

DRAFT
BOARD OF COUNSELING
QUARTERLY BOARD MEETING
February 18, 2011

- TIME & PLACE:** The meeting was called to order at 10:07 a.m. on Friday, February 18, 2011, in Board Room 1 at the Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia.
- PRESIDING:** Donnie Conner, Ph.D., Chair
- MEMBERS PRESENT:** Mary Lou Argow
Johnston Brendel, Ed.D.
Michael Fletcher
Sandra Malawer
Charlotte Markva
Charles McAdams, III, Ed.D.
Patricia Mullen
William Scott, Ph.D.
Catherine Shwaery
Linda Seeman, Ph.D.
John Penn Turner
- MEMBERS ABSENT:** Zena Bowen
- STAFF PRESENT:** Evelyn B. Brown, Executive Director
Howard Casway, Senior Assistant Attorney General
Catherine Chappell, Deputy Executive Director - Licensing
Jennifer Lang, Administrative Assistant
Patricia Larimer, Deputy Executive Director - Discipline
Arne Owens, DHP Chief Deputy Director
Dianne Reynolds-Cane, DHP Director
Laura Rothrock, Administrative Assistant
- ORDERING OF AGENDA:** Ms. Larimer requested that the agenda be revised to reflect the presentation of recommended decisions from informal conferences rather than consent orders under New Business. Additionally, the formal hearing procedures would not be included in New Business as the formal hearing scheduled for the day was postponed. The agenda was accepted as amended.
- PUBLIC COMMENT:** None
- APPROVAL OF MINUTES:** A motion was made by Ms. Argow to approve the minutes of the November 5, 2010 board meeting.

The motion was seconded by Mr. Fletcher and passed unanimously.

**DIRECTORS'
REPORT:**

Dr. Cane announced that five (5) agency bills had advanced in the General Assembly and subsequently passed.

**EXECUTIVE
DIRECTOR'S
REPORT:**

Ms. Brown reported that the Board had not yet received notification of a new board appointment to replace Eric McCollum, Ph.D., who resigned in 2010, and commented that another board member, Zena Bowen had relocated to Germany and will try to attend regular board meetings, but that if she is unable, she will consider resigning from the Board.

Ms. Brown announced that DHP had placed a moratorium on board member travel and new employment. However, requests for travel and staffing would be considered on a case-by-case basis.

Ms. Brown introduced Jennifer Lang, administrative assistant to the Board and Laura Rothrock who has been assigned to the Board's administrative staff through a temporary agency.

Ms. Brown welcomed Karen Lawson, Director of Behavioral Health Services – Medicaid; Lester Saltzberg, PhD, Department of Behavioral Health and Developmental Services (DBHDS) – Licensing; Arthur Mayer, LCSW, Board of Social Work member; and Mimi Kline, LPC, LMFT, Credentials Reviewer and thanked them for their participation in the meeting.

Registration of Supervision. Ms. Brown conveyed staff concerns arising with respect to intensive in-home therapy and therapeutic day treatment settings. Due to recent changes in Medicaid and DBHDS regulation, applicants have applied to register supervision with the Board to be deemed "license eligible", in order for their treatment programs and agencies to receive Medicaid reimbursement for services. However, questions have arisen regarding the clinical services provided by residents employed in the intensive in-home and day treatment settings, and whether the services meet the requirements for the supervised experience.

**DISCUSSION OF
INTENSIVE IN HOME
AND THERAPEUTIC
DAY TREATMENT
SERVICES:**

Dr. Saltzberg and Ms. Lawson provided an overview to the Board on the intensive in-home and therapeutic day treatment programs which provide services to children in crisis in an effort to avoid placing the children in residential inpatient facilities. They advised that services to this population had previously been provided by local community services boards but due to federal mandates, had opened opportunities for private providers to offer such programs.

She add that in fiscal year 2010, over 24,000 children received intensive in-home services and 17,000 received therapeutic day treatment services, and the number of private intensive in-home and therapeutic day treatment programs has increased substantially throughout the state.

Because of the volume of programs providing these services, concern has increased regarding services provided and qualification of the employees providing such services. Assessments by qualified individuals as well as prior authorization of services are now required before any treatment can begin. DBHDS and Medicaid authorized "license eligible" individuals to perform assessments and other responsibilities. "License eligible" was defined as post-masters degree individuals who have registered supervision with the respective boards, such as the Board of Counseling.

