

**BOARD OF COUNSELING  
QUARTERLY BOARD MEETING  
Friday, May 31, 2019**

**TIME AND PLACE:** Dr. Doyle called the meeting to order at 10:06 a.m. on Friday, May 31, 2019, in Board Room 1 at the Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia.

**PRESIDING:** Kevin Doyle, Ed.D., LPC, LSATP, Chairperson

**BOARD MEMBERS PRESENT:** Barry Alvarez, LMFT  
Johnston Brendel, Ed.D., LPC, LMFT  
Jane Engelken, LPC, LSATP  
Natalie Harris, LPC, LMFT  
Danielle Hunt, LPC  
Bev-Freda L. Jackson, Ph.D., MA, Citizen Member  
Vivian Sanchez-Jones, Citizen Member  
Maria Stransky, LPC, CSAC, CSOTP  
Holly Tracy, LPC, LMFT  
Tiffinee Yancey, Ph.D., LPC

**BOARD MEMBERS ABSENT:** Terry R. Tinsley, Ph.D., LPC, LMFT, CSOTP, NCC

**STAFF PRESENT:** Jaime Hoyle, J.D., Executive Director  
Jennifer Lang, Deputy Executive Director  
Charlotte Lenart, Licensing Manager

**OTHERS PRESENT:** Barbara Allison-Bryan, DHP Chief Deputy  
David E. Brown, D.C., DHP Director  
James Rutkowski, Assistant Attorney General  
Allyson Tysinger, Senior Assistant Attorney General  
Elaine Yeatts, DHP Senior Policy Analyst

**WELCOME & INTRODUCTIONS:** Dr. Doyle welcomed the Board members, staff, and general-public in attendance.

**ADOPTION OF AGENDA:** The Board adopted the agenda after agreeing to move the review of public comment and adoption of the proposed guidance document on the practice of conversion therapy, and the presentation on workforce expansion – mobile crisis intervention & stabilization to immediately after public comment.

**PUBLIC COMMENT:** There was no public comment.

**APPROVAL OF MINUTES:** Upon a motion made by Dr. Brendel, and seconded by Ms. Hunt, the Board voted unanimously to approve the February 8, 2019 Quarterly Board meeting minutes.

**DHP DIRECTOR'S REPORT:** Dr. Brown spoke about the unprecedented level of cooperation and collaboration between state agencies in particular with the Virginia Department of Behavioral Health & Developmental Services (DBHDS) and Department of Medical Assistance Services (DMAS).

Dr. Brown reported that the agency is moving forward with its new website. The new website will be user-friendly for both internal staff as well as the public.

Dr. Brown discussed upcoming workgroups that will focus on barriers to practice and telemedicine. In addition, Dr. Brown discussed the Virginia Senate Bill 1547 that directs the Board of Health Professions to evaluate whether music therapists and the practice of music therapy should be regulated.

**CHAIRMAN REPORT:** Dr. Doyle encouraged Board members to attend the Counseling Regulatory Boards Summit on August 7-9, 2019 in Washington, D.C.

Dr. Doyle discussed the need for each Board Member to work with Ms. Lang to assist in the review of disciplinary cases as soon as possible for probable cause. Dr. Doyle indicated that is the responsibility of the Board to take this responsibility seriously.

**LEGISLATION AND  
REGULATORY ACTIONS:**

**Regulatory/Legislative Report –**

Ms. Yeatts provide a chart of Regulatory/Policy Actions – 2019 General Assembly that listed:

Emergency Regulations:

- HB2282 - Resident license for counselors. Board adoption date: 8/16/2019. Regulations to be effective within 280 days of enactment (12/21/2019)

Exempt Regulatory Actions:

- HB2693 - QMHP Definitions to include qualified mental health professional-trainee (QMHP-Trainee)

Non-Regulatory Actions:

- HB1970 - Review telehealth; practice by adjacent physicians.
- HB1971 - Revision of procedures & policy for mandatory suspensions
- HB2556 - Revision of procedures & policy for disclosure of investigative information. Revision of designation form for Boards.
- HB2557 - Change in reporting requirements; publication on websites
- SB1547 - Study of music therapy – need to regulate

