

**VIRGINIA BOARD OF COUNSELING
REGULATORY COMMITTEE MEETING**

DRAFT

Friday, January 22, 2021

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: Holly Tracy, LPC, LMFT, Chairperson

COMMITTEE MEMBERS PRESENT: Johnston Brendel, Ed.D, LPC, LMFT
Kevin Doyle, Ed.D, LPC, LSATP
Vivian Sanchez-Jones, Citizen Member
Terry Tinsley, PhD, LPC, LMFT, CSOTP

STAFF PRESENT: Sandie Cotman, Licensing Specialist
Victoria Cunningham, Licensing Specialist
Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director-Licensing
Jared McDonough, Administrative Assistant
Sharniece Vaughan, Licensing Specialist
Elaine Yeatts, DHP Senior Policy Analyst

ADOPTION OF AGENDA: Dr. Doyle suggested that the Board add a discussion of the National Board of Certified Counselors (NBCC) response to the Board related to their 90-day examination waiting period policy to the new business section of the agenda.

APPROVAL OF MINUTES: Dr. Brendel moved to approve the minutes of the July 31, 2020 meeting. Dr. Tinsley, seconded the motion, and it passed unanimously.

PUBLIC COMMENT: There were no public comments.

NEW BUSINESS: **Multi-Systemic Therapy & Functional Family Therapy**
Alyssa Ward, Ph.D., Behavioral Health Clinical Director, DMAS and Alexis Aplasca, MD, Chief Clinical Officer, DBHDS presented information on enhanced behavioral health services in Virginia. The Board appreciated the outreach and information provided by DBHDS and DMAS.

Ms. Yeatts stated that for several months staff has had conversations with DMAS and DBHDS on the appropriate role of QMHPs. The information initially provided gave staff reason to

question the scope of practice as envisioned in these programs for QMHPs. Dr. Ward confirmed that only QMHP-Cs would be eligible to be a part of the collaboration team.

Ms. Tracy stated that this topic will be added as a new business action item later in the meeting.

Regulatory Actions – Elaine Yeatts

Ms. Yeatts reviewed the chart of regulatory actions listed in the agenda packet and provided information on the General Assembly. Ms. Yeatts indicate that the big themes of the General Assembly has been around who can provide COVID vaccinations, the Governor's bill to legalize marijuana, and the expansion of the role of nurse practitioners.

Adoption of Final Regulations on Unprofessional Conduct/ Conversion Therapy – Elaine Yeatts

Ms. Yeatts provided a summary of the public comments related to the proposed regulations on conversion therapy which are listed in the agenda packet. Ms. Yeatts provided information outlined in section 54.1-2409.5 of the Code of Virginia which states the prohibition against conversion therapy and a definition of conversation therapy.

Ms. Yeatts indicated that the definition of conversion therapy as listed in the propose regulations has been stricken and a new definition has been added to reference the definition of conversion therapy as listed in the Code of Virginia.

Dr. Brendel moved, which was properly seconded, to recommend to the full Board to adopt the draft language related to conversion therapy as presented. The motion carried with four votes in favor. Dr. Tinsley opposed the motion.

Adoption of Final Regulations on Resident Licenses – Elaine Yeatts

Ms. Yeatts provided information on the public comments, which all relate to allowing audio only to count toward residency hours during COVID, which are different from the requirements for the final regulations.

Dr. Brendel moved to recommend to the full board to recommend adopting final regulations as identical to the emergency regulations, and as written. The motion was seconded and carried unanimously.

Discussion of Reinstatement for Resident License

The Committee and staff discussed the need for and requirements for reinstatement of resident licenses. The Committee asked staff to research the industry standards and how other professions handle reinstatement of licenses after taking time off. Staff will provide their findings and suggestions at the next Committee meeting.

Ms. Yeatts indicated that the Board can operate from the general section related to reinstatement on a case by case basis while the Board considers reinstatement requirements for resident licenses.

Adoption of Final Regulations resulting from the Periodic Review of the Regulations Governing the Certification of Rehabilitation Counselors – Elaine Yeatts

Dr. Brendel moved to recommend to the full board to recommend adopting final regulations as identical to the proposed regulations and as written. The motion was seconded and carried unanimously.

