



Board Members

Frederick S. Wechsler, Ph.D., Psy.D., ABPP
Chair
Rob Robichaud, M.A. CJ, SHRM-CP, PHR
Vice-Chair
Tamara Shreeve, MPA
Secretary
Paul Beljan, Psy.D. ABPdN, ABN
Bob Bohanske, Ph.D
Janice K. Brundage, Ph.D.
Joseph C. Donaldson
Lynn L. Flowers, Ph.D.
Ramona Mellott, Ph.D.

**State of Arizona
Board of Psychologist Examiners**

1965-2015
50 Years of Service to Arizona

1400 West Washington, Suite 240
Phoenix, Arizona 85007

Phone: (602) 542-8162 Fax: (602) 542-8279
www.psychboard.az.gov

Staff

Dr. Cindy Olvey
Executive Director
Lynanne Chapman
Deputy Director
Heather Duracinski
Licensing Coordinator
Krishna Poe
Administrative Assistant

REGULAR SESSION MINUTES

October 7, 2015
8:30 a.m.

Capitol Center Building
15 S. 15th Ave.
Basement Conference Room, Side B
Phoenix, AZ 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairman Wechsler at 8:31 a.m. on October 7, 2015.

2. ROLL CALL

Board Members Present

Frederick S. Wechsler, Ph.D., Psy.D., ABPP (CI) -Chair
Rob Robichaud, M.A. CJ, SHRM-CP, PHR –Vice Chair
Tamara Shreeve, MPA –Secretary
Paul Beljan, Psy.D., ABPdN, ABN
Janice K. Brundage, Ph.D.
Bob Bohanske, Ph.D.
Joseph C. Donaldson
Lynn Flowers, Ph.D.
Ramona N. Mellott, Ph.D.

Board Staff

Dr. Cindy Olvey, Executive Director
Lynanne Chapman, Deputy Director
Heather Duracinski, Licensing Coordinator
Krishna Poe, Administrative Assistant

Attorney General’s Office

Jeanne Galvin, Esq.

3. REMARKS/ANNOUNCEMENTS

CE Documentation – Dr. Wechsler announced that licensees could receive CE credits in Ethics for attendance at Board meetings and explained how to obtain credit.

Board Assessment Forms – Dr. Wechsler encouraged members of the audience to complete a Board meeting Assessment Survey and place them in the survey box.

Remarks, Board Member and Staff Appreciation –Dr. Wechsler thanked Board members and Staff for their dedication and hard work.

4. CONSENT AGENDA - DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION

Dr. Brundage and Mr. Donaldson abstained from the June 5, 2015, Regular Session Minutes. Mr. Donaldson abstained from the September 11, 2015, Regular and Executive Session Minutes. Dr. Flowers requested that Jeffrey Wieneke, Psy.D., application be removed from the Consent Agenda for independent discussion. Dr. Bohanske made a motion, seconded by Mr. Donaldson to approve the remaining items on the Consent Agenda. The motion carried 9-0.

(a) APPROVAL OF MINUTES

- June 5, 2015, Regular Session (Dr. Brundage and Mr. Donaldson abstained)
- September 11, 2015, Regular Session (Mr. Donaldson abstained)
- September 11, 2015, Executive Session (Mr. Donaldson abstained)

(b) DISCUSSION/DECISION REGARDING PSYCHOLOGY APPLICATIONS

i. REQUESTING APPROVAL FOR EXAM AND/OR LICENSURE

- Heather Koutsogiannis, Psy.D.
- ~~Jeffrey Wieneke, Psy.D.~~
- Jordana Katz, Psy.D.

iii. REQUESTING APPROVAL FOR LICENSURE BY WAIVER

- Brenda Aranda, Ph.D.
- Sheri Clark, Ph.D.

iii. REQUESTING APPROVAL FOR LICENSURE BY CREDENTIAL

- Don Axsom, Psy.D.

(c) DISCUSSION/DECISION REGARDING BEHAVIOR ANALYST APPLICATIONS

- Carlos Nuno, M.Ed.

(d) EXECUTIVE DIRECTOR'S REPORT

(e) INVESTIGATIONS REPORT

(f) LICENSING REPORT

5. COUNSEL REPORT

Ms. Galvin did not have a counsel report for the Board.

6. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING COMMEMORATING 50 YEARS (1965-2015) SINCE ENACTMENT OF ENABLING LEGISLATION REGULATING PSYCHOLOGY AS A PROFESSION

Dr. Bohanske provided a summary stating that the Board has been celebrating the 50th anniversary with various activities including:

- Held in-person Board meetings in Tucson and Flagstaff
- The Association of State and Provincial Psychology Boards (ASPPB) is holding its annual meeting in Arizona

- Governor Ducey proclaimed October 5 – 11, 2015, as Psychology Week in Arizona
- Mayor Mitchell proclaimed October 8, 2015, as Psychology Day in Tempe, Arizona
- Commemorative certificates have been ordered and will be distributed to psychologists who placed orders

Additionally, Dr. Bohanske stated that pins with the Arizona Board of Psychologist Examiners logo will be distributed at the ASPPB meeting. Dr. Bohanske presented the Board members and staff with pins.

7. DISCUSSION/DECISION REGARDING PSYCHOLOGY APPLICATIONS – Jeffrey Wieneke, Psy.D.

This item was removed from the Consent Agenda for independent discussion. Dr. Flowers summarized Dr. Wieneke’s application. Dr. Flowers discussed a reference submitted by a professor. Following deliberation, the Board determined that Dr. Wieneke’s application meets the requirements of statute and rule. Dr. Mellott made a motion, seconded by Dr. Bohanske, to approve Dr. Wieneke’s application to sit for the EPPP and licensure upon receipt of a passing score and payment of the prorated license fee. The motion carried 9-0.

8. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO INITIAL CASE REVIEW OF RFI 15-18, CRAYDON MCDONALD, PH.D.

Dr. Bohanske provided a summary of the allegations to the Board, indicating that Dr. McDonald submitted a response and denied all allegations. Dr. Bohanske stated that the Complaint Screening Committee reviewed this case and forwarded it to the full Board for possible violations of A.R.S. §§32-2061(15)(o)(r)(y) and (dd).

The Complainant was not present. Dr. McDonald and his legal counsel, Faren Akins, were present, requested to speak and answered Board members’ questions. Dr. McDonald summarized some clinical aspects of the case.

At 9:01 a.m., Dr. Brundage made a motion, seconded by Ms. Shreeve, to go into Executive Session to review confidential medical records. The motion carried 9-0. Open session reconvened at 9:35 a.m.

Board members asked Dr. McDonald questions related to his record keeping. Dr. McDonald-acknowledged that he was not current in his knowledge of record keeping standards and indicated that, after consultation with his legal counsel, he made necessary changes to update his record keeping practice. Board members asked Dr. McDonald questions about the layout of his office in relation to the complaint allegations.

Board members deliberated and expressed concern with Dr. McDonald’s assessment, risk assessment, record keeping, and informed consent procedures and whether they may be below current practice standards.

Following deliberation, Dr. Bohanske made a motion, seconded by Dr. Brundage, to allow the Board’s legal counsel, Ms. Galvin, and Dr. McDonald’s legal counsel, Faren Akins, to negotiate a Letter of Concern and a Non-Disciplinary Consent Agreement and Order for Continuing Education regarding record keeping, informed consent, assessment, and risk assessment procedures. The motion included that Dr. McDonald will submit documentation of the changes he has made regarding his record keeping. If an agreement is not reached, this matter will be returned to the Board for further consideration. The motion carried 9-0.

9. CALL TO THE PUBLIC

A member of the public, D.H., requested to speak. D.H. stated that an item is on the agenda to be heard by the Board regarding a Claim that she filed with the Board, which was returned to her with a letter indicating the Board lacked jurisdiction. D.H. asserted that the Board has jurisdiction in this matter.

10. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO JUDICIAL REMAND OF C20135533, REGARDING ANTHONY LUICK, PH.D. AND ISSUANCE OF FINAL DECISION

Dr. Wechsler recused from this item and exited the meeting room. A court reporter was present and recorded the proceedings. Ms. Galvin represented the State in this matter. Christopher Munns, A.A.G., from the Solicitor General's Office represented the Board in this matter.

Board members introduced themselves. Mr. Robichaud chaired this item and summarized the remand stating that the Judge concluded that the Board violated Dr. Luick's due process rights by relying on factual allegations not identified in the complaint and which Dr. Luick did not have the opportunity to defend against. Mr. Munns provided clarification to the Board stating that this is not an evidentiary hearing and witnesses should not be allowed to address the Board. Mr. Munns affirmed that the Board is hearing only the remand.