- SB1452 (not passed) - Study of limited permit for non-profit to dispense certain drugs
- Budget Bill - Report to JCHC on efforts to promote drug disposal
- HJ682 (not passed) - Study of foreign-trained physicians to provide services in rural areas

Ms. Yeatts also provided a chart of current regulatory actions as of May 31, 2019 that listed:

- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Unprofessional conduct- conversion therapy (action 5225); NOIRA – at Governor’s Office (stage 8533)
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Periodic review (action 5230); NOIRA – At Secretary’s Office (stage 8544)
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Credential review for foreign graduates (Action 5089); Proposed – At Governor’s Office (stage 8461)
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling - requirement for CACREP accreditation for educational programs (action 4259); Proposed- At Secretary’s Office(stage 8521)
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling - acceptance of doctoral practicum/internship hours towards residency requirements (action 4829); Final – At Secretary’s Office (stage 8516)
- 18VAC 115-30 Regulations Governing the Certification of Substance Abuse Counselors updating and clarifying regulations (Action 4691); Final – At Secretary’s Office (stage 8534).
- 18VAC 115-50 Regulations Governing the Practice of Marriage and Family Therapy - acceptance of doctoral hours towards residency (action 5226); Fast-Track – At Secretary’s Office (stage 8536)
- 18VAC115-70 Regulations Governing the Registration of Peer Recovery Specialist (under development) – Initial regulations for registration (action 4890) Proposed – Register Date: 2/4/19, (stage 8296)
- 18VAC115-80 Regulations Governing the Registration Qualified

Mental Health Professionals (under development) – Initial regulations for registration (action 4891) Proposed – Register Date: 2/4/19 (stage 8297)

### **Regulatory Actions:**

**Adoption of Fast Track Regulations Governing Delegation to an Agency Subordinate (18VAC115-20-10 et. seq.).** Dr. Brendel moved, and Dr. Yancey properly seconded, to accept the Regulatory Committee recommendation to amend Regulations 18VAC115-15-20 as presented as a fast-track action. The motion carried unanimously.

Ms. Hoyle pointed out that the Code of Virginia only allows for use of an agency subordinate for disciplinary cases. Ms. Yeatts suggested that DHP consider legislation to change the Code of Virginia to allow agency subordinates to review credential cases. Dr. Brown suggested Ms. Hoyle discuss the issue with the other Executive Director's and DHP will consider moving forward with recommending a legislative change.

**Review of public comment and adoption of proposed guidance document on the practice of conversion therapy.** Dr. Brendel moved, and Ms. Tracy properly seconded, to retain the guidance document on the practice of conversion therapy as written. The motion passed with nine in favor, two in opposition.

Dr. Brendel moved, and Ms. Stransky properly seconded, to authorize the Board Chair and the Regulatory Chair to review and approve staff's drafted response to the conversion therapy public comment. The motion carried unanimously.

### **Discussion and Recommendations from the Regulatory Committee:**

**Review public comment and adoption of Final Regulations Governing the Registration of Qualified Mental Health Professionals.** The Board reviewed and discussed the public comment and the Regulatory Committee recommendations. Ms. Tracy moved, and Ms. Sanchez-Jones properly seconded, to adopt final Regulations Governing the Registration of Qualified Mental Health Professionals as written, with amendments to the placement of the official transcript wording. The motion carried unanimously.

**Review public comment and adoption of Final Regulations Governing the Registration of Peer Recovery Specialists.** The Board reviewed and discussed the Regulatory Committee recommendations. Ms. Hunt moved, and Mr. Alvarez properly seconded, to adopt final Regulations Governing the Registration of Peer Recovery Specialists as presented with minor changes. The

motion carried unanimously.

**Petition for Rulemaking to accept a bachelor's degree in criminology and criminal justice to qualify for registration as a QMHP-C and to accept supervised experience obtained in another state.** The Board reviewed and discussed Michelle Morganegg's petition for rulemaking. There was no public comment to consider. Ms. Yeatts commented that the Board is adopting final regulations to replace the emergency regulations currently in effect. The Board has already proposed an amendment to accept supervised experience obtained in another U.S. jurisdiction, so a further amendment is unnecessary to respond to that aspect of the petition. Additionally, while the guidance document (115-8) does not list criminology as a related degree for QMHP registration, it does state that, "The Board may consider other degrees in human services or in fields related to the provision of mental health services." Therefore, an applicant's coursework may be sufficient to determine that the applicant is qualified in the provision of mental health services.

