



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

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

Regular Session Meeting Minutes

Held on May 8, 2020
via Zoom

Board Members

Tamara Shreeve, MPA – Chair
Diana Davis-Wilson, DBH, BCBA, PH.D. – Vice-Chair
Lynn L. Flowers, PH.D. – Secretary
Robert Bohanske, Ph.D., FNAP
Bryan Davey, Ph.D., BCBA-D
Aditya Dynar, Esq.
Stephen Gill, Ph.D.
Matthew A. Meier, Psy.D.
Ramona N. Mellott, Ph.D.

1. CALL TO ORDER

Chairwoman Shreeve called the Board's meeting to order at 8:37 a.m.

2. ROLL CALL

The following Board members participated in the virtual meeting: Chairwoman Shreeve, Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Davey, Mr. Dynar, Dr. Flowers, Dr. Gill, Dr. Meier, and Dr. Mellott.

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; Krishna Poe, Administrative Assistant; and, Andrea Cisneros, Minutes Administrator.

3. REMARKS/ANNOUNCEMENTS

- **Board Surveys**

Chairwoman Shreeve instructed meeting attendees to contact Board staff for survey forms.

- **Board Member and Staff Appreciation**

Chairwoman Shreeve acknowledged and thanked Board members and staff for their efforts in preparing for and facilitating the Board's virtual meeting in light of the current health crisis.

4. CALL TO THE PUBLIC

No individuals addressed the Board during the Call to the Public.

5. COUNSEL UPDATE

AAG Galvin reported that there is a matter pending involving Dr. DenBoer wherein the Board's application of A.R.S. § 32-2081.C. was challenged. AAG Galvin stated that the Board was successful in Superior Court as well as the Court of Appeals, and that the matter is currently pending appeal in Supreme Court.

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

MOTION: Dr. Bohanske moved for the Board to approve the items as listed under the Consent Agenda.

SECOND: Dr. Flowers

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

A. APPROVAL OF MINUTES

- April 3, 2020 Regular Session Minutes
- April 3, 2020 Executive Session Minutes

B. EXECUTIVE DIRECTOR'S REPORT

C. DISCUSSION/DECISION REGARDING PSYCHOLOGIST APPLICATIONS

Requesting Approval to Sit for Examination (EPPP) & Licensure

- 1) Mariela Soto, Psy.D.
- 2) Rosalba Mada, Ph.D.
- 3) Sean McGlaughlin, Ph.D.
- 4) Stephanie Reynolds, Psy.D.
- 5) Suzanne Frost, Psy.D.

Requesting Approval for Licensure by Waiver

- 1) Elizabeth Coleman, Ph.D.
- 2) Linsey Lancellotti, Psy.D.

Requesting Approval of Temporary Licensure and to Site for EPPP

- 1) Matthew J. Hussey, Psy.D.
- 2) Jody Pennington di Cosola, Psy.D.

Requesting Approval of Supervised Hours for Licensure

- 1) Dana Dagleish, Ph.D.

Requesting Approval for Licensure by Universal Recognition

- 1) Alan Tower, Ph.D.
- 2) Bard Schatzman, Ph.D.
- 3) Bradley C. Boivin, Psy.D.
- 4) Denise L. Brooks, Ph.D.
- 5) Jamie L. Kordick, Psy.D.
- 6) Jessica Shanna James, Ph.D.
- 7) Jill Jacobson, Ph.D.
- 8) Sandra Wauthena Haymon, Ph.D.
- 9) Shannon Dodani, Psy.D.
- 10) Valerie Gold-Neil, Ed.D.

D. DISCUSSION/DECISION REGARDING BEHAVIOR ANALYST APPLICATIONS

1) Application for Licensure

- Alison Carter Dillon, M.Ed.
- Cole Mark Mason Goudreau, M.S.
- Haley Kathleen Diane Rose, M.A.
- Heather Ramsden, M.A.
- Jessica Angela Goss, M.Ed.
- Joel Salvatore Matiella, M.Ed.
- Kimberly Daum, M.A.
- LaShae J. Holmes, M.Ed.
- Rachel Zvareck, M.A.
- Shannon Weller, M.S. (*FAIR**)

2) Behavior Analyst Application for Licensure by Universal Recognition

- Miriam G. Young, M.Ed.

TIMED ITEM – 8:45 a.m.

7. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO THE COMMITTEE ON BEHAVIOR ANALYSTS RECOMMENDATION REGARDING THE FOLLOWING COMPLAINT AND/OR INITIAL CASE REVIEW OF THE FOLLOWING COMPLAINT

a) Complaint No. 20-32 Karen Peterson, M.A.

Vice-Chairwoman Davis-Wilson was recused from this case.

Dr. Davey summarized that a complaint was received in January 2020 alleging that the licensee failed to take action when she became aware that an individual employee of the school had allegedly hit or struck a student. The Committee reviewed the information and recommended dismissal. The Committee noted that Ms. Peterson was not privy to the information first-hand, but did review the information with her supervisors and was under the impression that the supervisors were going to address the matter further. When the licensee became aware that the supervisors did not pursue the matter further, she reached out to the authorities with regard to the incident.

Ms. Peterson and Attorney Trisha Shafer participated in the virtual meeting and were available for any questions.

MOTION: Dr. Davey moved for the Board to dismiss the complaint.

SECOND: Dr. Bohanske

VOTE: The following Board members voted in favor of the motion: Chairwoman Shreeve, Dr. Bohanske, Dr. Davey, Mr. Dynar, Dr. Flowers, Dr. Gill, Dr. Meier, and Dr. Mellott. The following Board member was recused: Vice-Chairwoman Davis-Wilson.

VOTE: 8-yay, 0-nay, 0-abstain, 1-recuse, 0-absent.

MOTION PASSED.

TIMED ITEM – 9:00 a.m.

8. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO A PROPOSED INTERIM CONSENT AGREEMENT AND ORDER FOR PRACTICE RESTRICTION SIGNED BY AUSTIN MCCALL, PSY.D. IN CASE NO. 20-47 OR OTHER ADMINISTRATIVE REMEDIES AVAILABLE TO THE BOARD

Dr. McCall and Attorney Tammy Thibodeau participated in the virtual meeting during the Board's

consideration of this matter.

Deputy Director Michaelsen summarized that the Board received information alleging that Dr. McCall had a history of illicit substance abuse and may have a health condition that could potentially place the public or patients at risk. Dr. McCall underwent testing and was offered an Interim Consent Agreement and Order for Practice Restriction prohibiting the licensee from practicing until she is deemed safe to practice and receives permission from the Board. Dr. McCall, through counsel, requested various modifications to the proposed ICA. Board staff sent the licensee an updated agreement that incorporated most of the requested modifications, and the signed ICA was received the following day. Deputy Director Michaelsen stated that if approved by the Board, the case would return after the evaluation results are received.

Ms. Thibodeau informed the Board that the evaluation has been scheduled for May 28, 2020.

MOTION: Dr. Flowers moved for the Board to accept the proposed Interim Consent Agreement and Order for Practice Restriction signed by Dr. McCall in Board Case No. 20-47.

SECOND: Vice-Chairwoman Davis-Wilson

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

TIMED ITEM – 9:15 a.m.

9. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO INITIAL CASE REVIEW OF THE FOLLOWING COMPLAINTS

a) Complaint No. 20-28 Nicole Huggins, Psy.D.

Dr. Huggins participated in the virtual meeting during the Board's consideration of this matter. Dr. Flowers summarized that a complaint was filed alleging that the evaluation report was not provided in a timely manner as well as errors within the report. Dr. Flowers stated that the Committee met on March 18, 2020 and had concerns regarding the timeliness for completing of the evaluation report as well as inconsistencies within the report. The Committee observed that there was a miscommunication or misunderstanding with the client in relation to the role of the students during the evaluation. The Committee identified possible violations of failure to maintain adequate records, and violation of ethical standards relating to informed consent.

Dr. Huggins stated that the allegations were unfounded, and that she had additional documentation to present to the Board that further refuted the allegations. Dr. Flowers stated that he observed the date of testing to be September 9th, while the informed consent form was signed on September 17th and there was no mention as to the students and their role in the evaluation, nor did it include the students' signatures. Dr. Huggins explained that their intake process involves her sending an email to the client providing them an option to fill out the intake paperwork prior to or during the visit, and explicitly informs the client of the other providers' involvement in the evaluation. Dr. Huggins stated that the September 9th date was a typographical error, and confirmed that the informed consent was signed on September 17th and the evaluation was conducted on September 19th. Dr. Flowers questioned the licensee regarding the students' signatures missing from the evaluation report. Dr. Huggins stated that the child and stepfather were introduced to the students in the lobby on the day they presented for the evaluation, and that the final report was not signed by the students who participated in the evaluation due to time constraints.

Dr. Flowers stated that based on his review of the case, the situation does not meet the threshold of a statutory violation and spoke in support of dismissal. Dr. Bohanske stated that the role of students in the practice concerned him greatly, as well as the missing student signatures from the evaluation report. Dr. Bohanske stated that the informed consent form should include information

regarding the students and their supervisor, and should expand further on their roles for the evaluation. Dr. Bohanske added that when the report is finished and references information based on testing done by the students, the report should explicitly identify that the final product was based in part on testing performed by students and should be signed by the students involved. Dr. Bohanske commented that the issues identified in this case are borderline ethical issues and that he wanted to see the licensee have better documentation of student involvement.

MOTION: Dr. Flowers moved for dismissal.

SECOND: Dr. Mellott

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

TIMED ITEM – 10:00 a.m.

10. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO INITIAL CASE REVIEW OF THE FOLLOWING COMPLAINTS AND POSSIBLE CONSOLIDATION WITH DR. JOHH DENBOER'S CURRENT CONSENT AGREEMENT FOR CASE NOS. 16-39, 16-53, AND 17-23.

Dr. DenBoer participated in the virtual meeting with Attorney Arthur Eades during the Board's consideration of the following matters:

a) Complaint No. 20-11 John DenBoer, Ph.D.

Chairwoman Davis-Wilson summarized that a complaint was received from a psychologist (TM) alleging medical recordkeeping issues and concerns relating to scoring mechanisms that were utilized that were inconsistent with assessment procedures from developers. Concerns were also raised regarding potential copyright infringement involving the reuse of forms outside the standards of practice, as well as concerns relating to supervision of technicians and the overall role of technicians administering many of the assessments.

Mr. Eaves summarized the procedural history of the cases, and noted that Dr. DenBoer's license was placed on Probation with the requirement to utilize a practice monitor for issues similar to the concerns raised in this case. Mr. Eaves stated that the Board should consider that these practice concerns were already addressed by the Board by requiring a practice monitor pursuant to the Board's Order as the alleged conduct occurred prior to the licensee working with the Board-assigned practice monitor. Mr. Eaves stated that the practice monitor worked with the licensee for one year and wrote glowing reviews to the Board regarding Dr. DenBoer's practice. Mr. Eaves added that they retained experts who reviewed the same five patients as the Board's consultant, all of whom he stated found that Dr. DenBoer's practice and billing were appropriate. Mr. Eaves further stated that despite having gone through a very difficult time in his life, Dr. DenBoer has participated in the Board's proceedings, completed what has been asked of him by the Board to remediate any practice concerns, and has been successful in doing so as evident by the practice monitors reports to the Board.

Chairman Shreeve observed that the concerns raised in these cases involved incidents that occurred at the time that the practice monitor was overseeing and assisting with making adjustments to Dr. DenBoer's practice. With regard to the allegation involving copyright infringement, Chairman Shreeve stated that the Board does not regulate matters concerning copyright law. The Board discussed potentially rolling this case into the current Board Order if consented to by the parties. Dr. Flowers stated he found that there was ample evidence in this case of possible violations. Dr. Meier commented that he found this case had sufficient evidence to move forward for further review based upon the Board's discussion during today's proceedings and the accusations as laid out in the Investigative Report. Vice-Chairwoman Davis-Wilson

observed that the complainant in this case was a newly hired psychologist in the practice and reported to the Board concerns relating to copyright issues, potential issues with supervision of technicians, and scoring practices that were not consistent with the scoring manual.

The Board discussed the allegation of copyright infringement. Dr. Mellott recalled that this issue has been before the Board in the past, and stated that the Board does not regulate copyright law. Dr. Bohanske respectfully disagreed and stated that there are multiple copyright-related issues that are considered violations of ethical standards, which does fall under this Board's authority and regulation. The Board also discussed obtaining additional information relating to the scoring and copyright allegations to determine whether the testing forms and practices were appropriate in this case.

MOTION: Dr. Meier moved for this case to proceed to informal interview based on the testimony and evidence presented and the allegations as outlined in the investigative summary.

SECOND: Dr. Dr. Flowers

VOTE: The following Board members voted in favor of the motion: Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Davey, Mr. Dynar, Dr. Flowers, Dr. Gill, Dr. Meier, and Dr. Mellott. The following Board member voted against the motion: Chairwoman Shreeve.

VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

b) Complaint No. 20-17 John DenBoer, Ph.D.

Complainant GF participated in the virtual meeting during the Board's consideration of this matter. Dr. Bohanske summarized that the complainant in this case (GF) was a naturopathic physician licensed in the State of Arizona. GF alleged many unethical practices by Dr. DenBoer including insurance fraud and the use of unauthorized copyrighted material and evaluation. GF also alleged that Dr. DenBoer provided treatments under false pretenses as well as documentation issues.

GF stated that in July of 2019, he purchased 100% of Dr. DenBoer's company, and that the licensee had a 40% profit share and was a manager who was going to direct the company clinically with respect to the practice of psychology. GF stated that after he purchased the company, he learned that everything Dr. DenBoer claimed was a lie and that the licensee omitted several issues with the company at the time it was purchased. GF alleged that Dr. DenBoer stole the activities and content of his workbooks that were the property of at least 31 other properly copyrighted authors. GF alleged that Dr. DenBoer abandoned his patients and misappropriated \$50,000 of company funds to himself, his wife, and his mother. GF alleged that Dr. DenBoer ruined the company's reputation and billing abilities with multiple insurance companies. GF further alleged that Dr. DenBoer lied about his probation status with the Board in July of 2019, and submitted false loan applications to various lenders claiming he was still the owner of the company when he no longer was. GF stated he believed that the practice monitor was not a reliable source of information with regard to Dr. DenBoer's practice standards, and alleged that the licensee engaged in the illegal non-collection of copays, illegal use of time-based billing codes, and grossly inaccurate scoring of psychological assessments.

