

DRAFT
BOARD OF COUNSELING
FULL BOARD MEETING
Friday, August 21, 2020
DRAFT MINUTES

TIME AND PLACE: Consistent with Amendment 28 to HB29 (the Budget Bill for 2018-2020) and the applicable provisions of § 2.2-3708.2 in the Freedom of Information Act, the Committee convened the meeting virtually to consider such regulatory and business matters as are presented on the agenda necessary for the committee to discharge its lawful purposes, duties, and responsibilities.

PRESIDING: Johnston Brendel, Ed.D., LPC, LMFT, Chairperson

BOARD MEMBERS PRESENT: Barry Alvarez, LMFT
Kevin Doyle, Ed.D., LPC, LSATP
Jane Engelken, LPC, LSATP
Danielle Hunt, LPC, Vice-Chairperson
Bev-Freda L. Jackson, Ph.D., MA, Citizen Member
Vivian Sanchez-Jones, Citizen Member
Maria Stransky, LPC, CSAC, CSOTP
Terry R. Tinsley, Ph.D., LPC, LMFT, CSOTP
Holly Tracy, LPC, LMFT
Tiffinee Yancey, Ph.D., LPC

ABSENT BOARD MEMBER: Natalie Harris, LPC, LMFT

STAFF PRESENT: Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director-Licensing
Sharniece Vaughan, Licensing Specialist

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

WELCOME & INTRODUCTIONS: Dr. Brendel welcomed Board members, staff and public. After completing a roll call of Board members and staff, Ms. Hoyle indicated that with 11 Board members present a quorum was established.

APPROVAL OF MINUTES: Upon a motion made by Ms. Hunt, and seconded by Ms. Stransky, the Board voted unanimously to approve the February 7, 2020 meeting minutes.

ADOPTION OF AGENDA: The Board adopted the agenda as written.

PUBLIC COMMENT: The Board reviewed and discussed public written comment from:

- Savannah Martin, LPC, LAC(SD) regarding military spouses;
- Nicole Kazuba, Licensed Resident in Counseling, regarding the ability to count telephonic hours toward face-to-face client contact hours;
- Pamela Ratliff, Ph.D, MSW, regarding internship hours for CSAC-A applicants; and
- Cyntina Hines, LPC, regarding the ability to count telephonic hours toward face-to-face client contact hours.

AGENCY REPORT:

Dr. Brown reported that the Agency responded to the pandemic by closing public access to the building, transitioning employees to work remotely, and holding most meetings electronically. Currently, approximately 75% of the Agency's employees telework. The Agency has continued to investigate complaints. In addition, the Agency has initiated waivers to increase efficiencies and the Governor issued Executive Order 57, which allows the Behavioral Sciences Boards to issue temporary licenses.

Dr. Brown reported that the Virginia Department of Health (VDH) is developing a state telehealth plan for additional flexibility required for reimbursement and the expanded use of telemedicine.

Dr. Brown provided an update on state-level workgroup activities related to adult and medical use of marijuana. He stated that the Joint Legislative Audit and Review Committee (JLARC) also has been tasked with the review of adult and medical use of marijuana.

CHAIRPERSON REPORT:

Dr. Brendel expressed his concerns about the limited number of Board staff. Dr. Brendel stated that the Board staffs' efficiency and productivity continues to impress him, and he knows that Board staff works more than 40 hours per week to provide service to the applicants and licensees. Dr. Brendel acknowledged that the Board has received approval to hire two part-time individuals to support current Board staff.

Dr. Brown discussed constraints to hiring full-time employees by the General Assembly and Governor. He is pleased that he has been able to direct two new full-time positions to the Behavioral Science Unit this year and to transition Charlotte Lenart to a Deputy Executive Director's role last year. Dr. Brown stated that Ms. Hoyle continues to be a great advocate and keeps management up-to-date on staffing needs. Dr. Brown appreciates the Board's concerns.

Dr. Brendel thanked Board members for their continued support in reviewing probable cause cases. He reported that the Board has reviewed 50 more cases than this time last year.

LEGISLATION AND REGULATORY REPORTS:

Ms. Yeatts provided an update on the changes to the chart in the agenda packet regarding current regulatory actions dated August 4,

2020.

- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Unprofessional conduct-conversion therapy (Action 5225); Proposed –Approved for publication and will be open for public comment from 8/31/2020 through 10/30/2020. A public hearing has been scheduled on 10/09/2020 for 9:45 a.m.
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Periodic review (action 5230); Proposed - At Secretary's Office.
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Resident license (action 5371); Proposed – Approved for publication on 9/14/2020 and public comment will open on 9/14/2020 through 11/13/2020. A public hearing has been scheduled on 10/09/2020 at 10:20 a.m.
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Handling fee - returned check (action 5436); Fast-Track –Regulations to be effective 10/15/2020.
- 18VAC 115-40 Regulations Governing the Certification of Rehabilitation Providers - Periodic review (Action 5305); Proposed – Approved for publication on 9/14/2020 and public comment will open on 9/14/2020 through 11/13/2020. A public hearing has been scheduled for 10/09/2020 at 10:05 a.m.
- 18VAC 115-80 Regulations Governing the Registration of Qualified Mental Health Professionals - Registration of QMHP-Trainees (Action 5444); Fast-Track – Regulations to be effective 10/29/2020.