Ms. Tracy moved, and Ms. Stransky properly seconded, that the Board reject the petitioner's request. The motion carried unanimously.

**Petition for Rulemaking to amend regulations to waive the requirement for an examination for licensed clinical social workers who can show clinical experience based in substance abuse service to become licensed substance abuse treatment practitioners.** The Board reviewed and discussed Michael Hayter, LCSW, CSAC petition for rulemaking. Ms. Yeatts commented that the Board recently conducted a periodic review of regulations and recommended deletion of the exemption from examination currently in place for licensed professional counselors in regulations governing the licensure of substance abuse treatment practitioners.

Dr. Brendel moved, and Ms. Engelken properly seconded, that the Board reject the petitioner's request. The motion carried unanimously.

**Review public comment on proposed Guidance Document on Substance Abuse Treatment Functions by Regulated Professions.** The Board reviewed and discussed the public comments. Dr. Brendel moved, and Ms. Harris properly seconded, to approve the Regulatory Committee's recommended changes to the Guidance Document. The motion carried unanimously.

**Review Guidance Document 115-1.1: Possible Disciplinary or Alternative Actions for Non-Compliance with Continuing Education Requirements, revised May 1, 2015.** The Board

reviewed and discussed Guidance Document 115-1.1. Ms. Stransky moved, and Mr. Alvarez properly seconded, to approve the Regulatory Committee's recommended changes to the guidance document. The motion carried unanimously.

**Consideration of Virginia Sex Offender Treatment Association as an approved provider of continuing education.** After discussion, Ms. Stransky moved, and Mr. Alvarez properly seconded, to add the Virginia Sex Offender Treatment Association to the list of approved providers for continuing competency to the regulations governing licensed professional counselors, licensed marriage and family therapists and licensed substance abuse treatment practitioners as part of the period review. The motion carried unanimously.

**Adoption of NOIRA for Regulations Governing the Certification of Rehabilitation Providers (18VAC115-40-10 et.seq.)** The Board reviewed and discussed the recommendations from the Regulatory Committee. Ms. Hunt moved, and Ms. Tracy properly seconded, that the Board adopt the recommended changes to the Regulations Governing the Practice of Certification of Rehabilitation Providers in concept with a Notice of Intended Regulatory Action (NOIRA). The motion carried unanimously.

**Discuss Virginia Code of Virginia § 32.1-127.1:03.F. Health records privacy - release of records.** The Board discussed the Code and the need to add LPCs, LMFTs and LSATPs to the Code section. At this time it only includes physicians and psychologists. No action taken. Staff will work with the Attorney General's office on this matter.

**Consideration of a Guidance Document for Credential Appeal Process.** The Board reviewed and discussed the draft guidance document. Ms. Hunt motioned, and Ms. Tracy properly seconded, that Board approve the Regulatory Committees' recommended draft guidance document. The motion carried unanimously.

## **UNFINISHED BUSINESS:**

### **Goals for 2019**

The Board has a full agenda for 2019. No discussion needed in the future.

### **Interstate Compact Agreements**

Dr. Doyle provided updated information on the American Counseling Association (ACA) efforts to develop an Interstate Professional Licensing Compact. No action needed.

### **Criminal Background Checks**

Staff will continue to monitor the possibility of the addition of criminal background checks. No action needed.

**EXECUTIVE DIRECTOR'S  
REPORT:**

Ms. Hoyle presented the financials and documentation on applications received that were included in the agenda packet. Ms. Hoyle thanked staff for their continued hard work in the face of increasing demands. With increasing volume, staff continues to meet key performance measures. Ms. Hoyle also informed the board of current staffing realities and future staffing needs. With the continued increase in applications and licensees, there will be impacts on licensing and discipline within the board, as well as enforcement and APD.

**DEPUTY EXECUTIVE  
DIRECTOR'S DISCIPLINE  
REPORT:**

Ms. Lang presented the discipline statistics, current number of open cases and Key Performance Measures, and indicated that she included the report in the agenda packet. With an increase in discipline cases received by the board, Ms. Lang advised that there is a backlog in the case decision process. She noted that staff continues to work on ideas to make the process more efficient but there is a need for increased participation by board members in order to address the backlog because only board members have the authority to make case decisions. Ms. Lang encouraged board members to stay after board meetings to review cases.