GF confirmed that he is an Arizona licensed naturopathic physician and not an expert in neuropsychology. GF explained that when he purchased the company, he had no intention to see patients. Dr. Bohanske questioned how the patients were informed of the transition when Dr. DenBoer was terminated from the company. GF stated he believed that Dr. DenBoer reached out to patients in an attempt to provide them with his treatment pamphlet seven weeks after he was removed from the company. GF informed the Board that email correspondences demonstrated Dr. DenBoer instructing the waiver of copays, and that copies of the emails were provided for the Board's review. Board staff clarified that the purchasing agreement for the company as well as the

emails referenced by GF in his statements were included in the Board's file for review and consideration. Dr. Flowers questioned GF as to whether the company was still in operation. GF reported that the company was no longer operational, and that he decided not to move forward with the company due to the inability to bill insurance companies. GF stated he believed that Dr. DenBoer misdiagnosed and lied to thousands of patients under a scheme to manipulate the most vulnerable individuals in the community.

Dr. DenBoer stated that GF's various assertions are unfounded. He explained that he approached GF for a loan as his company was in financial trouble and considering filing for bankruptcy. Dr. DenBoer stated that GF was provided accurate information at all times, and that his allegations are without merit, slanderous in nature, and not supported by the evidence. Dr. DenBoer stated that he felt the practice monitor did not neglect his responsibility in overseeing his practice for the Board. He stated that the practice monitor performed an exhaustive review of the practice. Dr. DenBoer reported that he worked with multiple neuropsychologists, a copyright lawyer, and two billing auditors to ensure that the documentation exists and that it is correct. Dr. DenBoer stated that in August of 2019, he went on a planned three-week vacation that his colleagues in the practice were aware of, and that GF initiated the hostile takeover of the company at that time and locked him out of the practice. Dr. DenBoer added that after he filed a complaint with GF's respective regulating authority for inappropriately terminating 40 patients who were not able to pay their copays, GF filed a lawsuit against him. Dr. DenBoer informed the Board that he had established a Foundation that was named after his grandmother, the Jean Seeling Dementia Prevention Foundation, and that after consulting with Medicare and counsel, he received authorization to pay copays out of his Foundation for patients who demonstrate economic hardship. Dr. DenBoer stated that he never waived patient copays, or told patients that their copays would be waived. Dr. DenBoer stated that he believes he made a major mistake going to GF in a time of need and entering into a business deal with him as it has cost him his company, as well as the mental health and stability of his family. He stated that it is his belief that GF has persuaded TM and many others to file complaints against him in an attempt to further threaten his license.

Dr. Gill questioned the licensee regarding how patients were contacted regarding his termination from the practice. Dr. DenBoer stated that he lost access to the company's bank accounts and everything entitled to him in mid-August of 2019. He stated that he contacted counsel and individuals within the practice to inquire as to what GF was doing. Dr. DenBoer stated that he drafted a letter that was approved by counsel and the practice monitor that was issued to patients supplying them with three alternative places to go for neurology or neuropsychology services. Mr. Eaves stated that the company's services continued as a psychologist was hired the same day that Dr. DenBoer was terminated, locked out of the practice, and denied access to any patient files. Mr. Eaves stated that with limited ability to determine what was happening with the patients, Dr. DenBoer consulted others and did his best to contact patients, and Mr. Eaves reported that the vast majority of the patients continued on without incident. Dr. DenBoer informed the Board that he has not practiced in the field of psychology since January 1, 2020. Mr. Eaves pointed out that the Board has not taken any action to restrict his ability to continue practicing.

Dr. Meier questioned the licensee as to whether he believed he was still subject to the Board's Order for Probation. Dr. DenBoer stated that it was his understanding that the Board's Order remained in effect. Mr. Eaves stated that Dr. DenBoer has fulfilled his practice monitoring and CE requirements, and that the practice monitor submitted a letter to the Board indicating that the licensee met all requirements and should be released from Probation. Dr. Meier noted that GF alleged Dr. DenBoer stated he was done with the Board's Order and no longer under any conditions of Probation as of July 2019. Mr. Eaves stated that Dr. DenBoer was under the impression that he had fulfilled the requirements and done with the Board's Order. Dr. Meier noted that the latest report submitted by the practice monitor was dated October of 2019.

Deputy Director Michaelsen clarified that the audio recording referenced by GF was from July of

2019 and that at that time, the Board's Order was still in effect. Dr. Meier again questioned the licensee as to why he stated that he was no longer under any monitoring and that his Board matter had been resolved. Dr. DenBoer stated that he would need to review that specific audio file as he must have been mistaken, and stated that he was aware that he was still under the Board's monitoring at that time. Dr. Meier stated that the Board received photographs of copyrighted testing material that were submitted as evidence of the licensee utilizing photocopies. Dr. DenBoer stated that he does not use photocopy material for testing, and that he consulted an attorney that specializes in copyright law when he was setting up his practice.

Dr. Gill questioned Dr. DenBoer in relation to what a report would look like if he were to conduct and produce a report for neuropsychological evaluation when compared to what the Board has reviewed during the time that his practice was being monitored. Dr. DenBoer stated that he was instructed during his training to not list medications or an in depth medical history or rationale as he is not a medical doctor. He stated that he typically lists two paragraphs of medical history under the reason for referral, and that he has never written a neuropsychology report without recommendations.

Dr. Meier noted that this case involved allegations of waiving copays and stated that he believed further investigation was warranted with regard to the licensee's Foundation. He also noted that the case involved allegations of unprofessional conduct relating to statements made regarding the status of his license, in addition to the allegations of copyright violations. Dr. Davey stated that he agreed with Dr. Meier's comments, and that further investigation was required to obtain the documentation required to waive copays. Dr. Flowers stated that he too was concerned regarding the allegations made in this case, and stated that there appeared to be a common thread throughout these matters. Dr. Gill stated that further investigation was required to address GF's claims of plagiarism involving the licensee taking materials from other practitioners and presenting it as his own. Chairwoman Shreeve stated that she was in agreement that the copay issue required further investigation.

The Board discussed directing staff to obtain additional information regarding the licensee's Foundation and his testimony that he cleared it through the Foundation and received permission from the various insurance companies including Medicare, as well as neuropsychological reports with all testing materials used for assessments. The Board also discussed forwarding the information to a consultant to provide very specific conclusions as to the potential violations.

MOTION: Chairwoman Shreeve moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. 38-431.03(A)(3).

SECOND: Dr. Davey

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 1:35 p.m.

The Board returned to Open Session at 2:13 p.m.

No legal action was taken by the Board during Executive Session.