COMMITTEE REPORT:

Ms. Yeatts informed the Board that the Governor has appointed members to the Art Therapy Advisory Board, and will make the announcement soon. The Advisory Board's role is to provide guidance to the full Board on regulatory and disciplinary issues related to art therapists. This Advisory Board will need to meet prior to the next full Board meeting in order to provide the full Board with a draft of the proposed regulations for the licensure of art therapist and associate art therapist.

Regulatory Committee:

Consideration of any waiver of experience requirements for spouse of active duty military or veteran. The Board discussed the requirements for endorsement and the possibility of waiving the experience requirement in 18VAC115-20-45(B)(2)(b). This section

requires evidence of post-licensure clinical practice in counseling for at least 24 of the last 60 months immediately preceding licensure application for spouses of active military or spouses of veterans who left active-duty within the last year and who accompany the applicant's spouse to the Commonwealth, or an adjoining state, or the District of Columbia.

The Committee's recommendation is for the Board to consider additional pathways that the proposed periodic review of the regulations currently outline. Additional avenues would include:

- Verification from the credentials registry of the American Association of State Counseling Boards, of the Certified Clinical Mental Health Counselor (CCMHC) credential from the National Board of Certified Counselors (NBCC) or any other board-recognized entity.; or
- Evidence of an active license at the highest level of counselor licensure for independent practice for at least 10 years prior to the date of application; or
- Evidence of an active license at the highest level of counselor licensure for independent practice for at least three years prior to the date of application and one of the following:
 - (1) The National Certified Counselor (NCC) credential, in good standing, as issued by the National Board of Certified Counselors (NBCC); or
 - (2) A graduate-level degree from a program accredited in clinical mental health counseling by CACREP.

Ms. Engleken moved to accept the recommendations from the Regulatory Committee to allow a waiver for military spouses to include the additional pathways to licensure as outlined in the periodic review. The Board voted unanimously to accept the Regulatory Committee recommendations.

Petition for Rulemaking to amend section 18VAC115-60-50(5) of the Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners to waive the examination requirements for Licensed Clinical Social Workers (LCSW)

Ms. Hunt moved, which was properly seconded, to accept the recommendations from the Regulatory Committee.

The Board voted unanimously to accept the Regulatory Committee recommendations to deny the petitioner's request.

115-7: Supervision Experience Requirements for the Delivery of Clinical Services for Professional Counselor Licensure. Ms. Hunt moved, which was properly seconded, to retain Guidance Document 115-7 with the elimination of the phrase "submitted on a Board approved form". The Board voted unanimously to accept the changes to Guidance Document 115-7.

Review of Guidance Document 115-1.4: Guidance of Technology-Assisted Counseling and Technology-Assisted Supervision. Ms. Yeatts discussed the Committee's discussion on the need for consultation with an expert in this area before making recommendations for changes. At this time, the Committee did not make any recommendations for changes to the first part to the document. There are however, recommended changes to the guidance for technology-assistance supervision section of Guidance Document 115-1.4. Dr. Alvarez moved, which was properly seconded, to accept the recommendations presented.

Discussion on the need for additional waivers or changes to the Regulations in anticipation of future Emergency Orders.

The Board discussed their support for a waiver to allow a portion of the face-to-face hours be conducted via telephone or audio.

Dr. Brendel moved, which was properly seconded, to request that Dr. Brown request a waiver to allow licensed residents to count a maximum of 10%, or 200 of their hours, conducted via audio communication (that does not have a visual component) toward the 2,000 hours of face-to-face client contact, during the state of emergency. The motion passed unanimously. Ms. Yeatts pointed out that the waiver would not be effective until it goes through the appropriate channels and approved by the Governor.

Board of Health Professions Report:

Dr. Doyle spoke briefly about the recent Board of Health Professions meetings.

UNFINISHED BUSINESS:

2020 Supervisor Summit Training. Dr. Brendel informed the Board that he submitted two proposals to be included in this year's Virginia Counselors Association (VCA) virtual conference on November 12-14, 2020. VCA accepted the both the Supervisor Summit and Updates from the Board proposed presentations. Dr. Brendel asked for Board member volunteers to help develop and present these topics. Ms. Tracy, Ms. Yancey, Ms. Stransky and Dr. Alvarez volunteered to help with the supervisory summit. Dr. Tinsley, Ms. Tracy, Dr. Yancey and Ms. Hunt volunteer to help with the Updates from the Board presentation.

The Board took a break at 10:50 a.m. At 11:00 a.m., Ms. Hoyle took roll call and informed the Board that with 11 members present a quorum was reestablished.

The Board discussed the public comment regarding CSAC and CSAC-A internship hours. Staff will contact the letter-writer to see what the Board could offer in a waiver to help these individuals.

