



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

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

Emergency Meeting Minutes

Held virtually via Zoom on November 2, 2021

Board Members

Diana Davis-Wilson, DBH, BCBA – Chair
Bryan Davey, Ph.D., BCBA-D – Vice-Chair
Mathew A. Meier, Psy.D. – Secretary
Linda Caterino, Ph.D., ABPP
Aditya Dynar, Esq.
Stephen Gill, Ph.D.
Ramona N. Mellott, Ph.D.
Tamara Shreeve, MPA
Todd Wynn, M.A.

1. CALL TO ORDER

Chairwoman Davis-Wilson called the Board's meeting to order at 8:00 a.m.

2. ROLL CALL

The following Board members participated in the virtual meeting: Chairwoman Davis-Wilson, Vice-Chairman Davey, Dr. Caterino, Dr. Gill, Secretary Dr. Meier, Dr. Mellott, Ms. Shreeve, and Mr. Wynn. The following Board member was absent: Mr. Dynar.

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

3. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION PERTAINING TO BRIAN SCHAFFER, INCLUDING, BUT NOT LIMITED, TO THE POSSIBLE SUMMARY SUSPENSION OF HIS LICENSE TO PRACTICE BEHAVIOR ANALYSIS, REFERRAL TO FORMAL HEARING, OR OTHER ADMINISTRATIVE REMEDIES AVAILABLE TO THE BOARD

Ms. Michaelsen summarized the background and allegations concerning this case. During its meeting on October 1, 2021, Mr. Schaffer's request to return to practice in Arizona under his behavior analyst license was reviewed by the Board and it elected to offer Mr. Schaffer an amendment to the November 2020 Consent agreement which would require that his license be placed on probation for 12 months and that he be required to work under a practice monitor. This agreement went into effect October 22, 2021. On October 26, Ms. Michaelsen reported receiving an email from the mother of a 9 year old boy ("Son") in Colorado Springs, Colorado advising that Mr. Schaffer was the subject of an arrest warrant in that jurisdiction for an alleged assault of Son. The mother indicated

Son received applied behavior analysis service at Rehab For All where Mr. Schaffer was employed during two weeks in August of 2021. Mother subsequently submitted photos of Son's injuries, to include scratches, abrasion, and contusions on his neck and elsewhere on his body.

Ms. Michaelsen further noted she was contacted by a detective with the Colorado Springs police department who indicated that he recently began investigating a case involving Mr. Schaffer for whom a felony arrest warrant was issued concerning his conduct with a child (Son) at a facility in Colorado Springs on August 26, 2021. The detective explained he was coordinating with local authorities in Arizona to serve the arrest warrant. On October 28, 2021 Mr. Schaffer was arrested in the Phoenix area for the alleged assault of Son in Colorado; he was subsequently released on October 29, 2021 after posting bail.

Ms. Michaelsen reminded the Board that it was on August 31, 2021 that Mr. Schaffer emailed her about returning to practice in Arizona; at no time did Mr. Schaffer disclose to the Board that he was under criminal investigation in Colorado, or that he had been terminated by the agency. On October 28, 2021 Mr. Schaffer was arrested in the Phoenix area for the alleged assault of Son in Colorado. He was subsequently released one day later, on October 29, 2021 after posting bail.

Ms. Michaelsen summarized the incident report filed by Rehab for All on August 26, 2021 during which Mr. Schaffer was observed by other agency personnel to have used aggressive tactics with Son. At one point Mr. Schaffer and the Registered Behavior Technician transitioned Son to a de-escalation room and Mr. Schaffer told the RBT to leave the de-escalation room, leaving him and Son alone for 3 to 5 minutes. Upon reentering, the RBT found Son crying and with red marks and scratches on his upper body. Son reported that Mr. Schaffer directed a vulgar word to him multiple times, had his hands around his neck, pinned him to the floor with his body, and that "Brian strangled me."

Ms. Michaelsen advised the Board that the Behavior Analyst Certification Board, (BACB) which regulates Mr. Schaffer's BCBA certification, had summarily suspended Mr. Schaffer's certification as a result of this event. She then explained that Mr. Schaffer's attorney, Flynn Carey, inquired with Board staff about the possibility of Mr. Schaffer entering into a consent agreement with the Board for a suspension of his license in lieu of an Interim Order for summary suspension; in doing so the Board would not be required to hold a formal hearing within 35 days and the suspension would then allow the criminal matter in Colorado to be resolved. A proposed interim consent agreement for the suspension of license is presented to the Board, the terms of which state that Mr. Schaffer's behavior analyst license is suspended for a minimum of 6 months during which time the Board shall review the developments with his pending criminal charges. The agreement permits the Board to review the suspension at intervals it deems appropriate for purposes of determining whether the suspension shall continue, be lifted, the matter be referred to formal hearing or be resolved in an alternative matter. Additionally, during the suspension, Mr. Schaffer's compliance with the amended consent agreement is stayed. Ms. Michaelsen indicated to the Board that Mr. Schaffer signed the agreement which is presented to the Board today for consideration; additional case resolution options are outlined in a confidential memo prepared by Jeanne Galvin, the Board's attorney.

Mr. Schaffer and Mr. Flynn were present for the review of this matter. On behalf of his client, Mr. Flynn explained that the proposed agreement ensures that Mr. Schaffer does not practice behavior analysis while the criminal matter is pending, and it circumvents Mr. Schaffer needing to divide his attention between both matters while best protecting all of his due process rights. He explained that it ultimately arms the Board with more information upon which to make a final decision, and it strikes a balance between public protection and Mr. Schaffer's rights. Mr. Flynn assured the Board that any developments concerning the criminal case will expeditiously be shared with the Board.

The Board asked Mr. Schaffer whether he is currently working. Mr. Flynn responded that while he has advised his client to exercise his right to remain silent at this time, he assured the Board that Mr. Schaffer understands that the terms of the consent agreement prohibit him from holding himself out to be a behavior analyst, and from practicing as such. In response to a question posed by the Board, Ms. Galvin affirmed that she is in support of the proposed agreement and is comfortable with the representations made by Mr. Flynn; she advised the Board that she believes that the public is effectively protected in the process.

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

VOTE: The motion was approved 8-0.

The Board resumed the meeting in public session.

MOTION: Ms. Shreeve moved to accept the proposed Consent Agreement. Dr. Mellott seconded the motion.

DISCUSSION: The discussion reflected concerns that Mr. Schaffer has a history of not disclosing his disciplinary history to current and prospective employers.

ROLL CALL VOTE:

Dr. Davis-Wilson - aye

Dr. Davey - aye

Dr. Meier - aye

Dr. Caterino - aye

Dr. Gill - aye

Dr. Mellott - aye

Ms. Shreeve - aye

Mr. Wynn - aye

4. ADJOURNMENT

MOTION: Dr. Mellott moved to adjourn the meeting. Ms. Shreeve seconded the motion.

VOTE: The motion was approved 8-0.

The meeting concluded at 8:37 a.m.

Respectfully submitted



Matt Meier, Psy.D.

Secretary