The Board expressed concern that the purpose of the "supervised experience" is to provide clinical counseling and therapy services while under appropriate Board approved supervision. However, many of the duties of the "license eligible" individuals include supervision of others and case management duties, which the Board considers inappropriate for the individual to meet licensure requirements while under clinical supervision.

Mr. Owens thanked Dr. Saltzberg and Ms. Lawson for working with the Board, especially with respect to Virginia's children. He requested that their respective agencies continue to coordinate with the

Board in resolving questions regarding the practitioners under the jurisdiction of the Board.

Ms. Brown commented that a draft Guidance Document would be considered later in the meeting to address the required supervised experience in the delivery of clinical services necessary for LPC licensure. While applicants have been providing generic job descriptions with their registration requests, the Board agreed that more specific information, such as percentage of time in providing clinical services, should be obtained before any decision could be made on the proposed supervised experience contracts.

**AASCB
CONFERENCE:**

Dr. McAdams and Dr. Conner provided an overview of the January 4, 2011 AASCB conference and their presentation of the Board's Educational Summit. Dr. McAdams reported that the presentation was well received.

**BOARD OF HEALTH
PROFESSIONS:**

Ms. Argow announced that the Board of Health Professions (BHP) met on February 15, 2011. She stated that while the Take Back Drug Day had been successful, as a substance abuse practitioner, she was concerned about proper disposal of medications.

Ms. Argow stated that three (3) board positions remain open on the BHP.

**COMMITTEE
REPORTS:**

Discipline Committee. Dr. Seeman reported that 25 cases are under investigation by the Enforcement Division, with 18 cases at board level for review for probable cause. Two cases are at the Administrative Proceedings level for preparation of informal conference notices. The formal hearing originally scheduled for that afternoon was continued due to the unavailability of Board counsel and would be rescheduled.

Credentials Committee. Ms. Argow reported that the Credentials Committee met on Thursday, February 17, 2011, and reviewed 22 applications with respect to degree requirements, coursework, endorsement issues, supervision setting, and a conviction. The Committee denied 17 of the applications, requested

additional coursework from 3 applicants, and deferred one request for supervision pending clarification of coursework. One request for supervision was approved.

The Committee considered 44 requests for supervision which had been deferred due to clinical setting concerns. She requested the Board's direction in addressing the proposed duties in intensive in-home and therapeutic day treatment facilities as the Committee had concerns about the clinical responsibilities in these settings.

The Board agreed that supervision of the resident was the responsibility of the licensed supervisor and that any ethical concerns relating to supervision could be addressed in a disciplinary forum. The proposed regulatory amendment to impose time limits on completion of residency hours along with addressing any negative supervision patterns would help clarify issues on clinical supervision.

Mr. Casway suggested that any supervised experience considered questionable could be denied and the applicant would be required to demonstrate that the duties under supervision were appropriate for the clinical supervised experience.

The Board agreed that staff should obtain more specific information on clinical duties and percentage of time in providing counseling services before any decision on supervised experiences could be rendered. Such information would need to be provided in writing and signed by both the resident and the supervisor.

A request for telephonic supervision was also considered by the Committee and found to be acceptable. However, the Committee encouraged any supervisor considering technology-assisted supervision, to review the Board's concerns as described in Guidance Document 115-1.4. The Board agreed that caution should be taken by participants in telephonic supervision in order to avoid confidentiality issues.

Regulatory Committee. Dr. McAdams commented that the Regulatory Committee met in December 2010 and on February 17, 2011, and was tasked with providing a comprehensive review of the

Regulations Governing the Practice of Professional Counseling. He anticipated that draft proposed regulations will be distributed for discussion at the May meeting, with proposed amendments in the following areas:

- Licensure by Endorsement – clarification that the applicant hold equivalent LPC licensure in another jurisdiction.
- Definition of “Clinical Practice” will be added.
- Clarify the essential coursework necessary for supervision to begin. A Guidance Document has been drafted in this regard for the Board’s consideration.
- Impose residency time limitation of four years
- Examination requirement – two years to “pass” rather than “take” the examination.
- Standards of Practice to be revised to reflect that “sexual relationship” includes student relationships and romantic relationships.
- Clarification of the clinical duties necessary under the supervised experience. A Guidance Document has been drafted in this regard for the Board’s consideration.