NEW BUSINESS:

Daniel Logdon, Director, National Center for Interstate Compacts, The Council of State Governments provided a presentation and answered Board questions on the Counseling Compact proposal. The Board provided feedback to Mr. Logdon on the proposed compact.

STAFF REPORTS:

Executive Director's Report – Jaime Hoyle

Ms. Hoyle reported that the Board has an excess of funds; however, due to the unknown expenditures related to the increasing number of disciplinary investigations and cases, staff is not recommending a one-time reduction in fees at this time.

Ms. Hoyle provided a personnel update. She shared that the Behavioral Sciences Boards recently hired two long-term contract employees as full-time employees. Sharniece Vaughan accepted a position with the Board of Social Work and Victoria Cunningham accepted a position with the Board of Counseling. In addition, the Board has hired one part-time employee to assist the Board and she is in the process of hiring a second part-time employee to be dedicated to the Board of Counseling. Ms. Hoyle stated that her goal as Executive Director is to keep advocating for additional staff and to push for technology improvements.

Discipline Report – Jennifer Lang, Deputy Executive Director

Ms. Lang reported that the Board closed 199 cases in past six months. Additionally, Ms. Lang informed the Board recently conducted the Informal Conference Committee virtually with no major issues. She also discussed the amount of cases pending and the need for Board members to continue to review probable cases.

Dr. Brendel thanked Ms. Lang for her work and thanked the Board members who serve on the Informal Conference Committee for their time and efforts

Licensing Report – Charlotte Lenart, Deputy Executive Director-Licensing

Ms. Lenart went over the report listed in the agenda packet. She informed the Board that the satisfaction survey results for the 4th quarter were incorrect as posted. The correct 4th quarter results were 93.3%. Board staff continues to work very hard to ensure they return emails and phone calls within 24 hours.

Ms. Lenart reported on the new supervisory registry that has a new look and feel. It now enables staff to identify specifically which type of resident/supervisee the Board has approved the supervisor to supervise.

Ms. Lenart reported that Board staff is now accepting all supplemental documentation via email or fax with the exception of the official transcript.

Ms. Lenart reminded the Board that as of August 24, 2020, all residents that the Board previously approved to begin their residency prior to August 24, 2016 must have completed their residency hours by August 24, 2020. Ms. Lenart reported that she has received numerous requests for extensions that she has granted.

Dr. Brendel stated that he continues to worry that staff is overworked. Ms Engelken also questioned how the Board could bring more attention to the current staffing situation. Ms. Allison-Bryan acknowledged and addressed the Board concerns. Ms. Hoyle indicated that she would continue to promote and advocate for the Board's needs, but she trusts the current process and management.

**BOARD COUNSEL
REPORT:**

**Board Counsel Report – James Rutkowski, Assistant Attorney
General**

Nothing to report.

**RECOMMENDED
DECISIONS:**

See Attachment A.

NEXT MEETING:

Next scheduled Quarterly Board Meeting is November 6, 2020 at 10:00 a.m.

ADJOURN:

The meeting adjourned at 1:37 p.m.

Johnston Brendel, Ed.D, LPC, LMFT,
Chairperson

Jaime Hoyle, J.D
Executive Director

Attachment A

CONSIDERATION OF AGENCY SUBORDINATE RECOMMENDATIONS:

CLOSED MEETING:

Ms. Stransky moved that the Board of Counseling convene in closed session pursuant to §2.2-3711(A)(27) of the *Code of Virginia* in order to consider agency subordinate recommendations. She further moved that James

Rutkowski, Jaime Hoyle, Jennifer Lang, Charlotte Lenart, and Sharniece Vaughan attend the closed meeting because their presence in the meeting was deemed necessary and would aid the Board in its consideration of the matters. The motion was seconded by Mr. Alvarez and passed unanimously.

RECONVENE:

Ms. Stransky certified 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:

Marquise Williams, QMHP-A, QMHP-C
Registration # 0732001627 and 0733001478
Case # 188712

Mr. Williams did not appear at the board meeting. The board considered the agency subordinate's recommendation to suspend Mr. Williams' registrations to practice as a QMHP-A and QMHP-C. Dr. Yancey made a motion, which Ms. Tracy seconded, to accept the recommended decision. Upon a roll call vote, the motion passed unanimously.

Martha Wiles, Resident in Counseling
License # 0704010498
Case # 193478

Ms. Wiles did not appear at the board meeting. The board considered the agency subordinate's recommendation to suspend Ms. Wiles' license to practice as a Resident in Counseling. Ms. Engelken made a motion, which Ms. Stransky seconded, to accept the recommended decision. Upon a roll call vote, the motion passed unanimously.

Tanisha Bailey, Resident in Counseling
License # 0704007202
Case # 193123

Ms. Bailey did not appear at the board meeting. The board considered the agency subordinate's recommendation to place certain terms and conditions on Ms. Bailey's license to practice as a Resident in Counseling. Ms. Engelken made a motion, which Dr. Yancey seconded, to accept the recommended decision. Upon a roll call vote, the motion passed 8-2 (M. Stransky; H. Tracy).