Ms. Galvin made a presentation on behalf of the State. Ms. Galvin summarized the case history and expert witness credentials. Ms. Galvin stated that the State is requesting that the Board modify its previous Decree of Censure to include violations of A.R.S. §§32-2061(15)(e)(o) and (dd) as it pertains to the American Psychological Association Ethical Principles of Psychologists and Code of Conduct standard 3.05 Multiple Relationships.

Dr. Luick was present and his legal counsel, Tom Slutes, was present telephonically. Mr. Slutes stated that he is present to hear the proceedings and is deferring to his client to address the Board.

At 10:28 a.m., Ms. Shreeve made a motion, seconded by Dr. Beljan, to go into Executive Session to receive confidential legal advice from the Board's attorney. The motion carried 8-0. Open session reconvened at 10:41 a.m.

Dr. Luick stated that this matter is before the Board because his due process was violated. He elaborated that the State's attorney accepted the expert witness testimony even though the evidence was not noticed in the Complaint and Notice of Hearing. Dr. Luick reviewed the case and timeline of events. Ms. Galvin made a rebuttal to a portion of Dr. Luick's remarks.

The Board deliberated and expressed concern with the case. The Board stated that the hearing today does not change its previous decision to issue a Decree of Censure. After deliberation, Dr. Beljan made a motion, seconded by Ms. Shreeve, to issue Dr. Luick the modified Decree of Censure proposed by the State's attorney. The motion carried 8-0-1 on a roll call vote with Dr. Wechsler recused.

11. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION CONCERNING PROPOSED CONSENT AGREEMENT SUBMITTED BY DR. BRIM

Dr. Brundage, Dr. Mellott and Mr. Donaldson recused from this item and exited the meeting room. Ms. Chapman provided a summary to the Board stating that the Board reviewed this case at a previous meeting and voted to forward it to an Informal Interview with an Interim Order for a Fitness for Duty/Neuropsychological evaluation. Ms. Chapman stated that the Board office has received a proposed Consent Agreement from Dr. Brim's attorney and it is before the Board for review.

Dr. Brim was not present but her legal counsel, Faren Akins, was present and made himself available for questions regarding the proposed Consent Agreement. Mr. Akins stated that he drafted the Consent Agreement after review of the Board's concerns during its initial review of Dr. Brim's complaint.

The Board deliberated and expressed concern with some of the stipulations of the proposed Consent Agreement. Specifically, the Board would like revisions to include extending the length of probation to 18 months; weekly meetings with the Practice Monitor for the first 8 months and then the meetings may be biweekly contingent upon a favorable report of the Practice Monitor; Practice Monitor meetings to be conducted in-person; Practice Monitor to address issues including, but not limited to self-evaluation strategies, boundaries, multiple relationships, record keeping (6 hours), billing; require continuing education (9 hours) in ethics and multiple relationships; probation to

last at least one year prior to requesting release from probation; and re-evaluation before being released from probation. In addition, the Board will recommend three Practice Monitors from which Dr. Brim may select one. After deliberation, Dr. Bohanske made a motion, seconded by Dr. Wechsler, to allow the Board's attorney and Dr. Brim's legal counsel, Faren Akins, to renegotiate the terms of the Consent Agreement and to table the Informal Interview, pending the outcome of negotiations regarding a modified Consent Agreement that is acceptable to the Board. The motion carried 6-0-3 with Dr. Brundage, Dr. Mellott and Mr. Donaldson recused.

12. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING CORRESPONDENCE RECEIVED FROM BRUCE ALLEN, PH.D. REQUESTING TO CARRY OVER CONTINUING EDUCATION EARNED IN MARCH, 2015 TO THE 2015-2017 LICENSING CYCLE

Ms. Duracinski provided a summary to the Board stating that on September 23, 2015, the Board office received correspondence from Dr. Allen requesting that he be allowed to carryover continuing education that he received in March of 2015 to the 2015-2017 continuing education cycle.

Dr. Allen was present telephonically to answer Board member questions if necessary. The Board deliberated and stated that rules have the force of law. After deliberation, Dr. Wechsler made a motion, seconded by Mr. Donaldson, to deny Dr. Allen's request pursuant to Arizona Administrative Code R4-26-207(J). The motion carried 9-0.

13. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION CONCERNING PROPOSED CONSENT AGREEMENT SUBMITTED BY DR. DONNELLY

Ms. Chapman provided a summary to the Board stating that on August 14, 2015, the Board conducted an initial review of RFI 15-15 and voted to refer the matter to an Informal Interview for possible violations of A.R.S. §§32-2061(15)(m) and (n). On September 25, 2015, Dr. Donnelly's legal counsel, Faren Akins, submitted a proposed Consent Agreement for a Decree of Censure for the Board's review, consideration, and possible acceptance in lieu of proceeding to an Informal Interview.