Chairwoman Shreeve expressed her concerns regarding some issues identified in this case that had already been addressed by requiring a practice monitor. Dr. Bohanske stated that if the behavior occurred in this complaint is a duplicate of behavior already addressed by the Board via the practice monitor, then this matter should be dismissed. Chairwoman Shreeve questioned whether the practice monitor was aware of the alleged copay issues. Dr. Meier spoke in support of further investigation, noting that the practice monitor stated that he was not a billing expert and

in light of the new information regarding Dr. DenBoer's Foundation. Dr. Bohanske questioned whether the copays were waived, and stated that they appeared to have been paid for by the licensee's Foundation according to Dr. DenBoer's testimony.

MOTION: Dr. Meier moved for the Board to proceed to Informal Interview in this case, and instructed staff to obtain additional information regarding the licensee's foundation, and the practice monitor's awareness of the copay concerns when reviewing Dr. DenBoer's practice.

SECOND: Dr. Flowers

VOTE: The following Board members voted in favor of the motion: Chairwoman Shreeve, Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Davey, Dr. Flowers, Dr. Gill, Dr. Meier, and Dr. Mellott. The following Board member voted against the motion: Mr. Dynar.

VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

c) Complaint No. 20-23 John DenBoer, Ph.D.

Complainant JR participated in the virtual meeting during the Board's consideration of this matter. Dr. Bohanske summarized that a complaint was filed by JR, a licensed speech and language pathology assistant who worked under the supervision of Dr. DenBoer. JR alleged that in 2019, Dr. DenBoer was involved in providing services that were unnecessary or dangerous. Dr. Bohanske stated that this complaint was similar to others filed against Dr. DenBoer in that they involve allegations of improper psychological interpretation and diagnosis, questionable necessity for services provided, as well as inappropriate interpretation of psychometric test results and the like.

JR stated that one of her clients was billed by Dr. DenBoer for a psychotherapy session that did not take place. Specifically, JR stated that the client was billed for a 60 minute psychotherapy session after speaking to the licensee for a total of 2 minutes and 50 seconds to see how she liked the program. Dr. DenBoer stated that when the hostile takeover occurred with his company, he called JR to specifically inform her of what was taking place and instructed her to no longer or bill her clients under Medicare, but she continued to do so. Dr. DenBoer stated that he never billed a client for a 2 minute session, and that it was his usual practice to call clients every week to check in on them without submitting bills for those specific interactions.

Dr. Bohanske questioned whether there was sufficient evidence in this case for the matter to proceed to Informal Interview. Dr. Flowers stated that the allegations in this case were identical to other matters presented to the Board, and stated that he found the allegation of billing for services not rendered to be a significant issue. Dr. Bohanske questioned whether the Board had already addressed the allegations in its prior Board Order as the alleged conduct occurred during the time that the practice monitor was overseeing the physician's practice and assisting him in remedying the concerns previously identified. Dr. Meier observed that the practice monitor specifically mentioned in his report to the Board that billing was one issue that was addressed by the monitoring.

MOTION: Dr. Mellott moved for dismissal.

SECOND: Mr. Dynar

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

VOTE: 7-yay, 2-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

d) Complaint No. 20-24 John DenBoer, Ph.D.

Chairwoman Shreeve summarized that the Board received an anonymous complaint alleging that

Dr. DenBoer was misleading the public by identifying himself as a physician, including holding the self-given title of Chief Medical Officer. Dr. DenBoer stated that he believed this complaint came from Thunderbird Senior Center where JR was employed, and was possibly filed by JR herself. He stated that he spoke to his contacts at the facility and that there was no indication of any problems with his clients.

Dr. Flowers observed that Dr. DenBoer's LinkedIn account showed that he was the Founder and Chief Medical Officer of Smart Brain Inc, and that his website displays similar titles. Dr. Flowers questioned the use of the title of Chief Medical Officer by a non-physician. Dr. DenBoer explained that he consulted multiple individuals, including the Board-approved practice monitor that was appointed to oversee his practice during his probationary period. Mr. Eaves stated that the role of Chief Medical Officer is administrative in nature, and does not involve the provision of medical services. Chairwoman Shreeve commented that while Chief Medical Officer might not be the best term to use in this instance, she did not find that the concerns raised in this case rise to the level of a statutory or rule violation.

MOTION: Dr. Mellott moved for dismissal.

SECOND: Mr. Dynar

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

e) Complaint No. 20-37 John DenBoer, Ph.D.

Mr. Eaves informed the Board that he was not representing Dr. DenBoer in this case.

Vice-Chairwoman Davis-Wilson summarized that the Board received a complaint from the Aetna Special Investigations Unit regarding their investigation in response to a member complaint. Specifically, a member complained that they were billed for services that were not received and did not have direct contact with Dr. DenBoer. Following their review, Aetna identified concerns with some of the licensee's claims for services and noted that Dr. DenBoer was no longer practicing and elected to not pursue further action. The Board noted that Board staff had difficulty obtaining documentation for this matter. After obtaining records from Dr. DenBoer's former employer, concerns were raised regarding rounding issues in billing as well as copying and pasting of session notes resulting in inaccuracies in documentation.

Dr. DenBoer pointed out that JR was working in the facility involved in this case, and that the complaint was filed with the Board after he informed the speech and language therapist that they were no longer allowed to see clients at their facilities. Dr. DenBoer stated that the Board can verify his check-in times showing that he was at the facility multiple times. Deputy Director Michaelsen informed the Board that Dr. DenBoer had not yet filed a formal response to this complaint.

Vice-Chairwoman Davis-Wilson stated that it appeared the Board-approved practice monitor addressed the two critical issues identified in this case. She also stated that the concerns also appear to have been addressed by Aetna's investigation and they elected to not pursue the matter further.

MOTION: Dr. Bohanske moved for dismissal.

SECOND: Mr. Dynar

Dr. Flowers expressed concern regarding Dr. DenBoer's behavior.

VOTE: The following Board members voted in favor of the motion: Chairwoman Shreeve,

**Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Davey, Mr. Dynar, Dr. Gill, Dr. Meier, and Dr. Mellott. The following Board member voted against the motion: Dr. Flowers.
VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.
MOTION PASSED.**

**11. INFORMAL INTERVIEWS – JOHN DENBOER, PH.D.
DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO
ALLEGATIONS OF UNPROFESSIONAL CONDUCT, PROPOSED FINDINGS OF
FACT, CONCLUSIONS OF LAW, POSSIBLE DISCIPLINE AND/OR POSSIBLE
CONSOLIDATION WITH DR. JOHN DENBOER’S CURRENT CONSENT
AGREEMENT FOR CASE NOS. 16-39, 16-53, AND 17-23 OR REFERRAL TO A
FORMAL HEARING**

Dr. DenBoer participated in the virtual meeting with Attorney Arthur Eades during the Board’s consideration of the following matters:

a) Complaint No. 18-25 John DenBoer, Ph.D.

Complainant KC participated in the virtual meeting during the Board’s consideration of this matter. The Board noted that the alleged violations in this case included A.R.S. §§32-2061(16)(o), and (dd) pertaining to ethical standards under 9.01.