Consideration of petition for Rulemaking – Elaine Yeatts

Ms. Yeatts presented Ms. Burnett's petition for rule making request asking the Board to modify the endorsement section. The petitioner is requesting the Board to change the 24 of the last 60 months of post-licensure active practice to allow licensees to bypass the education and experience requirements.

Ms. Yeatts indicated that the public comments were mostly related to CACREP and indicated that this petition is not related to CACREP. The Committee needs to determine if they want to modify the endorsement requirements as requested by the petitioner.

Dr. Brendel moved to recommend to the full board to deny the petitioners request. The motion was seconded and carried unanimously.

Review of Guidance Document 115-4.3, Hours in an internship applied toward residency – Elaine Yeatts

Ms. Yeatts advised the Committee that they are required to review guidance documents every four years.

Dr. Brendel moved to recommend to the full Board to reaffirm the continuance of guidance document 115-4.3. The motion was seconded and carried unanimously.

Development of Guidance Document regarding Independent Practice of CSACs – Jaime Hoyle

Ms. Hoyle summarized the petitioners request in July 2020. The Board voted not to initiate rule making but referred the issue back to the regulatory committee to develop guidance to clarify the law and regulations in the form of a guidance document or FAQ.

Ms. Hoyle stated that she thinks the guidance document 115-11 and the Code of Virginia are clear that CSACs cannot practice autonomously.

Dr. Doyle stated this issue might be related to DMAS reimbursement of CSAC services. Dr. Doyle proposed that the

Committee recommend changing the regulations to add wording that specifically prohibits CSACs from billing directly for services, which may address the issue of autonomy.

Dr. Doyle moved to recommend to the full Board to initiate Fast-Track regulations to add language to the CSAC Regulations that prohibits CSACs from directly billing for services rendered. The motion was seconded and carried unanimously.

Staff will look at strengthening the guidance document and present their recommendations at the full Board meeting.

NBCC Responsiveness to the Board regarding their examination policy

The Committee discussed the Center for Credentialing & Education (CCE) and NBCCs responsiveness. Dr. Doyle recommended that a new letter be sent to Kylie Dotson-Blake, NBCC Chief Executive Officer with the Boards concerns related to applicants not being able to register for the examination until 90 days after they have failed the examination. Ms. Hoyle will draft a letter and work with Dr. Brendel on this issue.

Discussion on DMAS and DBHDS presentation on Multi-Systemic Therapy & Functional Family Therapy

The Committee discussed the presentation in detail.

The Regulatory Committee appreciated the information provided by DMAS and DBHDS. The two programs appear to be appropriate to the role of QMHP-Cs within a collaborated practice. The Code of Virginia defines a QMHP as working collaboratively, and these programs fit that definition. The Committee wanted to make sure that QMHP-Cs were not providing assessments or functioning as therapist, and that DMAS would develop differential rates based on education of the QMHP-C. Setting the rate does not prohibit bachelor's level QMHP-Cs to participate, but would encourage master level QMHP-Cs to participate.

Waiver for residents to be able to count telephonic/audio hours toward licensure

During a previous meeting, Ms. Hoyle notified the Committee that she planned to ask for waivers of some requirements for students and applicants during the pandemic when meeting these requirements has proved difficult. She asked the Committee for input, and the Committee previously asked for a waiver to allow up to 10% of the residency hours to be telephonic. Ms. Hoyle indicated that the waivers were approved by the Agency but appears to be in the Attorney General's Office for consideration.

After discussion of the public comments, the Committee asked Ms. Hoyle to contact the Attorney General's Office to advocate for additional hours beyond the 200 hours of telephonic/audio services previously requested.

NEXT SCHEDULED MEETING: The next Committee meeting is scheduled for April 23, 2021 at 10:00 a.m.

ADJOURNMENT: The meeting adjourned at 12:41 p.m.

Holly Tracy, LPC, LMFT
Chairperson

Date

Jaime Hoyle, JD
Executive Director

Date

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