

**BOARD OF COUNSELING
FULL BOARD MEETING
Friday, November 22, 2019**

TIME AND PLACE: Dr. Brendel, called the meeting to order at 10:00 a.m. on Friday, November 22, 2019, in Board Room 3 at the Department of Health Professions ("DHP"), 9960 Mayland Drive, Henrico, Virginia.

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

BOARD MEMBERS PRESENT: Barry Alvarez, LMFT
Kevin Doyle, Ed.D., LPC, LSATP
Jane Engelken, LPC, LSATP
Natalie Harris, LPC, LMFT
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: Danielle Hunt, LPC
Terry R. Tinsley, Ph.D., LPC, LMFT, CSOTP, NCC

STAFF PRESENT: Sandie Cotman, Licensing Specialist
Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director-Licensing
Brenda Maida, Licensing Specialist

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

WELCOME & INTRODUCTIONS: Dr. Brendel welcomed the Board members, staff, and general-public in attendance. Provided the mission of the Board and the emergency egress procedures.

ADOPTION OF THE AGENDA: The Board adopted the agenda after agreeing to add the consideration of a Fast-Track action to amend the returned check or dishonored credit card or debit card fee for all regulations governed by the Board.

PUBLIC COMMENT: There was no public comment.

APPROVAL OF MINUTES: Upon a motion made by Mr. Alvarez, and seconded by Dr. Yancey, the Board voted unanimously to approve the August 16, 2019 Board meeting minutes.

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AGENCY REPORT:

Dr. Brown provided information on the recent Board Member training session and stated that the Agency will conduct another Board Member training next fall.

Dr. Brown provided an update on the Agency's activities including agency staff training in the spring, investigator training and the implementation of a panic button to increase security measures in the building. Dr. Allison-Bryan provided an update on the current and future building security enhancements.

Dr. Brown reported that the Governor has requested that the Board consider the withdrawal of the revised proposed action to require counseling programs to be accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP).

After discussion and upon a motion by Dr. Doyle and seconded by Ms. Stransky, the Board voted to withdraw the action to require counseling programs to be accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The motion passed with six in favor and three in opposition.

Dr. Doyle made a motion, which Mr. Alvarez seconded to authorize staff and Board Chair to develop language on the Boards' rationale and reasoning for the withdrawal of the action to require counseling programs be accredited by the CACREP. The motion passed unanimously.

CHAIRPERSON REPORT:

Dr. Brendel discussed the quarterly accomplishments and addressed the need for Board members to review discipline cases. The goal of the Board is to review probable cause cases within two weeks.

Dr. Brendel announced that Ms. Tracy has accepted the role of Chairperson for the Regulatory Committee. Dr. Brendel indicated that the Board still needs additional representation on this committee.

Dr. Brendel discussed the need for a Credential Committee to review non-routine applications and provide guidance to staff on action to be taken. Dr. Brendel indicated that the Board will need three to five volunteers for this committee.

Dr. Brendel recognized Mr. Alvarez, Ms. Hunt, Dr. Tinsley and Ms. Tracy for their representation at the American Association of State Counseling Boards (AASCB) meeting held in August of this year.

- BOARD COUNSEL REPORT:** Mr. Rutkowski reported on the Conversion Therapy case in Maryland. The Attorney General's office will continue to monitor the progress of the case for any impact it may have on Virginia's regulations.
- LEGISLATION AND REGULATORY ACTIONS:** Ms. Yeatts provided information on the legislative actions that may be of interest to the Board and provided a report on the status of regulations.
- 18VAC 115-15 Regulations Governing Delegation to an Agency Subordinate – Period Review (action 5301); Fast-Track – *Register Date: 10/28/19; Effective: 12/12/19*
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Resident License (action 5371) Emergency/NOIRA – At Governor's Office
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Periodic review (action 5230); NOIRA – Register Date: 8/19/19, Board to adopt proposed regulations
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Credential review for foreign graduates (Action 5089); Proposed – Register Date: 7/22/19, Board to adopt final regulations
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling - requirement for CACREP accreditation for educational programs (action 4259); Proposed- At Governor's Office
- 18VAC 115-20 Regulations Governing the Practice of Professional Counseling – Unprofessional conduct – conversion therapy (action 5225); Proposed – At Department of Planning and Budgeting
- 18VAC 115-30 Regulations Governing the Certification of Substance Abuse Counselors updating and clarifying regulations (Action 4691); Final – *At Governor's Office*
- 18VAC 115-40 Regulations Governing the Certification of Rehabilitation Providers (Action 5305); NOIRA – *Registered Date: 11/11/2019.*
- 18VAC115-70 Regulations Governing the Registration of Peer Recovery Specialists – initial regulations for registration - Final – Registered Dated 10/14/19; Effective 11/13/19
- 18VAC115-80 Regulations Governing the Registration of Qualified Mental Health Professionals – Final – Register Date: 10/14/19; Effective 11/13/19