Dr. Bohanske summarized that a complaint was filed by KC, who suffered a work-related injury in 2015 that resulted in a potential mild traumatic brain injury. KC was referred to Dr. DenBoer for neuropsychology assessment. KC alleged that licensee did not act with professionalism throughout the treatment or evaluation process, that his report and assessment was not accurate, and that the reports had numerous errors. KC stated that she felt her post-injury symptoms and challenges at work were ignored, and that she found the test results to be full of inconsistencies. KC further alleged that the impressions presented by Dr. DenBoer and the diagnostic impression was unsubstantiated. KC stated that she was portrayed as having lied in her initial interview when asked about her affect depression and anxiety, and later revealed a history that she did not have as there were many misrepresentations in the document used by her physician and workman’s compensation firm to make critical decisions about her health status. KC believed that Dr. DenBoer did not meet his professional responsibilities in her evaluation.

KC informed the Board that she was referred to Dr. DenBoer for a neuropsychological evaluation. KC stated that Dr. DenBoer did not document her descriptions of what she was experiencing, and he did not address the reason why she was being evaluated. KC stated that Dr. DenBoer’s reports were filled with inaccurate, inconsistent, and unsubstantiated instances. She stated that the history described in Dr. DenBoer’s report was not information that she provided, and that the licensee speculated that she may have extreme perception of her injury. KC stated that Dr. DenBoer did not perform a real analysis of her test results and did not address the matter at hand. She stated that Dr. DenBoer’s claims were not supported by facts or data, and that his misrepresentation of her undermines her request for medical attention. KC reported to the Board that she had difficulty continuing to work due to the physical conditions that resulted from her injury until she lost her job, and that she was adequately diagnosed one year later outside of the Banner system.

Dr. Bohanske questioned KC in relation to her subsequent evaluation and diagnosis. KC explained that she underwent an occupational therapy evaluation that revealed her real condition that required treatment. KC added that she had undergone a second neuropsychology evaluation by a provider who was concerned about her condition and recommended that she undergo an occupational therapy evaluation. Dr. Bohanske observed that KC was referred for speech and cognitive therapies following her evaluation by Dr. DenBoer, and questioned KC as to whether those therapies were helpful. KC stated that she found both therapies were helpful for coping. In response to Dr. Flowers’ line of questioning, KC explained that when she was interviewed by Dr. DenBoer for the evaluation, she shared with him the changes in her ability to perform her work

duties and that she was concerned that her condition was not improving. KC stated that the only discussion she had with Dr. DenBoer regarding her history involved him asking her if she had a history of emotional issues, depression, and/or anxiety.

Mr. Eaves stated that he and his client sympathize with KC, and pointed out that the care involved in this case occurred in 2015 and was prior to Dr. DenBoer's Board action that resulted in the requirement of a practice monitor. Mr. Eaves stated that the allegations in this case related solely to drafting of the evaluation report, and that he believed the Board has already intervened with the licensee regarding this issue. Mr. Eaves asked the Board to consider limiting the number of complaints included in the Consent Agreement to only those that are valid. Dr. DenBoer stated that KC was referred to him by a physician at Banner Concussion Center when he was serving as a consultant between 2015 and 2016. He explained that he was informed that the evaluation was the result of a workman's compensation claim, and that he proceeded accordingly via the standard battery of tests used for concussion protocol. Dr. DenBoer disputed the complainant's allegations, and stated that his notes were extensive. He stated this was a particularly challenging evaluation as there was suspicion of secondary gain, that KC failed the test of symptom validity, and the results of testing were considered not indicative of standard concussion type protocol. Dr. DenBoer stated that he believed the complaint itself was motivated by a denial of workman's compensation claim filed by the complainant. He added that while he believed the report in this case was not his best work, he has substantially improved his work since then.

Dr. Bohanske observed that KC was appropriately referred for neuropsychological evaluation in this case, and that he agreed with Dr. DenBoer's statement that the report was not his best work. Dr. Bohanske commented that when he reviews cases, he considers whether the recommendations that resulted from the evaluation were helpful in furthering the function of the patient. Dr. Bohanske noted that KC reported that the therapies recommended by Dr. DenBoer were helpful. Chairwoman Shreeve noted that Dr. DenBoer's Board Order was issued shortly after receipt of this complaint and involved other matters that were already being reviewed by the Board. She also observed that the Board's Order, effective October of 2018, included terms that involved a practice monitor working with the licensee to focus on concerns similar to the allegations filed in this complaint. Dr. Flowers stated that the report was below the necessary standards, and that he found a violation did occur in this case.

MOTION: Dr. Flowers moved for Findings of Facts to include that the report was inaccurate as it included multiple errors including inadequate reporting of symptoms and inaccurate description of the patient's living situation as well as the number of hours she was working.

SECOND: Chairwoman Shreeve

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Dr. Flowers moved for findings of unprofessional conduct in violation of A.R.S. §§ 32-2061(16)(o), and (dd) pertaining to ethical standards under 9.01.

SECOND: Chairwoman Shreeve

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board discussed tabling the remaining three cases to the Board's next regular meeting scheduled for June 4, 2020, given the late hour. Mr. Eaves informed the Board that he would not

be available for the Board's June 2020 meeting. Chairwoman Shreeve stated that she would work with the Executive Director for the next meeting agenda and announced that the Board would not be concluding all informal interviews during today's proceedings. Complainant LM requested that her case be heard and stated that she has taken substantial time off from work to participate in the Board's proceedings on numerous occasions and has yet to speak to the Board regarding her complaint. The Board proceeded to consideration of case number 19-02.

b) Complaint No. 18-26 John DenBoer, Ph.D.

Mr. Dynar was excused from the Board's meeting. The Board noted that the alleged violations in this case included A.R.S. §§32-2061(16)(a), (c),(e), (h), (o), and (dd) pertaining to ethical standards under 6.04. Dr. Flowers summarized that this case involved Blue Cross/Blue Shield (BC/BS). BC/BS alleged that Dr. DenBoer presented his program at assisted living facility and an individual had complained that the program was being offered to individuals with no history of cognitive dysfunction. It was alleged that members were billed for one-on-one sessions, but had never met with the licensee in person, and it was further alleged that services were provided by non-credentialed individuals. The Board noted that this case also involved allegations of providing unnecessary or unsafe services, as well as ethical and billing concerns. Following the Board's January 2020 meeting on this matter, BC/BS submitted additional information to the Board regarding an additional audit that observed records showing issues involving services that were not medically necessary, information and services provided by unlicensed individuals, psychotherapy that was not done, and documentation not supporting the diagnoses.

Mr. Eaves summarized that an auditor filed a complaint with the Board after Dr. DenBoer's office employee did not notify him of a request for back up records. Mr. Eaves stated that the licensee did his best to provide those back up records, and ultimately was able to provide 96% of the requested records. Mr. Eaves stated that there was room for differences in opinion in this case, and that the reviewer's opinion does not rise to the level of a sustained violation involving fraud. Mr. Eaves reported that the BC/BS investigation was abandoned, and that the Board does not have clear and convincing evidence in this case that rises to the level of unprofessional conduct. Dr. Mellott observed that BC/BS closed their investigation and that the licensee can no longer be a provider with BC/BS. Mr. Eaves stated that the situation was out of Dr. DenBoer's control as it had occurred around the time that he was locked out of his practice and did his best to comply with the records request. Mr. Eaves stated that BC/BS's investigation was terminated without findings of any kind. Dr. DenBoer clarified that it was his understanding that the billing company from his previous business was terminated from BC/BS, but that he has not seen documentation to that affect and he still maintains an individual contract with BC/BS. Deputy Director Michaelsen clarified for the Board that BC/BS completed its audit and sent a letter to Dr. DenBoer in July of 2019 regarding results of the audit and requested a refund check.

