

**DRAFT MINUTES
BOARD OF COUNSELING
QUARTERLY BOARD MEETING
Friday, May 9, 2014**

TIME AND PLACE:

The meeting was called to order at 8:41 a.m. on Friday, May 9, 2014, in Board Room 2 at the Department of Health Professions, 9960 Mayland Drive, Henrico, Virginia.

ATTENDANCE:

Presiding:

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

Board Members Present:

Kevin Doyle, Ed.D., LPC, LSATP
Michael Fletcher, Citizen Member
Benjamin Keyes, Th.D., Ph.D., Ed.D., LPC
Sandra Malawer, LPC, LMFT
Charlotte Markva, LPC, LMFT, CSAC
Patricia Mullen, LPC
Phyllis Pugh, LPC, CSAC
Joseph Scislowicz, LPC, LMFT
William Scott, Ph.D., LPC, LMFT
Linda Seeman, Ph.D., LPC, LMFT
Terry Tinsley, Ph.D., LPC, LMFT

Board Members Absent:

Zena Bowen, LPC, LMFT
Leah Mills, Citizen Member

Staff Present:

Tracey Arrington-Edmonds, Administrative Assistant
David Brown, D.C., DHP Director
Elizabeth Carter, Ph.D., Director, DHP Healthcare Workforce Data Center
Catherine Chappell, Executive Director
Justin Crow, Deputy Executive Director, Healthcare Workforce Data Center
Christy Evans, Administrative Assistant
Jaime Hoyle, DHP Chief Deputy Director
Jean Joyner, Administrative Assistant
Jennifer Lang, Licensing Manager
James Rutkowski, Assistant Attorney General
Elaine Yeatts, Senior Policy Analyst

WELCOME:

Dr. Brendel welcomed new board members, Dr. Keyes and Mr. Scislowicz, and greeted members of the public in attendance.

ORDERING OF AGENDA:

The agenda was accepted as presented.

APPROVAL OF MINUTES:

A motion was made by Dr. Doyle to approve the minutes of the November 15, 2013 meeting as presented. The motion was seconded by Ms. Mullen and passed, with one member (Mr. Scislowicz) abstaining.

PUBLIC COMMENT:

Comment was made by Gerard Lawson, Ph.D., LPC, CSAC on behalf of the Virginia Counselor's Association (VCA). Dr. Lawson voiced concerns about the proposed changes to the LPC regulations. Specifically, he commented that removing requirements of CACREP and CORE from the regulations would likely lead to "CACREP aligned" programs rather than CACREP equivalent programs. In addition, the Department of Defense and the Veteran's Administration only recognize LPC's who graduated from CACREP clinical mental health programs. Given the amount of military personnel in Virginia, there is great concern over the ability of an unintended two-tier LPC license; those with military approval and those without.

Dr. Lawson also expressed concern over the removal of the word "counseling" from the residency experience requirement and the proposed change in requirements for internships (relating to 20 on-site and 20 off-site hours of supervision, and the reference to the internship supervisor qualifications).

DHP DIRECTOR'S REPORT:

Dr. Brown introduced himself to the board members, as this was his first attendance at a meeting with the Board of Counseling since he was appointed as the Agency Director. He thanked the Executive Director and staff. He also thanked the board members for serving and commented that as a former member of the Board of Medicine, he understood the dedication that it took to serve as one of the Agency's 180 gubernatorial appointees.

REGULATORY COMMITTEE:

Petitions for Rule-Making:

Petition from Jacqueline Biggs for LPC regulations:

A petition for rule-making was submitted to request amendment of qualification requirements for supervisors of residents to include art therapists. The petition was discussed by the Board and members voted unanimously to reject the petition. The Board concluded that since art therapy is not a license under the Virginia Board of Counseling and is not a licensed profession in Virginia, it would be difficult for the Board to identify who is qualified as an art therapist. The Board noted that many art therapists are licensed professional counselors, and in that capacity, many are currently able to supervise a residency.

Petition from Jeffrey Chase for LPC regulations:

A petition for rule-making was submitted to request amendment of Chapter 20's requirements for a degree program in counseling to accept Master's degree graduates of a non-CACREP clinical-counseling psychology program. While the board members appreciated the value of non-CACREP psychology programs, they did not agree that such programs have a counseling identity and focus. With a majority vote (10 in agreement, 1 against, and 1 abstention), the Board rejected the petition. The Board discussed that Dr. Chase may want to direct his petition to the Board of Psychology for consideration of an amendment to its regulations.