Dr. Donnelly was not present but her legal counsel, Faren Akins, was present, requested to speak and made a statement. Mr. Akins stated that the proposed Consent Agreement was drafted to address the Board's concerns and includes the violations and conclusions of law that the Board addressed at its August 14, 2015, Board meeting.

The Board deliberated and expressed concern that the proposed Consent Agreement does not adequately address the Board's concerns. Dr. Wechsler made a motion to reject the proposed Consent Agreement and to proceed with the Informal Interview. The motion died due to lack of a second.

Board members continued deliberations, including identification of areas where the currently proposed Consent Agreement is inadequate, discussion of additional terms that should be included in a Consent Agreement, and whether the Informal Interview should proceed as scheduled.

After deliberation, Mr. Robichaud made a motion, seconded by Dr. Bohanske, to modify the proposed Consent Agreement for a Decree of Censure to include an additional term for the surrender of Dr. Donnelly's license, and directing Board staff to send a letter to the Maryland Board of Examiners of Psychologists, notifying that board of the Consent Agreement. The motion failed 3-6, on a roll call vote, with Dr. Beljan, Dr. Brundage, Mr. Donaldson, Dr. Flowers, Dr. Mellott and Ms. Shreeve voting no.

Dr. Mellott made a motion, seconded by Dr. Bohanske, to allow the Board's legal counsel and Mr. Akins to renegotiate the Consent Agreement with additional terms including placement of Dr. Donnelly's license on Inactive status; a letter notifying the Maryland board of the disciplinary action taken on Dr. Donnelly's Arizona license and the basis for the disciplinary action; a requirement that Dr. Donnelly comply with all terms of the Consent Order currently in place with the Maryland board in resolution of her case with that board; and a requirement that the Board be provided with a progress report from the Maryland board upon completion of her Consent Order with that board, addressing her compliance with the Consent Order. In addition, should Dr. Donnelly seek reactivation of her Arizona

license, the Board will review the facts and circumstances of the Maryland case that resulted in her placement on a Consent Order in that state, as well as the facts and circumstances leading to the Consent Agreement in the current Arizona case, to determine whether any additional Board actions are necessary to protect the health, welfare, and safety of Arizona citizens, should the Board approve her request to activate her Arizona license. The motion carried 7-1-1 with Mr. Donaldson voting no and Dr. Wechsler abstaining.

9. CALL TO THE PUBLIC (Cont.)

A member of the public, Martin Lynch, requested to speak. Mr. Lynch stated that he submitted a letter to the Board detailing ways that the Board can streamline its procedures in processing Claims pursuant to A.R.S. §32-2081(C). Mr. Lynch referenced additional statutes (A.R.S. §§13-2407 & 13-2310) stating that these statutes may apply to psychologists. Mr. Lynch thanked the Board for its efforts.

14. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING THE ELECTION OF OFFICER (CHAIR, VICE-CHAIR AND SECRETARY) FOR CALENDAR YEAR 2016

Mr. Robichaud Chaired this item. The Board elected officers (Chair, Vice-Chair and Secretary) for the 2016 calendar year. Dr. Bohanske made a motion to elect the Board Chair, Vice-Chair and Secretary by acclamation. Dr. Beljan was nominated for Secretary and the vote passed 9-0. Ms. Shreeve was nominated for Vice-Chair and the vote passed 9-0. Dr. Wechsler was nominated for Chair and the vote passed 9-0.

15. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING ORAL PROCEEDING HELD FOR PROPOSED RULES FOR PSYCHOLOGY, WRITTEN COMMENTS RECEIVED AND DETERMINATION OF WHETHER TO ADOPT PROPOSED RULES AS FINAL RULES, SUBMIT FINAL RULES TO THE GOVERNOR'S REGULATORY REVIEW COUNCIL, AND FORMALLY CLOSE THE RECORD

Dr. Olvey provided a summary to the Board stating that comments were received regarding the draft rules and the comments are before the Board for review. The first comment pertained to the term "Diplomate," which is proposed to be changed to "Specialist" as used by the American Board of Professional Psychology. The comment stated that there are other boards that should be included. The Board determined to make no change to the Proposed Rule as the only board currently recognized in statute is the American Board of Professional Psychology (A.R.S. §32-2071.01(D)(3)).

