



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

HEIDI HERBST PAAKONEN
Executive Director

Regular Session Minutes

February 28, 2020 - 7:30 a.m.
1740 W. Adams St.
Boardroom C (1st Floor)
Phoenix, AZ 85007

1. CALL TO ORDER

The meeting of the Arizona State Board of Psychologist Examiners was called to order by Madame Chair Shreeve at 7:31 a.m. on February 28, 2020. No Executive Sessions were held.

2. ROLL CALL

Board Members Present (Telephonically)

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

Board Members Present

Aditya Dynar, Esq.

Board Members Recused

Stephen Gill, Ph.D.

Staff Present

Heidi Herbst Paakkonen, Executive Director
Jennifer Michaelsen, Deputy Director
Krishna Poe, Programs & Projects Specialist

Assistant Attorneys General

Lynette Evans, Esq, Independent Advisor
Jeanne Galvin, Esq.

3. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION CONCERNING REQUEST FOR POSSIBLE STAY OF LICENSURE DENIAL FOR CAROL GANDOLFO, Psy.D. IN LIGHT OF SB1212

Ms. Herbst Paakkonen advised the Board that Assistant Attorney General Lynette Evans is serving as an independent legal advisor to the Board relative to the matters on this meeting agenda. She noted that Ms. Evans is from the State Government Division, Public Law Section, and advised that Ms. Galvin is representing the State of Arizona concerning these matters.

Ms. Herbst Paakkonen summarized the matter consisting of a request by Dr. Gandolfo to a stay of Dr. Gandolfo's appeal of the denial of her application for a psychologist license. If granted as requested, the stay would be in effect until the conclusion of the 2020 session of the Arizona State Legislature, and is predicated on the Board's agreement to grant licensure to Dr. Gandolfo should SB1212 pass as the language currently exists, or pass in a substantially equivalent form. Ms. Herbst Paakkonen stated that Jon Riches, Dr. Gandolfo's attorney, was present and may be asked to speak to this request and to address the Board's questions.

Mr. Riches stated to the Board that Dr. Gandolfo is requesting approval of a stay of the denial of her application for licensure as a psychologist. He summarized her experience as a California licensed psychologist, and stated that A.R.S. §32-4302 requires licensing boards to grant universal recognition to individuals holding a license in another jurisdiction, even if the requirements for licensure differ. Mr. Riches noted the appeal of the denial is scheduled to be heard on April 1, 2020. He noted that SB1212 clarifies the interpretations this Board has adopted with respect to residency and educational credentials and renders the language of the statute beyond dispute. Mr. Riches noted that if the Board agrees to grant licensure with the passage of SB1212, a stay of the denial proceedings is appropriate.

In response to questions, Ms. Evans affirmed that the request is simply to put this matter on hold pending the outcome of SB1212. Ms. Galvin advised the Board that while the hearing is scheduled, the application remains denied at this time and nothing happens on the matter while the legislation proceeds through the process. She further explained that if the bill passes, it ameliorates the statute language that the Board determined precludes Dr. Gandolfo from qualifying for a license. Mr. Riches clarified for the Board that if the stay is approved and the bill passes, embedded in the request is Board action granting the license within a reasonable amount of time.

The members discussed concerns with the fact that the applicant graduated from an unaccredited program, and the school closed without ever having earned accreditation; additionally the applicant achieved California licensure through a loophole in that state's law. The members concurred that the concept of Universal Recognition is a good one, but the language in SB1212 would allow some instances where unqualified individuals may become licensed; if an individual applied for licensure in Arizona for their initial license with those same qualifications (e.g. having graduated from an unaccredited program), that person would not meet the qualifications for licensure. The members debated parsing out the decisions concerning whether to grant the stay and whether to grant licensure, and also debated whether the interpretation of A.R.S. §32-4302 was correct, flawed, or if SB1212 is a reflection of the fact that the current language could be contrary to the intent of the law.

MOTION: Dr. Flowers moved to grant the request to stay the denial proceedings until the conclusion of the legislative session and the possible passage of SB 1212. The motion included the provision to grant Dr. Gandolfo's application for licensure under the Universal Recognition statute upon passage of SB 1212 by both chambers of the Legislature and signature of the Governor (should SB 1212 pass in its current or a substantially similar form). Mr. Dynar seconded the motion.