**LICENSING MANAGER'S  
REPORT:**

In addition to the statistical information provided in the agenda packet, Ms. Lenart provided information on the increasing number of applications received by the Board. Ms. Lenart welcomed Sandie Cotman to the Board of Counseling staff and recognized Brenda Maida for her dedication and contributions to the Board.

**BOARD COUNSEL REPORT:**

No report.

**BOARD OF HEALTH  
PROFESSIONS REPORT:**

No report.

**LEGISLATIVE/REGULATORY  
COMMITTEE REPORT:**

Regulatory Committee recommendations and comments were discussed earlier in the meeting. Dr. Brendel had no additional information to report.

**AD HOC COMMITTEE ON  
TELE-ASSISTED  
COUNSELING AND  
SUPERVISION REPORT:**

Dr. Tinsley attended the Mid-Atlantic Telehealth Resource Center (MATRC) Telehealth Summit in March. Mid-Atlantic Telehealth Resource Center (MATRC) will be presenting at the next Board meeting. The next adhoc committee meeting will be held on August 16, 2019.

**NEW BUSINESS:**

**Workforce Expansion – Mobile Crisis Intervention & Stabilization Presentation**

Brian Campbell, DMAS, Heather Norton, DBHDS, and Mary Begor, DBHDS, presented information on the crisis services workgroup initiative to redesign the current crisis service system to address the insufficient workforce capacity and to implement cross disability crisis services throughout the state in all regions. They included additional information in the agenda packet.

**Bylaw Discussion**

The Board reviewed and discussed staff's draft changes to the bylaws. Mr. Alvarez moved, and Ms. Harris properly seconded, that the Board amend the Bylaws as discussed and presented by staff. The motion carried unanimously.

**RECOMMENDED DECISIONS  
AND CONSENT ORDER:**

Dr. Jackson moved that the Board of Counseling convene in a closed session pursuant to §2.2-3711(A)(27) of the *Code of Virginia* in order to consider agency subordinate recommendations and a Consent Order. She further moved that James Rutkowski, Jaime Hoyle, Jennifer Lang, Charlotte Lenart, and Sandie Cotman attend the closed session because their presence in the meeting was deemed necessary and would aid the Board in its consideration of the matters. The motion was seconded and carried unanimously.

**Reconvene:**

Dr. Jackson stated that pursuant to §2.2-3712 of the *Code of Virginia*, the Board of Counseling heard, discussed, or considered only those public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as identified in the original motion.

**Decisions:**

Florencio Figueroa-Gomez, QMHP-A

Mr. Figueroa-Gomez did not appear at the board meeting. The agency subordinate recommended that the Board of Counseling place certain terms and conditions on the QMHP-A registration of Mr. Figueroa-Gomez.

Jaime Henao, CSAC

Mr. Henao did not appear at the board meeting. The agency subordinate recommended that the Board of Counseling indefinitely suspend the certification of Mr. Henao.

Kelley Aschenbrenner, LPC

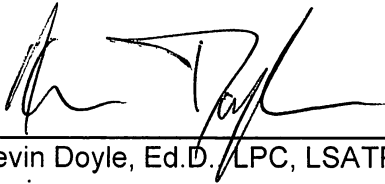
The Board considered entry of a Consent Order for voluntary surrender for indefinite suspension of Ms. Aschenbrenner's LPC license.



Mr. Alvarez moved that the Board of Counseling accept the recommended decisions of the agency subordinate, and the Consent Order for voluntary surrender. The motion was seconded by Dr. Yancey and passed unanimously

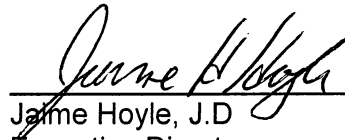
**NEXT MEETING:** Next scheduled Quarterly Board Meeting is August 16, 2019 at 9 a.m.

**ADJOURN:** The meeting adjourned at 2:48 p.m.



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Kevin Doyle, Ed.D., LPC, LSATP  
Chairperson



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Jaime Hoyle, J.D.  
Executive Director