The second comment pertained to the release of records contingent upon payment when forensic evaluations are provided. The Board discussed A.R.S. §12-2293(B) and Standard 6.03 of the Ethical Principles of Psychologists and Code of Conduct adopted by the American Psychological Association and adopted by reference by the Board (R4-26-301). The Board determined to make no change to the Proposed Rule as the Board does not regulate or prescribe business models or management of payment for services.

The third comment pertained to the release of raw data to a client or patient as well as release of psychometric testing materials. The Board agreed that release of raw test data and psychometric test materials is problematic if the materials released are copyrighted. The Board will add language indicating that a licensee is not required to release materials if the release would violate copyright or other laws or violate the Ethical Principles of Psychologists and Code of Conduct adopted by the American Psychological Association. In addition, the Board asked the Rules Committee to consider the various statutes related to records retention and make recommendations to the Board regarding future rule changes. At a future meeting, the Board will consider the need for a revision to A.R.S. 32-2061(15)(cc).

The fourth comment pertained to the Ethical Principles of Psychologists and Code of Conduct (Code) adopted by the American Psychological Association effective June 1, 2003. The comment noted the rule does not address amendments to the Code and noted that the Code was updated in 2015. The Board has previously determined that the Board does not wish to adopt subsequent amendments to the Code. In addition, the commenter was contacted and acknowledged that the Code has not been updated in 2015. The Board will not change this section.

Dr. Bohanske made a motion, seconded by Mr. Robichaud, to approve the Proposed Rules as Final Rules with the additional language pertaining to R4-26-106, to submit Final Rules to the Governor's Regulatory Review Council, and to close the record. The motion carried 9-0.

16. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING CORRESPONDENCE RECEIVED FROM A POTENTIAL CLAIMANT WHOSE CLAIM WAS RETURNED BY THE BOARD UNDER THE BOARD'S INTERPRETATION OF A.R.S. §32-2081(C) AND CONSIDERATION OF THE BOARD'S INTERPRETATION OF THE SAME

Ms. Chapman provided a summary to the Board stating the A.R.S. §32-2081(C) became effective July 3, 2015. At the Board's August 14, 2015, meeting, the Board voted to apply a prospective interpretation to A.R.S. §32-2081(C). Subsequently, Claims that did not meet the prospective requirement were returned to Claimants. The Board office received correspondence from a potential Claimant concerning her Claim.

At 3:29 p.m. Mr. Donaldson made a motion, seconded by Dr. Brundage, to move into Executive Session to obtain confidential legal advice from the Board's attorney. The motion carried 9-0. Open session reconvened at 3:48 p.m.

Board members deliberated and determined that a Judge issued a minute entry indicating that the individual was offered a choice to submit a claim under the new statute once it took effect or to have the Judge review the complaint. The individual chose to submit the claim to the Board under the new statute. After deliberation, Dr. Brundage made a motion, seconded by Mr. Donaldson, to accept the Claim in question under the Board's previous process. The Claim will be opened as a Request for Investigation (Complaint) and will be reviewed by the Board's Complaint Screening Committee. The motion carried 9-0 on a roll call vote.

The Board discussed the current Claim process and applying a prospective interpretation to A.R.S. §32-2081(C). Following deliberation, Ms. Shreeve made a motion, seconded by Dr. Mellott, to rescind the Board's previous motion to apply a prospective interpretation to A.R.S. §32-2081(C). The motion carried 7-2 on a roll call vote with Dr. Bohanske and Dr. Brundage voting no.

Ms. Shreeve made a motion, seconded by Mr. Robichaud, to accept all Claims retrospectively, regardless of when the court ordered services were provided. The motion carried 7-2 on a roll call vote with Dr. Bohanske and Dr. Brundage voting no.

The Board directed Board staff to notify those individuals whose Claims were returned that the Board rescinded its previous decision and will accept Claims regardless of the date court ordered services were provided. In addition, individuals must confirm with the Board office that they wish to have their Claims continue through the review process.

17. NEW AGENDA ITEMS FOR FUTURE MEETINGS

Dr. Bohankse requested that the Claims process be reviewed at a future meeting. Mr. Donaldson requested that the projected cost of processing Claims be discussed at a future meeting.

18. ADJOURN

There being no further business to come before the Board, Dr. Mellott made a motion, seconded by Mr. Donaldson, to adjourn the meeting at 4:29 p.m. The motion carried 9-0.

Respectfully submitted,

Tamara Shreeve, MPA
Board Secretary