



Board Members

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Bob Bohanske, Ph.D.
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Licensing Coordinator

**State of Arizona
Board of Psychologist Examiners**

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**REGULAR SESSION MINUTES
Corrected**

Friday, February 3, 2012, 8:30 a.m.
Saturday, February 4, 2012, 8:30 a.m.
Executive Tower
Third Floor Conference Room, #312
1700 W. Washington Street
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 8:38 a.m. on February 3, 2012. Four Executive Sessions were held.

2. ROLL CALL

Board Members Present

Frederick S. Wechsler, Psy.D., – Chair
Janice K. Brundage, Ph.D. – Vice Chair
Joseph C. Donaldson – Secretary
Bob Bohanske, Ph.D (joined at 1:15 p.m. on 2/3/12)
John P. DiBacco, Ph.D.
Megan Hunter-Williams
Ramona Mellott, Ph.D.

Staff Present

Dr. Cindy Olvey, Executive Director
Heather Duracinski, Licensing Coordinator

Attorney General’s Office

Jeanne Galvin, Esq.

Board Members Absent

Daniel Larson

3. REMARKS/ANNOUNCEMENTS

- **CE Documentation** – Chairman Wechsler announced that licensees could receive CE credits in Ethics for attendance at Board meetings. Vice-Chair Wechsler explained how to obtain credit.
- **Board Assessment Forms** –Chairman Wechsler encouraged members of the audience to complete a Board Meeting Assessment Survey and place them in the survey box.
- **Remarks by the Chairman and Presentation of Plaque to Megan Hunter-Williams** - Chairman Wechsler thanked Ms. Hunter-Williams for her dedication, hard work and service to the State of Arizona as a member of the Board from 2007-2012.
- **Board Member and Staff Appreciation** – Chairman Wechsler thanked Board members and Staff for their dedication and hard work.

4. CALL TO THE PUBLIC

Chairman Wechsler invited the public to address the Board at this time. Marilyn Stromsness, Ph.D. introduced herself as the Arizona Psychological Association's (AzPA) newly appointed Board liaison and gave an update to the Board. A member of the public addressed the Board to voice concern about a licensed psychologist, Eugene Cherry, Ph.D.

5. COUNSEL REPORT

Ms. Galvin provided an update to the Board regarding the status of Jean Hodgson, Ed.D. Dr. Hodgson has filed a complaint for judicial review with the Superior Court. Dr. Hodgson has appealed the Board's decision to revoke her license. Dr. Hodgson filed the appeal on October 6, 2011. Ms. Galvin stated that Dr. Hodgson was late in filing her appeal. Subsequently, the State filed a motion to dismiss due to the lack of timeliness. On January 5, 2012, the Judge denied the motion to dismiss stating that the Board did not serve her properly even though Dr. Hodgson had requested in writing that the Board not send correspondence via Certified Mail.

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

Dr. Brundage made a motion, seconded by Mr. Donaldson, to approve the items on the consent agenda. The motion carried unanimously (6 -0).

(a) DISCUSSION/DECISION REGARDING PSYCHOLOGY APPLICATIONS

i. REQUESTING APPROVAL FOR EXAM AND LICENSURE

Laura Brookham, Psy.D.
Darren Calhoun, Ph.D.
Nancy Hagener, Psy.D.
Julie Landry Poole, Psy.D.
Ricardo Mendivil, Psy.D.
Michael Moore, Ph.D.
Michael Shapiro, Ph.D.
Michael Wagner, Ph.D.
Jamie Whalen, Psy.D.

ii. REQUESTING APPROVAL OF LICENSURE BY WAIVER

Sherry Spurling, Ph.D.
April Weichmann, Ph.D.

iii. REQUESTING APPROVAL OF LICENSURE BY CREDENTIAL

Mark Fleming, Ph.D., NRHSPP
Robert Meier, Ph.D., NRHSPP

(b) DISCUSSION/DECISION REGARDING APPLICATIONS FOR LICENSURE OF BEHAVIOR ANALYSTS BY EXPERIENCE

Beatriz Conti, M.Ed., BCBA

(c) REQUEST FOR EXTENSION OF TIME TO TAKE EPPP EXAM FROM MELISSA INMAN, Ph.D.