VOICE VOTE:

Dr. Davis-Wilson – abstain
Dr. Flowers – yes
Ms. Shreeve - yes
Dr. Bohanske – yes
Dr. Davey – no
Mr. Dynar – yes
Dr. Gill - recused
Dr. Meyer – yes
Dr. Mellott – yes

The motion was approved 6-1 with one abstention and one recusal.

4. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION CONCERNING REQUEST FOR PETITION FILED BY CAROL GANDOLFO Psy.D. PURSUANT TO A.R.S. §41-1093.02

Ms. Herbst Paakkonen summarized the matter consisting of a petition filed by Dr. Gandolfo pursuant to A.R.S. §41-1093.02 concerning the Board's interpretation of A.R.S. §32-4302 and its application to Dr. Gandolfo's application for psychologist licensure. She explained that A.R.S. §41-1093.02 provides that any individual harmed by an occupational regulation may petition an agency to repeal or modify any occupational regulation within the agency's jurisdiction.

Mr. Riches addressed the Board stating that it is Dr. Gandolfo's position that the Board' interpretation of A.R.S. §32-4302 does not fulfill a public health and safety concern, and she requests a response to this petition. In response to questions posed, Mr. Riches indicated his client would not be opposed to setting aside the petition and delaying the response should Dr. Gandolfo be issued a license, but he isn't certain that the law permits it. The Board discussed whether it is permitted to enter into a stipulation to stay the Board's response required by A.R.S. §41-1093.02 until such time SB1212 passes (and the issue becomes moot). Ms. Evans advised the Board may accept the assurance provided by Mr. Riches that the matter will not be pursued pending the resolution that SB1212 would bring. Mr. Riches agreed to memorialize his client's position accepting a stay to the petition in writing.

MOTION: Dr. Flowers moved that the parties stipulate that a Board is absolved of issuing a response to the petition until such time that SB 1212 passes; in the event the bill resolves the concern raised with the petition the parties agreed to revisit this stay and issue a response at that time. Dr. Davey seconded the motion.

VOICE VOTE:

Ms. Shreeve - yes
Dr. Davis-Wilson - yes
Dr. Flowers - yes
Dr. Bohanske - yes
Dr. Davey - yes
Mr. Dynar - yes
Dr. Gill - recused
Dr. Meyer - yes
Mellott - yes

The motion was approved 8-1 with one recusal.

5. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION ON REQUEST FOR TEMPORARY STAY ON WHETHER TO OPEN A COMPLAINT FOR POTENTIAL UNLAWFUL PRACTICE REGARDING CAROL GANDOLFO, Psy.D.

Ms. Herbst Paakkonen advised the Board that this item consists of a request by Dr. Gandolfo to temporarily stay a decision concerning opening a complaint to investigate whether she is practicing psychology in Arizona without a license. She noted that the Board has been provided some preliminary information concerning Dr. Gandolfo's professional activities in Arizona, but has not yet determined whether to open a complaint, or otherwise refer the information to another agency that may have jurisdiction.

Mr. Riches stated to the Board that Dr. Gandolfo has never practiced psychology in Arizona but should she be granted licensure in Arizona this issue would be moot. The Board members discussed concerns relative to how Dr. Gandolfo might be treating patients, and the location of the patients and other factors would need to be investigated. The members reviewed the typical process the Board follows when allegations of unlicensed practice become known. The Board discussed the fact that any time allegations of possible unlicensed practice present, the Board has a statutory obligation to investigate them. Ms. Evans advised that the Board may elect to grant a stay relative to the decision on whether to open an investigation.

MOTION: Dr. Flowers moved the request for a stay be denied. Dr. Mellott seconded the motion,

VOICE VOTE:

Ms. Shreeve - yes

Dr. Davis-Wilson - abstain

Dr. Flowers - yes

Dr. Bohanske - yes

Dr. Davey - yes

Mr. Dynar - no

Dr. Gill - recused

Dr. Meier - yes

Dr. Mellott – yes

The motion was approved 6-1 with one abstention and one recusal.

6. ADJOURNMENT

There being no further business before the Board, Dr. Flowers moved to adjourn the meeting. Dr. Meier seconded the motion. The motion was approved by a vote of 8-0. The meeting adjourned at 8:39 a.m.

Respectfully submitted,

Lynn L. Flowers, Ph.D.
Secretary