Regulatory Actions:

Adoption of Exempt Action to reduce fees for qualified mental health professional-trainee for Regulations Governing the Registration of Qualified Mental Health Professionals. The Regulatory Committee recommended the Board adopt an Exempt action on the reduction of fees for QMHP-Trainees. All Board members present agreed with the Regulatory Committee's recommendation.

Adoption of Fast-Track Regulations Governing the Registration of Qualified Mental Health Professionals related to the qualified mental health professional-trainee. The Regulatory Committee recommended the Board adopt a Fast-Track action related to the requirements for QMHP-Trainees as presented. All Board members present agreed with the Regulatory Committee's recommendation.

Adoption of Final regulations related to foreign degrees for Regulations Governing the Practice of Professional Counseling, Marriage and Family Therapy and Substance Abuse Practitioners. Ms. Engelken moved, which was seconded by Ms. Harris, to adopt final regulations related to foreign degrees for the practice of professional counseling, marriage and family therapy and substance abuse practitioners. The motion passed unanimously.

Petition of Rulemaking to amend regulations 18VAC115-20-52 to eliminate the restriction on residents' ability to directly bill for their services. The Board reviewed and discussed the public comment related to the petition. Ms. Engelken moved, which was seconded by Ms. Tracy, to deny the petitioners request to allow residents the ability to directly bill for services. The motion passed unanimously.

The Board indicated that direct billing by residents is contrary to the reimbursement policy of DMAS and other third party payers, and that it might incentivize residents to engage in independent practice without appropriate supervision.

Petition for Rulemaking to amend regulations section 18VAC115-50-55 to reduce the required internship number of hours of experience with couples and families from 200 of the 240 to 120 of the required hours. While Board members expressed an understanding of the challenge that the requirement can present, it reiterated the need for someone seeking a license as a marriage and family therapist to have significant direct client contact with couples and families.

Mr. Alvarez made a motion, that Ms. Tracy seconded, to consider the petition within the context of the periodic review. The motion passed unanimously.

After discussing this issue during in the context of the periodic review, Dr. Yancey moved and Mr. Alvarez seconded, to deny the petitioner's request to lower the internship direct contact hours with couples and families. The motion passed with eight in favor and one abstention.

In adopting proposed amendments resulting from an overall review of regulations, the Board has proposed to allow a person who was unable to complete all required hours in an internship to make up the deficient hours in his or her residency. Once the proposed regulations are finalized, the internship requirement will be less burdensome.

Consideration of public comment on the Notice of Intended Regulatory Action (NOIRA) and proposed regulations related to periodic review for Regulations Governing the Practice of Professional Counseling, Marriage and Family Therapy and Substance Abuse Practitioners.

Dr. Doyle made a motion, and Mr. Alvarez seconded, to amend the proposed periodic review language to allow an applicant who otherwise met the education requirements but did not have a minimum of 600 hours of supervised internship with 240 hours of face-to-face client contact, to obtain the deficient number of hours of supervised hours within the residency. The Board will allow up to 100 of the 600 hours of total internship, and up to 40 of the 240 face-to-face client contact hours be completed in addition to the supervised residency requirements. The motion passed with seven in favor and two opposed.

The Regulatory Committee recommended the Board adopt the proposed changes to the period review for the Regulations Governing the Practice of Professional Counseling, Marriage and Family Therapy and Substance Abuse Practitioners as presented. All Board members present agreed with the Regulatory Committee's recommendation.

Discussion and Recommendations from the Regulatory Committee:

Supervisor designation and qualifications. No action taken.

Create committee to define each of the areas of didactic training in substance abuse required for Certified Substance Abuse Counselors. Dr. Doyle and Ms. Engelken will convene to develop definitions for the areas of didactic substance abuse training listed in the Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants.

Criminal Background Checks. The Regulatory Committee recommended that the Board request the Agency address the Board's due diligence and duty to protect the public and require all applicants

under the Board to complete a criminal background check prior to consideration for certification, licensure or registration. Ms. Yeatts indicated that Board will need to make this request prior to June 2020 in order for the Agency to consider this request and be included in the 2021 DHP legislation packet.