(d) EXECUTIVE DIRECTOR'S REPORT

(e) INVESTIGATIONS REPORT

(f) LICENSING REPORT

7. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING DRAFT SUBSTANTIVE POLICY STATEMENT CLARIFYING A.R.S. §32-2081(B)

Dr. Olvey and Ms. Galvin provided a summary to the Board. Board members clarified when the policy statement would become effective if approved. Board members questioned Ms. Galvin if they could apply the interpretation before the draft policy statement became effective. After deliberation, Mr. Donaldson made a motion, seconded by Dr. Brundage to approve the draft policy statement. The motion carried unanimously (6-0).

8. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO THE BOARD'S TELEPRACTICE COMMITTEE'S RECOMMENDATION PERTAINING TO THE DEFINITION OF A "DAY" AND "YEAR" AS IT RELATES TO A.R.S. §32-2075(A)(4)

Chairman Wechsler provided a summary to the Board and described the Telepractice Committee's recommendations pertaining to A.R.S. §32-2075(A)(4), specifically the definitions of a "day" and a "year." It is recommended that a "year" be defined as a calendar year (January 1st - December 31st). It is further recommended that a "day" be defined as any accumulation of eight hours in the provision of psychological services, regardless of the number of calendar days over which the hours were accumulated. Further, this accumulation of hours includes work performed within Arizona as well as work performed outside of Arizona (e.g., report writing). Travel time is not considered a psychological service and is excluded from hours accumulated. Board members deliberated and confirmed that, when applied, the recommended definition of a "day" would allow a psychologist from another jurisdiction to practice in Arizona up to 160 hours per year. Board members expressed concern that a psychologist could practice for one hour a day for one-hundred-sixty days. Board members deliberated the fact that the court system utilizes different experts from different jurisdictions for specific cases, which may support continuation of this statute. Board members indicated a statute change may be considered in the future to require a psychologist from a different jurisdiction to obtain a temporary/provisional license to practice in Arizona. After deliberation, Dr. Mellott made a motion, seconded by Dr. DiBacco to approve the Telepractice Committee's interpretation of a "year" and "day". The motion carried unanimously (6-0).

9. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING INVESTIGATIONS

RFI 11-01, Eugene Cherry, Ph.D.

Dr. Wechsler provided a summary to the Board. Dr. Cherry and his legal counsel, Larry Cohen, were present. Mr. Cohen requested to speak and made a statement to the Board and answered Board members' questions. Dr. Cherry answered Board members' questions. The Complainant was also present, requested to speak, and made a statement to the Board.

Board members expressed concerns with the manner in which the evaluation was conducted, lack of informed consent, multiple relationships and Dr. Cherry's objectivity in this case.

Dr. Wechsler made a motion, seconded by Mr. Donaldson to move RFI 11-01 to an Informal Interview for possible violations to include but not limited to A.R.S. §32-2061(13)(o) for possibly providing services that are unnecessary or unsafe or otherwise engaging in activities as a psychologist that are unprofessional by current standards of practice; A.R.S. §32-2061(13)(dd) for possibly violating an ethical standard adopted by the board specifically pertaining to the American Psychological Association Ethical Principles of Psychologists and Code of Conduct 3.05 Multiple Relationships, 3.08 Exploitative Relationships, 3.10 Informed Consent and 3.11 Psychological Services Delivered to or Through Organizations. The motion carried unanimously (6-0) on a roll call vote.

10. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPLICATION AND RELEVANCE OF A.R.S. §32-2075(A)(4) AS IT PERTAINS TO RFI T-10-32 AND RFI T-11-16 REGARDING BRENDA BURSCH, Ph.D.

Dr. DiBacco recused from this agenda item.

Chairman Wechsler clarified that Board members will only deliberate whether Dr. Bursch meets the exemption from licensure as outlined in A.R.S. §32-2075(A)(4). Ms. Hunter-Williams provided a summary to the Board. Ms. Hunter-Williams reviewed the Board's interpretation of a "year" and "day". Dr. Bursch was present telephonically and answered Board members questions. Dr. Bursch's legal counsel, Larry Cohen, was present, requested to speak and made a statement to the Board. Board members deliberated the number of hours Dr. Bursch reported to work in Arizona.