LEGISLATIVE UPDATE:

Ms. Yeatts reported that changes began several years ago to Chapter 20 regulations and a Notice of Intended Regulatory Action (NOIRA) was issued. The NOIRA had since been withdrawn because it had not been acted upon within the required 180 days. In the interim, the previous Governor asked agencies to "fast track" regulations that would make the process easier for applicants. The LPC "fast track" changes will be published for comment in May. If there is no significant opposition, they will go into effect July 3, 2014. The main change to the regulations is in clinical practice requirements for application by endorsement, which was reduced from five of the past six years, to 24 of the past 60 months. For any changes to be made to the regulations, a new NOIRA must be adopted for Chapters 20, 50 and 60. The changes proposed by the Regulatory Committee for Chapter 50 would be adopted into Chapters 20 and 60 as well (See May 8, 2014 Regulatory Committee minutes for details on changes). The Board voted to adopt a NOIRA in concept and the measure passed unanimously.

Ms. Yeatts commented that the Regulatory Committee planned to present proposed regulations at the next meeting for the Board's consideration.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Chappell thanked the current board members for their continued dedication and support. Currently, of the 14 Counseling board members, there were five (5) members with expired terms, and three (3) more will expire on June 30, 2014.

Ms. Chappell recognized board staff for their dedication and hard work. She reported her continued efforts in community outreach, including presentations to students at Longwood University, Hampton University, Eastern Mennonite, and James Madison University, and an upcoming presentation to the MFT program at Virginia Tech in July 2014. She also presented information to the Richmond Chapter of the Virginia Counselors Association (VCA), the Virginia Association for Marriage and Family Therapy (VAMFT) and the Virginia Sex Offender Treatment Association (VSOTA). In Fall of 2014, she anticipated presenting at the VCA conference with Dr. Doyle, and planned to represent the board at a conference sponsored by the Criminal Injury Fund relating to treating trauma. Ms. Chappell reported that she had followed the activities of the Governor's Task Force for Mental Health, which was contemplating the process for finding in-patient beds for mental health emergencies. She commented that Board of Counseling licensees play important roles in this process.

Ms. Chappell distributed a financial analysis for the period ending March 31, 2014 for the board, which indicated a cash balance of \$290,279. She added that the board continued to utilize three (3) contract employees because of the limited number of full-time employees that are able to be allocated to DHP. Ms. Chappell welcomed James Rutkowski as the new Board Counsel. Mr. Rutkowski had previously worked in the Administrative Proceedings Division of DHP.

Kevin Doyle congratulated Ms. Chappell on her completion of a Masters degree in Human Resource Management from the University of Richmond, and her upcoming graduation.

LICENSING MANAGER'S REPORT:

Discipline Report:

Ms. Lang reported that Counseling has 68 open cases in:

- Investigation stage (22 cases)
- Administrative Proceedings Division (5 cases)
- IFC process (19 cases)
- Probable cause review to be completed (22 cases)

In addition, eight (8) licensees are being monitored for compliance matters.

IFC's are scheduled for May 16, 2014 and June 20, 2014 and 2 formal hearings are expected to be scheduled for August 15, 2014 following the next board meeting.

Ms. Lang thanked Sarah Georgen, the Licensing Manager for the Board of Social Work who completed the 2013 CE audit for the Board of Counseling. Of the 31 licensees who were audited, 26 were in compliance. Of the remaining audits, three (3) will be scheduled for IFC's or will be offered a pre-hearing consent order

Licensing Report:

The Board of Counseling regulates **6,979** licensees, which includes:

- 3,848 Professional Counselors
- 807 Marriage and Family Therapists
- 183 Licensed Substance Abuse Treatment Practitioners
- 1,684 Certified Substance Abuse Counselors
- 149 Certified Substance Abuse Counseling Assistants
- 308 Certified Rehab Providers

Since the last meeting, board staff has received

- 124 CSAC and CSAC-A applications
- 3 Rehab Provider applications
- 1 LSATP application
- 19 Marriage and Family Applications
- 37 Marriage and Family supervision registrations
- 207 LPC applications
- 486 LPC supervision registrations

With respect to LPC and MFT, since January 1, 2014, staff had approved 390 registrations, 177 applicants were approved to take the exam, and 160 people became new licensees.