Reaffirm Guidance Document 115-1.8: Examinations approved by the Board for Certification as a Rehabilitation Counselor; add guidance currently found in Guidance Document 115-2.2: Guidance on participation by substance abuse counselors in interventions to Guidance Document 115-11: Scope of Practice for Persons Regulated by the Board to provide Substance Abuse Treatment; repeal and incorporate Guidance Document 115-2.2: Guidance on participation by substance abuse counselors in interventions and adopt new guidance document on using training and participation as a Disaster Mental Health Worker by Red Cross for up to 8 hours of continuing education.

After discussing all four guidance documents, Ms. Engelken moved, and Ms. Stransky seconded, to approve all changes as presented. The motion passed unanimously.

Adoption of Exempt Action to increase the handling fee for returned check or dishonored credit or debit card fee for all regulations governed by the Board of Counseling. Ms. Tracy moved, which was seconded by Mr. Alvarez, to adopt exempt action to increase the handling fee for returned check or dishonored credit or debit card fee for regulations governed by the Board of Counseling. The motion passed unanimously.

PRESENTATION:

Virginia's Licensed Professional Counselor Workforce Survey report for 2019 was presented by Dr. Shobo, Deputy Executive Director. All workforce reports are available on the Agency's website.

STAFF REPORTS:

Executive Director's Report – Jaime Hoyle

Ms. Hoyle presented Dr. Doyle with a plaque for gratitude for his service as Chairperson of the Board, and listed the Board's accomplishments under his tenure. Dr. Doyle thanked Jaime Hoyle, as well as his fellow Board members.

Ms. Hoyle addressed the financial packet that was presented to the Board members and gave an update on staffing. Ms. Hoyle thanked staff for their hard work.

Ms. Hoyle indicated that she continues to provide outreach and most recently presented at the Virginia Counselors Association convention along with Dr. Doyle.

Discipline Report – Jennifer Lang, Deputy Executive Director

Ms. Lang presented the discipline report and reported that since 2016 the discipline cases for the Board has increased by 229%.

Ms. Lang indicated that the continuing education audit for the Board is underway. She will provide the results of the audit at the next Board meeting.

Ms. Lang indicated was nominated to be a member of the American Association of State Counseling Boards (AASCB) Regulatory Excellence Committee. The committee's current focus is on endorsement requirements.

Licensing Report – Charlotte Lenart, Deputy Executive Director- Licensing

Ms. Lenart providing the licensing report for the Board which was included in the agenda packet and thanked her staff for their continued hard work and dedication.

Ms. Lenart reported on the information that was presented at the Association of Martial & Family Therapy Regulatory Boards (AMFTRB) Annual State Delegate Meeting held this September in Minneapolis.

Ms. Lenart provided an overview of the regulatory and licensing issues for the Board of Psychology and Board of Social Work.

**CONSIDERATION OF
AGENCY SUBORDINATE
RECOMMENDED DECISIONS:****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 agency subordinate recommendations. He further moved that James Rutkowski, Jaime Hoyle, Jennifer Lang, Charlotte Lenart, and Barbara Allison-Bryan 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 and carried unanimously.

RECONVENE:

Dr. Doyle 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:

**Laura Schwalm, QMHP-C
Registration # 0733001754**

Case # 189661

Ms. Schwalm did not appear at the board meeting. The board considered the agency subordinate's recommendation to place certain terms and conditions on Ms. Schwalm's registration to practice as a QMHP-C.

**Courtney Estler, QMHP-A
Registration # 0732005029
Case # 193807**

Ms. Estler did not appear at the board meeting. The board considered the agency subordinate's recommendation to place certain terms and conditions on Ms. Estler's registration to practice as a QMHP-A.

**Cathleen Carter, QMHP-C
Registration # 0733001362
Case # 191136**

Ms. Carter did not appear at the board meeting. The board considered the agency subordinate's recommendation to indefinitely suspend Ms. Carter's registration to practice as a QMHP-C.

Dr. Yancey moved that the Board of Counseling accept the recommended decisions of the agency subordinate. The motion was seconded by Ms. Stransky and passed unanimously.

NEXT MEETING:

Next scheduled Quarterly Board Meeting is February 7, 2020 at 10 a.m.

ADJOURN:

The meeting adjourned at 2:18 p.m.



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

 2/7/2020

Jaime Hoyle, J.D
Executive Director