At 9:56 a.m., Dr. Mellott made a motion, seconded by Dr. Brundage, to go into Executive Session to obtain confidential legal advice. The motion carried unanimously (5-0-1) with Dr. DiBacco recused. Open session reconvened at 10:12 a.m.

The complainant in RFI T-10-32 was present, requested to speak as this agenda item pertains to her complaint and made a statement to the Board.

After deliberation, Dr. Mellott made a motion, seconded by Dr. Brundage, that Dr. Bursch has not exceeded the number of hours allowed to provided services in Arizona under A.R.S. §32-2075(A). The motion carried unanimously (5-0) on a roll call vote with Dr. DiBacco recused.

11. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING INVESTIGATIONS

RFI T-10-32 & T-11-16, Brenda Bursch, Ph.D.

Dr. DiBacco recused from this agenda item.

Dr. Wechsler advised that this complaint would be heard in Executive Session due to the confidential nature of records as well as the underlying proceedings and in order to receive confidential legal advice, pursuant to A.R.S. 38-431.03(A)(2) and (3). At 10:21 a.m., Dr. Brundage made a motion, seconded by Mr. Donaldson to conduct the proceedings of this case in Executive Session, excluding the motion. The motion carried unanimously (5-0). Open session reconvened at 12:12 p.m.

Dr. Mellott made a motion, seconded by Dr. Brundage, to dismiss RFI T-10-32 & T-11-16. Motion carried on roll call vote (4-1) with Chairman Wechsler voting no and Dr. DiBacco recused.

12. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING ADDITIONAL BACKGROUND INFORMATION WITH THE 2011-2013 RENEWAL APPLICATION FOR MARYA COTA, PH.D.

Ms. Duracinski provided a summary to the Board. Dr. Cota and her legal counsel, Stephen Myers, were present, requested to speak, made a statement and answered Board members' questions. Board members commented that the information submitted was complete. After deliberation, Dr. Bohankse made a motion, seconded by Dr. DiBacco to approve Dr. Cota's 2011-2013 renewal application and to offer Dr. Cota a letter of concern for her failure to report her Driving Under the Influence charge in a timely fashion (A.R.S. §32-3208). The motion carried unanimously (7-0) on a roll call vote.

13. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING INVESTIGATIONS

RFI 11-14, Katrina Buwalda, Psy.D.

Dr. DiBacco recused from this agenda item.

Dr. Wechsler advised that this case would be heard in Executive Session due to the confidentiality of records and underlying proceedings and in order to receive legal advice pursuant to A.R.S. §38-431.03(A)(2)(3) and in accordance with the Court Order issue. At 1:43 p.m., Dr. Bohanske made a motion, seconded by Ms. Hunter-Williams to conduct the proceedings of this case in Executive Session, excluding the motion. The motion carried unanimously (7-0). Open session reconvened at 2:58 p.m.

Dr. Bohanske made a motion, seconded by Dr. Brundage, to dismiss RFI 11-14 as Board members found no evidence of violation of statute or rule by the Licensee. The motion carried on roll call vote (5-0) with Dr. DiBacco recused.

14. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING JURISDICTION OF RFI 11-04 PERTAINING TO KIMI WRIGHT, Ph.D.; CONSIDERATION AND ACTION REGARDING DR. WRIGHT'S REQUEST FOR A CONTINUANCE OF THE INFORMAL INTERVIEW

Ms. Galvin provided a summary to the Board and elaborated on court minute entries pertaining to this case. Dr. Wright and her legal counsel, Charles Hover III, were present. Mr. Hover requested to speak and made a statement to the Board.

At 3:10 p.m., Mr. Donaldson made a motion, seconded by Ms. Hunter-Williams, to go into Executive Session to obtain confidential legal advice. The motion carried unanimously (7-0). Open session reconvened at 3:30 p.m.

Board members deliberated the jurisdictional matter in this case. After deliberation, Mr. Donaldson made a motion, seconded by Dr. Mellott, to continue the Informal Interview of Dr. Wright to a future Board meeting. Motion failed on a roll call vote (2-5) with Drs. Wechsler, Brundage, Bohankse, DiBacco and Ms Hunter-Williams voting no.

