterino, Dr. Davey, Dr. Gill, and Dr. Meier. The following Board members were absent: Mr. Dynar, Ms. Laboy and Dr. Mellott.

VOTE: 7-yay, 0-nay, 0-abstain, 0-recuse, 3-absent.

MOTION PASSED.

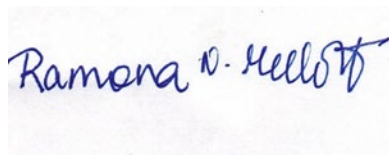
The Board thanked the professionals who participated in the meeting to inform the Board's discussions.

4. ADJOURNMENT

MOTION: Dr. Caterino moved to adjourn the meeting. Dr. Gill seconded the motion

VOTE: The motion was approved 7-0 (with 3 not voting due to absence). The meeting adjourned at 10:13 a.m.

Respectfully submitted,



Ramona Mellott, Ph.D.
Secretary