Staff received a minimum of 250 calls per week and answered more than 400 emails per week. She noted that renewal notices had recently been sent out and many renewal payments had been received to date. She was pleased to advise the board that applicant satisfaction rate had risen to 87.7% for the quarter ending March 31st, which was a 25% increase from the same quarter in 2013.

Staffing update:

Ms. Lang recognized Ms. Arrington-Edmonds and Ms. Evans for their ongoing dedication to the board and to the applicants. She commented that they were instrumental to the continued improvement of the application process. She introduced Ms. Joyner, who was new to the board staff. Ms. Joyner was completing a documentation retention project with respect to licensure application files. The board was currently using only one (1) credentials reviewer because most reviews are now completed in-house using an educational matrix developed by Ms. Lang.

Ms. Lang updated the board on former board chairperson, Donnie Conner, who was recently honored by Equality Virginia as one of 2014's Outstanding Virginians.

Registry:

Work continued towards implementation of the supervisor registry. While staff maintains a list on the database currently, the sorting ability is limited. The application for the registry has been completed and sent to the Agency's computer/data department for processing. However, with an ongoing database upgrade, the data department had put this project on hold. Any supervisor who had been approved since July 1, 2013 would go onto the list automatically, once implemented.

COMMITTEE REPORTS:

Board of Health Professions:

Dr. Carter presented information on the Board of Health Professions (BHP) on behalf of Ms. Markva. She commented that the BHP focused on studies across all professions. In the past quarter, the focus was scope of practice concerns. Specifically, they are looking at physician owned distributors and the possible conflict of interest in a surgeon who sells an implant to a patient and then performs the procedure. The board is also looking at military credentialing and the adjustment that must occur once the provider is transitioned from military to civilian practice.

WORKFORCE DATA CENTER REPORT:

Dr. Carter and Mr. Crow reported on their workforce studies. The workforce initiative in Virginia began in 2008 by former Governor Kaine. Since 2011, they have created a template for licensee surveys for the health boards. The survey would be deployed again during the renewal cycle and, in the previous cycle, the Board of Counseling had an 89% response rate. Further information was provided on the aging licensee population, a regional analysis, and also a measure of population diversity compared to provider diversity.

A full report of the study can be found at <http://www.dhp.virginia.gov/hwdc/docs/BehSci/0701LPC2013.pdf>.

NEW BUSINESS:

Educational Summit:

The board discussed the possibility of scheduling another Educational Summit in the fall. Staff will follow up on scheduling possibilities.

Criminal Convictions:

Ms. Chappell commented that she had received concerns relating to whether certain crimes should prohibit an applicant from obtaining licensure. The matter was referred to the Regulatory Committee for further review and discussion.

CLOSED MEETING:

Dr. Doyle 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 Recommended Decisions. He further moved that Catherine Chappell, Jennifer Lang, James Rutkowski, Tracey Arrington-Edmonds, Christy Evans and Jean Joyner attend the closed meeting because their presence in the meeting was deemed necessary and they would aid the Board in its consideration of the matters. The motion was seconded and carried.

RECONVENE:

Dr. Doyle moved that pursuant to §2.2-3712 of the Code of Virginia that 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. The motion was seconded and carried unanimously.

DECISIONS:

Diann Inge, LPC

The Special Conference Committee concluded that Ms. Inge violated 18VAC115-20-105(A) and 18VAC115-20-140(6) of the Regulations which govern Professional Counselors, and recommended terms and conditions be placed upon the license of Ms. Inge.

Diane Wend-Welch, LPC Applicant

The IFC Credentials Committee concluded that Diane Wend-Welch, LPC Applicant, failed to satisfy the requirements of 18VAC115-20-45(A)(4), 18VAC115-20-45(B)(2), 18VAC115-20-51(A)(2), and 18VAC115-20-51(A)(11) and recommended that her application for licensure by endorsement be denied.

Dr. Doyle made a motion to accept the recommendations as presented. The motion was seconded and passed unanimously.

ADJORN:

The meeting adjourned at 11:19 a.m.

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

Catherine H. Chappell, Executive Director