Dr. Wechsler made a motion, seconded by Dr. DiBacco to maintain jurisdiction in RFI 11-04. The motion carried unanimously (7-0) on a roll call vote.

Dr. DiBacco made a motion, seconded by Dr. Brundage, to grant the requested continuance of the Informal Interview regarding RFI 11-04. The motion carried (6-1) with Dr. Bohanske voting no.

15. INFORMAL INTERVIEW – Lydia Garrett, Ph.D. RFI NO. 11-12

Chairman Wechsler noted that the Complainant for this case was no longer present at the meeting and that the Complainant requested a continuance of this matter as he would like to address the Board regarding the merits of the case. Board members noted that Dr. Garrett was sent a subpoena to attend the Informal Interview. Board members expressed concern with Dr. Garrett's failure to appear for the Informal Interview. Dr. Olvey relayed to the Board that Dr. Garrett signed the Certified Mail receipt that was sent with the subpoena indicating that she received the subpoena. After deliberation, Mr. Donaldson made a motion, seconded by Dr. Bohanske, for Board staff to contact Dr. Garrett regarding her failure to appear for the Informal Interview and to open a Request for Investigation against her for violation of A.R.S. §32-2061(aa) Violating a formal board order, consent agreement, term of probation or stipulated agreement issued under this chapter, for possibly failing to comply with the subpoena to appear for the Informal Interview.

16. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION PERTAINING TO THE CONSENT AGREEMENT OFFERED TO DR. GERMAN AND CORRESPONDENCE FROM JOHN P. AGER REGARDING DR. GERMAN'S CONCERNS WITH THE DECREE OF CENSURE

Dr. DiBacco recused from this agenda item.

Ms. Galvin provided a summary to the Board. Dr. German was not present; however his legal counsel, John P. Ager, was present, requested to speak and made a statement to the Board.

After deliberation, Mr. Donaldson made a motion, seconded by Dr. Wechsler, to deny the proposed amendments to the Decree of Censure and issue the original Decree of Censure as drafted. The motion carried unanimously (6-0) on a roll call vote.

17. DISCUSSION, CONSIDERATION, AND ACTION REGARDING CORRESPONDENCE RECEIVED FROM MICHELLE MASTRANGELO, M.Ed., REQUESTING EXEMPTION PURSUANT TO A.R.S §32-2091.03(F); POSSIBLE DENIAL OF APPLICATION FOR LICENSURE

Ms. Duracinski provided a summary to the Board. Ms. Mastrangelo and her attorney, Anne Fulton-Cavett, were present telephonically. Ms. Fulton-Cavett requested to speak and made a statement to the Board. Ms. Fulton-Cavett and Ms. Mastrangelo answered Board members' questions. After deliberation, Dr. Wechsler made a motion, seconded by Mr. Donaldson, to deny Ms. Mastangelo's request for an exemption and to uphold the denial of her application allowing Ms. Mastrangelo five business days to withdraw her application. If she fails to withdraw her application within five business days, her application will be denied pursuant to A.R.S. § 32-2091.03(E). The motion carried unanimously (7-0) on a roll call vote.

18. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING APPLICANT BHUPIN BUTANEY, Ph.D.

Drs. Wechsler and Bohanske recused from this agenda item. Dr. Mellott provided a summary to the Board stating that Dr. Butaney's application for licensure by waiver could not be reviewed at the January 31, 2012, Application Review Committee Meeting due to lack of a quorum. Dr. Mellott noted that the materials submitted were complete and fulfill the requirements of statute and rule. Dr. Mellott made a motion, seconded by Mr. Donaldson to approve Dr. Butaney's application for licensure upon receipt of the pro-rated licensing fee. The motion carried 5-0 with Drs. Wechsler and Bohanske recused.

At 4:23 p.m. the Board recessed. On February 4, 2012, the Board reconvened in open session at 8:34 a.m.

19. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING COURTESY REVIEW OF PROPOSED RULES FOR BEHAVIOR ANALYSTS

Dr. Olvey provided a summary to the Board stating that the draft behavior analyst rules were reviewed as a courtesy by the Governor's Regulatory Review Council (GRRC). The Board reviewed and deliberated GRRC's comments. The Board directed staff to make revisions to the draft rules including removing the question in the application pertaining to Child Support Enforcement; revising language to indicate that complainants are not required to be present when the Board considers complaints; where possible, align questions on the application form for initial licensure with questions on the application for license renewal; and develop a list of fees for consideration by the Board at the next meeting. At that time, the Board will determine whether to include the list of fees in the proposed rules.

20. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION RELATING TO LEGISLATIVE UPDATE OF CURRENT LEGISLATION

Dr. Olvey provided a summary to the Board regarding HB 2244. Dr. Olvey stated that HB 2244 would limit the professional board members to 25 percent of the Board's composition. Board members opined that this bill if passed may be burdensome to the professional members of the Board and could also cause danger to the public. It was the consensus of the Board to authorize the Executive Director to contact the Association (Arizona Psychological Association) and inquire about the Association's position on this bill.

Dr. Olvey provided a summary to the Board regarding HB 2197. Dr. Olvey stated that HB 2197 will require the Board to accept debit and credit cards as a form of payment and discussed the financial implication of implementing this legislation, if passed. It was the consensus of the Board to authorize the Executive Director to request a face-to-face meeting with the sponsor of the bill to present factual information regarding the impact of this bill on the agency.

Dr. Olvey provided a summary to the Board regarding HB 2671. Dr. Olvey stated that HB 2671 pertains to prescribing authority for psychologists and that this bill has been introduced in prior years. It was the consensus of the Board to take no action.

Dr. Olvey provided a summary to the Board regarding SB 1189. Dr. Olvey stated that SB 1189 would allow a health care provider licensed in another jurisdiction to work in a “free clinic” in Arizona without obtaining a professional license. After deliberation, it was the consensus of the Board that the Executive Director should personally contact the sponsor of the bill and indicate that the Board supports “spirit” of the bill, while expressing that the Board is recommending that measures be taken in order to protect the public. An example may include requiring free clinics to provide information to the appropriate regulatory board regarding the professionals working in the clinics.

21. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING FORM USED TO REPORT HOURS FOR SUPERVISED POSTDOCTORAL EXPERIENCE; DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING SUPERVISED EXPERIENCE INCLUDING DIRECT CLIENT CONTACT HOURS

Dr. DiBacco and Dr. Mellott provided a summary to the Board. Board members deliberated the current form used for applicants to report their supervised postdoctoral experience. The deliberated A.R.S. § 32-2071(G) “Not more than one thousand five hundred hours of supervised professional experience shall be postdoctoral...” After deliberation, it was the consensus of the Board to direct the Board’s intern, Ryan Litner, to research the history as to why Arizona will only accept 1,500 hours of postdoctoral experience with 600 hours of direct client contact. The Board voiced concern that a literal interpretation of the statute could prohibit applicants being eligible for licensure in Arizona if they submit more than 1,500 hours of supervised postdoctoral experience. The Board requested Assistant Attorney General, Jeanne Galvin, look into the issue of postdoctoral hours for discussion at a future Board meeting.

22. DISCUSSION, CONSIDERATION, AND POSSIBLE ACTION REGARDING SOFTWARE FOR TRANSMISSION OF DOCUMENTS

Dr. Olvey provided a summary to the Board regarding encrypted software, Winzip, enabling the Board office to send encrypted files via email to Board members. After deliberation, it was the consensus of the Board to implement the new software for a future meeting.

23. NEW AGENDA ITEMS FOR FUTURE MEETINGS

Dr. Olvey summarized future agenda items in the queue for future Board meetings. In addition, Dr. Wechsler requested that budgeting for a lobbyist be placed on a future agenda. Dr. DiBacco requested that the Board consider additional communication with the Court regarding A.R.S. § 32-2081(B) be placed on a future agenda.

24. ADJOURN

There being no further business to come before the Board, a motion was made by Dr. Bohanske, seconded by Dr. Brundage, to adjourn the meeting at 11:33 a.m. The motion carried 7-0.

Respectfully submitted,

**Joseph C. Donaldson
Board Secretary**