Dr. Flowers stated he found enough evidence in this case to sustain violations in this case with respect to recommending services for clients without diagnoses that require medical treatment, reports that do not meet minimum standards of care in terms of accuracy, and billing for services not provided.

MOTION: Dr. Flowers moved for Findings of Facts to include recommending services for clients without diagnoses that require medical treatment, reports that do not meet minimum standards of care in terms of accuracy, and billing for services not provided.

SECOND: Dr. Meier

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

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Flowers moved for findings of unprofessional conduct in violation of A.R.S. §§ 32-2061(16)(a), (c), (h),(o), and (dd) pertaining to ethical standards under 6.04.

SECOND: Dr. Bohanske

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

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

c) Complaint No. 19-02 John DenBoer, Ph.D.

The Board noted that the alleged violations in this case included A.R.S. §§32-2061(16)(a) and (o). Complainant LM participated in the virtual meeting during the Board’s consideration of this matter. Dr. Flowers summarized that LM alleged that the neuropsychological evaluation performed by Dr. DenBoer in March of 2019 did not meet the standard of care. According to LM, Dr. DenBoer did not present for the evaluation and did not conduct any of the testing himself. LM alleged that the licensee did not properly address the issues for which she was seeking evaluation, and that the report was inaccurate and did not support the diagnosis. LM further alleged that the licensee violated copyright laws in that several of his tests were copied pages made from other copies.

LM stated that she sought an evaluation to address her struggles with time management, procrastination, and ability to focus and maintain a routine. LM explained that her primary care provider referred her to Dr. DenBoer for evaluation, but she never met the licensee in person. She stated that when she presented for the evaluation, she was informed at sign-in at that the psychologist would not be in the office and she proceeded to be seen by the technician. LM stated that she received a very terse phone call from Dr. DenBoer following the evaluation that lasted a total of nine minutes and that he did not answer her questions directly. LM reported that she sought a second opinion in an attempt to obtain answers for her problems since she believed the licensee did not provide any further explanation. As a result, LM stated that she received a diagnosis and prescription for a low dose non-stimulant medication that has shown improvement in her symptoms. LM stated that the testing materials were photocopies that made it difficult for her to make accurate selections.

In response to questioning by Board members, LM stated that she was not questioned with regard to her history of symptoms and that Dr. DenBoer did not meet with her for any part of the neuropsychological assessment. LM responded to Dr. Gill’s line of questioning, stating that the technician did not provide any type of verbal informed consent, but that she did recall signing paperwork at intake. Mr. Eaves questioned LM with regard to her expertise and background in the practice of psychology and billing, and whether she was informed by the staff that the licensee was very ill and would not be in the office. LM stated that she was not an expert in neuropsychology or billing, and that she was informed that the physician was out of the office at the time that she signed in for her appointment.

Dr. DenBoer informed the Board that this case was reviewed by the practice monitor who found that his documentation, testing and billing were not deficient and within the standard of care. He explained that on the day that LM underwent the evaluation, he was very ill and at home, and that he received a text message asking him to come to the office as soon as possible because a patient was yelling in the office. He stated it was his understanding that LM completed the testing and was no longer in the office by the time he presented around 3:30 p.m. He was informed by staff that the patient was hostile and belligerent with the testing technician and staff. Dr. DenBoer stated that he called the patient, and agreed with LM’s statements that the call took about nine minutes and that he told her she can seek evaluation elsewhere if she disagreed with his findings. Dr. DenBoer assured the Board that the billing was accurate and reiterated that this case was reviewed by the practice monitor.

Dr. Flowers observed that there was no clinical interview with LM and the licensee to discuss her primary complaint. Dr. DenBoer stated that he spoke to LM's primary care provider twice with regard to her care, and also discussed with LM her symptoms. He stated that the practice monitor performed a comprehensive review of this case and did not express any concerns with what took place. Dr. DenBoer also stated that the billing code used allows for evaluation without being present. In response to Dr. Meier's line of questioning, Dr. DenBoer stated that the changes made to his practice were done throughout the monitoring period, and reiterated that the practice monitor did not find issues with his billing in this case. Dr. DenBoer agreed that LM should have been informed that he would not be in the office prior to her presenting for her appointment. He stated that according to the technician, LM demanded to be seen and when she was informed that the licensee was not present, she elected to proceed rather than reschedule the evaluation for a second time.

Dr. Flowers stated that his review of the file raised a number of concerns. Dr. Meier pointed out that the licensee was being monitored by the Board-approved practice monitor and stated that there appeared to be the same issues that continue to occur. Dr. Meier expressed his concerns and stated that he found the licensee's performance to be incredibly unprofessional. Dr. Bohanske stated that he did not feel as though LM was offering the Board her opinions as an expert in psychology or billing, but rather, was a factual witness in this case that has presented facts to the Board for consideration and review. Dr. Bohanske stated that he was concerned regarding patient blaming, and proposed that the Board consider different supervision if unprofessional conduct occurred during the period of supervision by the practice monitor. Dr. Flowers stated that he found there was evidence to sustain violations in this case.

MOTION: Dr. Flowers moved for Findings of Facts to include the licensee did not interview the patient and made determinations without interacting with her, inaccuracies in the evaluation report, inadequate justification for the diagnosis, fraudulent billing or obtaining a fee by fraud, and inadequate documentation of the patient's reporting on her presenting complaint.

SECOND: Dr. Meier

VOTE: The following Board members voted in favor of the motion: Chairwoman Shreeve, Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Davey, Dr. Flowers, Dr. Gill, Dr. Meier, and Dr. Mellott. The following Board member voted against the motion: Mr. Dynar.

VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

MOTION: Dr. Flowers moved for findings of unprofessional conduct in violation of A.R.S. §§ 32-2061(16)(a), and (o).

SECOND: Dr. Meier

VOTE: The following Board members voted in favor of the motion: Chairwoman Shreeve, Vice-Chairwoman Davis-Wilson, Dr. Bohanske, Dr. Davey, Dr. Flowers, Dr. Gill, Dr. Meier, and Dr. Mellott. The following Board member voted against the motion: Mr. Dynar.

VOTE: 8-yay, 1-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

d) Complaint No. 19-04 John DenBoer, Ph.D. (Dr. Bohanske)

This case was tabled to a future Board meeting.

THE FOLLOWING AGENDA ITEMS ARE UNTIMED AND MAY BE DISCUSSED AND DECIDED UPON AT VARIOUS TIMES THROUGHOUT THE MEETING AT THE DISCRETION OF THE CHAIR

12. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING CATHERINE O’CONNELL, PH.D. AUDIT MATERIALS FOR 2015-2017 CONTINUING EDUCATION (CE) AUDIT

Dr. O’Connell participated in the virtual meeting and was available for any questions from the Board. Ms. Poe summarized that at its April 3, 2020 meeting, the Board discussed the licensee’s failure to respond to the CE Committee’s request for additional CE documentation. At that time, the Board tabled the matter and authorized staff to allow the licensee an additional 30 days to comply with the request. Dr. O’Connell submitted the material for the Board’s review, and the Board staff requested the Board offer direction as to whether Dr. O’Connell met the CE requirements for the audit.

