

MINUTES
BEHAVIORAL HEALTH AND HUMAN SERVICES LICENSING BOARD
September 24, 2012

I. CALL TO ORDER AND ESTABLISH QUORUM

Kimble Richardson called the meeting to order at 9:03 a.m. in Room W-064, 402 West Washington Street, Indianapolis, Indiana and determined that a quorum could be established, in accordance with IC § 25-23.6-2.

Members Present:

Kimble Richardson, M.S., L.M.H.C., L.C.S.W., L.M.F.T., L.C.A.C., Board Chair
George Brenner, M.S., L.C.S.W., L.M.F.T., L.C.A.C., Board Vice Chair
Andrew Harner, M.S.W., L.C.S.W., SW Section Chair
Carla Gaff-Clark, Ed.D., L.M.H.C., CADAC-IV, L.C.A.C., AC Section Chair
Rex Stockton, Ed.D., L.M.H.C., L.C.S.W., L.M.F.T, MHC Section Chair
Sherry Rediger, Ph.D., L.M.F.T.
Alan Schmetzer, M.D.
Roger Reeves
Steven Douglas, J.D.

Members Absent:

Chris Falley, L.M.F.T.
Vacant, Social Work Member

Staff Present:

Thomas McGee, Board Director
Ronnie Saunders III, Assistant Board Director
Donna Sembroski, Legal Counsel, Office of the Attorney General

II. ADOPTION OF AGENDA

A motion was made and seconded to adopt the agenda, as amended.

BRENNER/HARNER
Motion carried 7-0-0

III. APPROVAL OF THE MINUTES FROM JULY 23, 2012.

A motion was made and seconded to approve the minutes of the July 23, 2012 meeting of the Board, as amended.

GAFF-CLARK/DOUGLAS
Motion carried 8-0-0

IV. PERSONAL APPEARANCES

A. Linda S. Douglas, LCSW Applicant
Re: Positive Response on Initial Application

Ms. Douglas was asked to appear before the Board to discuss concerns regarding her initial application for licensure as a clinical social worker in the state of Indiana. Ms. Douglas answered "no" to question 1 which asks:

Has disciplinary action ever been taken regarding any health license, certificate, registration or permit that you hold or have held?

This answer was provided despite the fact that Ms. Douglas had previously entered into a disciplinary consent agreement with the Ohio Counselor, Social Worker, Marriage and Family Therapist Board.

Ms. Douglas failed to appear for her personal appearance.

A motion was made and seconded to deny Ms. Douglas's application for licensure as a Licensed Clinical Social Worker

Harner/Reeves
Motion Carried 8-0-0

B. Robert K. Foley, LCAC Applicant
Re: Positive Response on Initial Application

Dr. Foley was asked to appear before the Board to discuss concerns regarding his positive response on his initial application for licensure as a clinical addiction counselor. Mr. Foley answered "yes" to question 3 and question 4B

Are you now being, or have you ever been treated for drug or alcohol abuse?

Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor?

Mr. Brenner raised a concern that Dr. Foley does not have the necessary certification to qualify for licensure by grandparenting. Dr. Foley indicated that he is a medical doctor with 30 years of training and experience and has met all the requirements for licensure. The Board indicated that without the appropriate certification, Dr. Foley likely will be unable to satisfy the Board, but if he wanted to provide information from whatever agency has certified him as being competent to provide addiction counseling, it would be considered.

Dr. Foley indicated that he had a DUI in 2007 in which he was stopped by a police officer driving home from a bar and he was intoxicated. He also had an altercation with his ex-girlfriend in which he broke in to her house by breaking a window in order to apologize to her for his conduct. This led to a restraining order and criminal charges for breaching the restraining order which were eventually dropped. Dr. Foley was charged for refusal to submit to a breathalyzer in 2008. He was required to go through a counseling program and submit to three breathalyzer attempts a day. He completed all of his court ordered requirements stemming from these legal issues.

Dr. Foley had a witness testify on his behalf as to his credentials.

It was determined by the Board that he does not currently meet the requirements for grandparenting. If he were to meet the requirements for licensure, he should be granted a licensure on probation. The Board tabled further discussion on his application at that time.

C. Daniel Michael Knaver, LCAC Applicant
Re: Positive Response on Initial Application

Mr. Knaver was asked to appear before the Board to discuss concerns regarding his positive response on his initial application for licensure as a clinical addiction counselor. Mr. Foley answered "yes" to question 3 and question 4B

Are you now being, or have you ever been treated for drug or alcohol abuse?

Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor?

Mr. Knaver indicated that he pled guilty to possession of marijuana and speeding in 1984. He also had three convictions for Operation a Vehicle While Intoxicated in 2005, 2008, and 2011. In 1984, he was employed as a psychiatric technician; in 2005, he was the clinical director of a child welfare agency.

The Board had concerns regarding his other licenses and whether he had disclosed his criminal issues upon his renewals. A review of his renewals disclosed that he had not disclosed these issues in 2012, 2010, or 2008. The Board decided to wait for the office of the attorney general to investigate this matter prior to making a final determination on the license.

A motion was made and seconded to table the matter at this time.

BRENNER/HARNER
Motion Carried 9-0-0

D. Sheila S. Day, LCAC Applicant
Re: Positive Response on Initial Application

Ms. Day previously appeared before the Board regarding this matter on July 23, 2012. At that meeting the Board discussed her failure to disclose a criminal conviction on her application and gave her the opportunity to consider whether she wished to withdraw her application for licensure.