Ms. Argow moved that the Board adopt *Guidance Document 115-6: Coursework Requirements Necessary to Begin Supervision for Licensure as a Professional Counselor.* The motion was seconded by Dr. Brendel and approved.

Ms. Argow moved that the Board adopt *Guidance Document 115-7: Supervised Experience Requirements for the Delivery of Clinical Services for Professional Counselor Licensure.* The motion was seconded by Ms. Markva and passed.

OLD BUSINESS:

None

NEW BUSINESS:

Dr. Brendel commented that he was the Board’s representative on the Board of Health Profession’s Behavioral Science task force and had participated in the development of a workforce survey that would be implemented at renewal. On a voluntary basis, practitioner data would be gathered on training, education, and retirement plans.

CLOSED SESSION:

Recommended Decisions from Credentials Informal Conferences. Ms. Malawer moved that the Board of Counseling convene in closed meeting pursuant to §2.2-3711(A)(7) of the Code of Virginia in order to consult with legal counsel on the recommendations from the Credentials IFC Committee. She further moved that Howard Casway, Evelyn Brown, Patricia Larimer, Catherine Chappell, Jennifer Lang, and Laura Rothrock attend the closed meeting because their presence in the closed meeting was deemed necessary and they would aid the board in its consideration of the matter. The motion was seconded and carried.

RECONVENE:

Ms. Malawer moved that pursuant to §2.2-3712 of the Code of Virginia, that the Board heard, discussed, or considered only those public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act and only such public business matters as identified in the original motion. The Committee agreed unanimously.

Verniecia Bell: The IFC Credentials Committee concluded that Verniecia Bell, LPC applicant, failed to satisfy the requirements of 18VAC 115-20-49(B) and recommended that her application by examination be denied. Dr. McAdams made a motion to accept the recommendation as presented. Ms. Markva seconded the motion. The motion passed unanimously.

James Collins: The IFC Credentials Committee concluded that James Collins, LPC applicant, failed to satisfy the requirements of the requirements of 18VAC 115-20-49(B) and recommended that his application by examination be denied. Ms. Mullen made a motion to accept the recommendation as presented. Ms. Malawer seconded the motion. The motion passed unanimously.

Natikca Oliver. The IFC Credentials Committee concluded that Natikca Oliver, LPC applicant, failed to satisfy the requirements of 18VAC115-20-49(B) and recommended that her application by examination be denied. Ms. Argow made a motion to accept the recommendation as presented. Ms. Shwaery seconded the motion. The motion passed unanimously.

Scott Taylor. The IFC Credentials Committee concluded that Scott Taylor, LPC applicant, failed to satisfy the requirements of 18VAC115-20-45, 18VAC115-20-49(B) and 18VAC115-20-51(A) and recommended that his application by endorsement be denied. Ms. Markva made a motion to accept the recommendation as presented. Dr. McAdams seconded the motion. The motion passed unanimously.

**DELEGATION TO
AGENCY
SUBORDINATE:**

Ms. Brown asked the Board to consider delegation to an agency subordinate to conduct credentials informal conferences. She added that the Board of Social Work had adopted regulatory language in this regard. The use of an agency subordinate would expedite the process of the informal conferences. She noted that the use of an agency subordinate in continuing education cases had previously been approved by the Board of Counseling.

Ms. Malawer moved that the Board of Counseling utilize an agency subordinate in credentials matters, whereby the decision would be ratified by the Board or panel of the Board. Ms. Markva seconded the motion.

After discussion, Ms. Markva moved that the motion be tabled for the May agenda. Ms. Malawer seconded the motion. The Board agreed that further consideration of the types of cases and matters to be delegated to an agency subordinate needed to be studied further.

**NEXT MEETING
DATES:**

Dr. Conner announced that the next Board meeting was scheduled for May 6, 2011, with Credentials Committee and Regulatory Committee meetings on May 5, 2011

ADJOURN:

The meeting adjourned at 2:30 p.m.

Donnie Conner, PhD, Chair

Evelyn B. Brown, Executive Director