Dr. Mellott stated that she reviewed the documentation and found that the licensee has met the audit requirements. Dr. Flowers stated that based on his review of the material, the licensee is in compliance with the CE requirements.

MOTION: Dr. Flowers moved for the Board to take no further action in this matter and to accept the audit materials as compliant with the CE audit for 2015-2017.

SECOND: Dr. Bohanske

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

13. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RALPH EARLE, PH.D. AUDIT MATERIALS FOR 2015-2017 CONTINUING EDUCATION (CE) AUDIT

Dr. Earle participated in the virtual meeting during the Board’s consideration of this matter. Ms. Poe summarized that the Committee reviewed Dr. Earle’s CE audit materials and issued him a letter regarding deficiencies noted and options for remediation. Dr. Earle did not receive the notice, and his materials were not received timely for the Committee’s review at its March 24, 2020 meeting. Dr. Earle submitted additional documentation for the Board’s review, and Board staff requested the Board to consider whether Dr. Earle met the CE requirements for this audit. Ms. Poe reported that Dr. Earle has requested the ability to submit documentation for CEs already completed in lieu of completing additional CE hours.

Dr. Flowers observed that Dr. Earle completed CEs for the prior renewal cycle, with 4.75 CE credit hours that could be rolled over into the current cycle. Dr. Flower stated that it appeared the licensee needed to complete an additional 9.75 CE credit hours for the current renewal cycle with a July 1, 2020 deadline for completion. The Board considered tabling the matter until its next meeting to allow the licensee an opportunity to complete the remaining hours within the prescribed deadline. AAG Galvin advised the Board to provide a letter to the licensee informing him of what CE credits were still needed and then to return the matter to the Board after the information is received by staff. Chairwoman Shreeve stated that the matter would be tabled to allow for the licensee to come into compliance with the current CE audit, and emphasized the importance of obtaining the appropriate CE credits with documentation readily available for Board inspection.

14. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION SUBMITTED BY LUZ MOGROVEJO, PH.D.

Dr. Mogrovejo did not participate in the virtual meeting during the Board’s consideration of this matter. Ms. Poe summarized that on March 24, 2020, the Board received Dr. Mogrovejo’s renewal application submitted via the online portal. Ms. Poe stated that the application was reviewed and approved; however,

on March 31, 2020, the Board received email correspondence from the licensee indicating that she had difficulties using the online system and needed to make some corrections to the renewal application and submit documentation for question #15 with regard to a pending lawsuit that involved allegations previously reviewed by the Board and dismissed under case number 17-16.

Dr. Mellott spoke in support of granting the license renewal given that the Board adjudicated the case in 2017 that involved identical allegations as the pending lawsuit. Ms. Poe clarified that the staff processed the license renewal without having the information reported by the licensee one week after she submitted her renewal application. The Board considered taking no action on this matter and instructing the licensee to keep the Board informed with regard to the pending legal matter. Chairwoman Shreeve observed that Dr. Mogrovejo called staff one week after submitting her online renewal application to report that she made a mistake. Chairwoman Shreeve also recognized that the Board's online renewal system is not user friendly and can be difficult to navigate or upload documentation into the portal. Dr. Mellott spoke in favor of taking no action on this matter and requesting that the licensee keep the Board updated on the pending lawsuit.

MOTION: Dr. Mellott moved for the Board to take no action on this matter and to instruct the licensee to keep the Board updated regarding the pending lawsuit.

SECOND: Dr. Gill

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

15. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION CONCERNING GRANTING EXECUTIVE DIRECTOR AUTHORITY TO ENTER INTO CERTAIN AGREEMENTS

a. Association of State and Provisional Psychology Boards (ASPPB) for Reporting Adverse Actions to the National Practitioner Data Bank (NPDB)

Executive Director Herbst Paakkonen requested the Board consider approving the proposed agreement to establish ASPPB as the Board's reporting agent for reporting adverse Board actions to the NPDB pursuant to statute.

MOTION: Dr. Bohanske moved for the Board to approve the agreement establishing ASPPB as the reporting agent for reporting adverse Board actions to the NPDB.

SECOND: Dr. Gill

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

b. MST Solutions

Executive Director Herbst Paakkonen requested the Board consider authorizing her to enter into an agreement with MST Solutions on behalf of the Board. She explained that if approved, MST Solutions would provide services to address the issues relating to the e-licensing system. Executive Director Herbst Paakkonen confirmed that she worked with the State Procurement Office to obtain approval for this vendor.

Dr. Bohanske questioned whether all boards are required to utilize this particular e-licensing tool. Executive Director Herbst Paakkonen stated that different boards use a variety of e-licensing systems and pointed out that other boards with more ample resources have had the ability to invest in or develop customized e-licensing systems. Dr. Bohanske noted that the Board purchased a

software package that does not meet the Board’s needs. He questioned whether other boards who utilize the same e-licensing system have been successful in fixing similar issues with the software. Executive Director Herbst Paakkonen stated that the software package purchased by the Board was one that was strongly encouraged by the Governor’s Office and the Department of Administration. She stated that there are currently 13 other boards utilizing the same e-licensing system, and that the Board elected to proceed in that direction based on the advantages in doing so. The Board recognized that the e-licensing system has been less successful in terms of development and rollout.

Executive Director Herbst Paakkonen informed the Board that the original vendor is no longer associated by contract with the system and offered to gather additional information to provide the Board with alternative options. Dr. Bohanske expressed his frustrations with the situation and stated that the current system needed to be fixed.

MOTION: Dr. Bohanske moved for the Board to authorize the Executive Director to enter into an agreement with MST Solutions on behalf of the Board to address the e-licensing system issues.

SECOND: Dr. Gill

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

Dr. Gill proposed inviting the vendor to appear before the Board to discuss their services. Executive Director Herbst Paakkonen stated that the vendor would be happy to appear before the Board, and that they could possibly be done with their assessment of the system in time to provide the Board with an overview at its June 2020 meeting.

16. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING CONTINUATION OF THE ARIZONA BOARD OF PSYCHOLOGIST EXAMINERS, AND PROPOSED LEGISLATION INCLUDING BUT NOT LIMITED TO, SB1054, HB2224, HB2184, HB2288, HB2809, SB1211, SB1212, AND SB 1507

This item was tabled for a future Board meeting.

17. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING A.R.S. § 32-4302 “UNIVERSAL RECOGNITION” AND SB1212

This item was tabled for a future Board meeting.

18. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION ON THE FOLLOWING APPLICATIONS FOR LICENSURE PURSUANT TO A.R.S. § 32-4302

- a. Aldo Enrique Rivera Revilla, Ph.D.**
- b. James Henry Willis, Ph.D.**
- c. Jude Ann Miller-Burke, Ph.D.**
- d. Zaida Issel Garcia-Yili, Ph.D.**

Executive Director Herbst Paakkonen summarized that these four applicants were previously found to have not been eligible for licensure by universal recognition by this Board, that the information was reported to the Governor’s Office, and that a response has not been received regarding those submissions. AAG Galvin stated that these applicants applied for licensure by universal recognition, and that the Board made the determination that their practice level in their respective licensing states were not equal to an individual holding licensure in the State of Arizona based on the Board’s interpretation of the universal recognition statute. AAG Galvin informed the Board that SB1212 was introduced and made revisions to

the universal recognition statute that could directly impact the Board's interpretation. She stated that SB1212 passed the Senate with strong support and was expected to also pass the House; however, in light of the current state of emergency, the bill's progress is currently stalled.

Chairwoman Shreeve questioned whether other boards have encountered similar issues. Executive Director Herbst Paakkonen stated that she was not aware of other boards having to address anything that is congruent to what this Board has been presented with and has had to address. Dr. Flowers stated that based on his review of the pending legislation, if passed, these four applicants would be eligible for Arizona licensure by universal recognition. AAG Galvin clarified that SB1212 has not been signed by the Governor and is not new law. Dr. Bohanske stated that he did not believe SB1212 addressed the two significant concerns related to the licensure pathway of universal recognition. He stated that the first significant issue related to applicants having to have graduated from a university that is recognized and accredited. He stated that the second significant concern related to applicants having passed the national board examinations.

MOTION: Chairwoman Shreeve moved for the Board to enter into Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Dr. Meier

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

The Board entered into Executive Session at 3:21 p.m.

The Board returned to Open Session at 3:51 p.m.

No legal action was taken by the Board during Executive Session.

Dr. Flowers spoke in support of granting licensure in light of the pending universal recognition legislation.

MOTION: Dr. Flowers moved to approve the licenses in items 18.a. through 18.d.

SECOND: Chairwoman Shreeve

Chairwoman Shreeve commented that granting licensure to these applicants is warranted given the intent of the law related to the universal recognition licensing pathway.

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

VOTE: 7-yay, 2-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

19. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION ON THE FOLLOWING APPLICATIONS FOR LICENSURE PURSUANT TO A.R.S. § 32-4302

a. Carol Gandolfo, Psy.D.

Dr. Gill was recused from this matter.

Attorney Jon Riches participated in the virtual meeting on behalf of Dr. Gandolfo. AAG Lynette Evans also participated in the Board's virtual meeting. Mr. Riches pointed out that the Board voted today to deem applicants under similar circumstances to be eligible for licensure under the new licensing laws. Mr. Riches stated that Dr. Gandolfo was offered the opportunity to withdrawal the application when she initially applied and elected to pursue licensure and appealed the Board's prior decision to deny the license. Mr. Riches stated that it is unclear why this applicant would be treated any differently than the other applicants

approved for licensure during today's proceedings.

MOTION: Dr. Flowers moved for the Board to approve the license application for universal recognition.

SECOND: Dr. Meier

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

VOTE: 7-yay, 2-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

AAG Galvin observed that the Board's motion to grant the application for universal recognition implied that the license denial would be vacated. She requested on behalf of the State that the applicant withdrawal the appeal of the license denial. Mr. Riches stated that in light of the Board's approval of the application, they will withdrawal the appeal of license denial.

20. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING BEHAVIOR ANALYST APPLICATION FOR LICENSURE SUBMITTED BY LEAH SHAPIRO, M.S.

Ms. Fowkes summarized that this matter was reviewed on May 1, 2020 and the Committee noted that Ms. Shapiro's supervisor was not certified at the time of supervision, and found that she did not meet the requirements with regard to certification. Subsequently, new information came forward in A.A.C. R4-26-404.2(A), stating that this particular section did not apply to those applicants who concluded their supervisor experience prior to 2015. Ms. Fowkes stated that because Ms. Shapiro obtained 1,500 hours as required under statute, the Board should consider whether she has met licensure requirements.

Vice-Chairwoman Davis-Wilson spoke in support of approval, and stated that the clerical errors within the initial application needed correction. She confirmed that the Board had the correct information in order to make a determination, and stated that the following information needed correction on the license application: the graduation date was incorrect and the affirmative response to question #19 was inaccurate per the applicant's transcripts. Dr. Mellott spoke in support of approving the application contingent upon the receipt of an amended application.

MOTION: Chairwoman Shreeve moved for the Board to approve the license application upon receipt of an amended application per the Board's discussion.

SECOND: Dr. Mellott

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

VOTE: 9-yay, 0-nay, 0-abstain, 0-recuse, 0-absent.

MOTION PASSED.

21. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING MODIFICATION OF DEGREE COMPLETION DATES FOR WAIVER OF LICENSURE REQUIREMENTS ESTABLISHED AT § 32-2071(A)(5) AND AT (K) TO INCLUDE OUTLIERS

Executive Director Herbst-Paakkonen requested the Board consider expanding the timeframe approved at its last meeting for degree completion dates for waiver of licensure requirements. She explained that modifying the timeframe to March 1, 2019 through March 31, 2021 would cover the outliers identified by Board staff.

MOTION: Dr. Bohanske moved for the Board to modify the degree completion dates to March 1, 2019 through March 31, 2021 for waiver of licensure requirements established at A.R.S. §§ 32-2071(A)(5) and (k) to include outliers.

SECOND: Dr. Meier

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

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

22. DISCUSSION, CONSIDERATION AND POSSIBLE ACTION REGARDING WAIVER OF REQUIREMENTS FOR BEHAVIOR ANALYST LICENSURE UNDER THE AUTHORITY OF ARIZONA DEPARTMENT OF HEALTH SERVICES AT A.R.S. § 36-787 (PUBLIC HEALTH AUTHORITY DURING STATE OF EMERGENCY) GIVEN BACB TEMPORARY DEVIATION FROM REQUIREMENTS FOR OBSERVATIONS WITH A CLIENT

Vice-Chairwoman Davis-Wilson summarized that the national certifying board issued guidance for supervisees to forego observations of clients in situations where they are not working due to the current COVID19 situation. She proposed the Board consider mirroring that guidance and allow for students to have approved hours that are allowable without clients so that they have the ability to continue in their training program under the current circumstances.

MOTION: Vice-Chairwoman Davis-Wilson moved for the Board to approve waiver of requirements for Behavior Analyst licensure under the authority of the Arizona Department of Health Services at A.R.S. § 36-787 granting BACB temporary deviation from requirements for observations with a client to allow students to accrue unrestricted hours under the current circumstances that have prohibited direct access to clients.

SECOND: Dr. Davey

Dr. Mellott questioned whether granting such a deviation could result in students having no hours with clients if the COVID19 situation continued. Vice-Chairwoman Davis-Wilson stated that there is no minimum or maximum of hours students can accrue for unrestricted activities, and pointed out that some of those unrestricted hours come in the form of training staff members.

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

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

23. NEW AGENDA ITEMS FOR FUTURE MEETINGS

No action was taken by the Board under this agenda item.

24. ADJOURNMENT

MOTION: Dr. Bohanske moved for adjournment.

SECOND: Dr. Mellott

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

VOTE: 8-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board's meeting adjourned at 6:34 p.m.

Respectfully submitted,

Lynn L. Flowers, Ph.D.
Secretary