Ms. Day indicated that the appeal of her criminal conviction was currently pending and was based on the charges being inappropriately filed. She indicated that she is attempting to get the matter changed to more accurately reflect the truth.

Ms. Day indicated that she wished to withdraw her application and the board accepted the withdrawal of her application.

E. Kevin Tyrone Beatty, LMFT 35001670A
Re: Positive Response on Renewal Application

Mr. Beatty appeared before the Board to discuss the positive response on his previous renewal application. Mr. Beatty indicated that at the time of the renewal, he had pending criminal charges that were ultimately dismissed. These previously pending charges were the reason for his initial positive response. Mr. Beatty indicated these charges were false and that there was no basis for the criminal charges.

A motion was made and seconded to grant the renewal of his license.

Rediger/Brenner
Motion Carried 9-0-0

V. ADMINISTRATIVE HEARINGS

A. In the Matter of the License of Cheryl L. Hoffman-Gay, 34005128A, 87001351A
Administrative Cause No. 2009 BHSB 001
Re: Request for Probation Withdrawal

Parties and Counsel Present:
Cheryl L. Hoffman-Gay, Respondent
Amanda Elizondo

Participating Board Members:

Mr. Richardson (Hearing Officer)
Mr. Harner
Mr. Brenner
Dr. Stockton

Dr. Gaff-Clark
Dr. Rediger
Dr. Schmetzer
Mr. Reeves
Mr. Douglas

Non-Participating Board Members:

Ms. Falley

Case Summary:

Ms. Hoffman-Gay indicated that she wishes to have her probation withdrawn. Mr. Richardson went through all the probationary requirements individually and Ms. Hoffman-Gay indicated that she had met each of the requirements. The Board review Ms. Hoffman-Gay's probation file and determined that all requirements had been met. Ms. Hoffman-Gay asked the board to admit into evidence letters of support from several of her team members. Mr. Richardson admitted the letters into evidence with no objection. Mr. Harner asked Ms. Hoffman-Gay what she had learned through this experience and what her current understanding of NASW ethics is regarding boundary issues. Ms. Hoffman-Gay indicated that she had learned a great deal from her disciplinary case and that she would not have made the same decisions that led her to be disciplined if she had the benefit of the knowledge and experience she has gained.

A motion was made and seconded to approve her petition to withdraw the probation on her LCSW and LCAC licenses.

HARNER/STOCKTON
Motion carried 8-0-1

B. In the Matter of the License of Thomas A. Dworniczek, 34001178A, 35000659A
Administrative Cause No. 2012 BHSB 003
Re: Presentation of Settlement Agreement

Parties and Counsel Present:
William Lawson, DAG

Participating Board Members:

Mr. Richardson (Hearing Officer)
Mr. Harner
Mr. Brenner
Dr. Stockton
Dr. Gaff-Clark
Mr. Rediger
Dr. Schmetzer
Mr. Reeves
Mr. Douglas

Non-Participating Board Members:

Ms. Falley

Case Summary:

The parties presented a settlement agreement to the Board to resolve the issues in the State's Complaint in this matter. Pursuant to the settlement agreement, Mr. Dworniczek license was placed on indefinite suspension for a minimum of three months to be followed by a period of indefinite probation for a minimum of three years.

A motion was made and seconded that the Board accept the Settlement Agreement as offered.

DOUGLAS/STOCKTON
Motion carried 7-2-0

C. In the Matter of the License of Melissa Small

Administrative Cause No. 2012 BHSB 012
Re: Cease and Desist

Parties and Counsel Present:

William Lawson, DAG

Participating Board Members:

Mr. Richardson (Hearing Officer)
Mr. Harner
Mr. Brenner
Dr. Stockton
Dr. Gaff-Clark
Mr. Rediger
Dr. Schmetzer
Mr. Reeves
Mr. Douglas

Non-Participating Board Members:

Ms. Falley

Case Summary:

A motion was made and seconded to continue the hearing to November 26, 2012 at the request of Ms. Small with no objections from Mr. Lawson.

BRENNER/SCHMETZER
Motion carried 9-0-0

D. In the Matter of the License of Tadd Whallon LCAC

Administrative Cause No. 2012 BHSB 011
Re: Summary Suspension

Parties and Counsel Present:

William Lawson, DAG

Participating Board Members:

Mr. Richardson (Hearing Officer)
Mr. Harner
Mr. Brenner
Dr. Stockton
Dr. Gaff-Clark
Mr. Rediger
Ms. Falley
Dr. Schmetzer
Mr. Reeves

Non-Participating Board Members:

Ms. Falley
Mr. Douglas

Case Summary:

A motion was made and seconded to extend the summary suspension on the clinical addiction counselor license of Tadd Whallon until November 26, 2012 pursuant to an agreement of the parties.

Schmetzer/Harner
Motion carried 8-0-0

VI. CEU SPONSOR APPLICATION REVIEW

- A. A motion was made and seconded to accept Samaritan Center as a Continuing Education Sponsor.

SCHMETZER/HARNER
Motion carried 8-0-0

- B. A motion was made and seconded to accept Cross Connections as a Continuing Education Sponsor.

SCHMETZER/HARNER
Motion carried 8-0-0

- C. A motion was made and seconded to accept Oldenburg Franciscan Center as a Continuing Education Sponsor.

SCHMETZER/HARNER
Motion carried 8-0-0

VII. FORMAL ADOPTION OF APPLICATION REVIEWS

A motion was made and seconded to approve the recommendations made by each section of the Board for the licensure application reviews conducted from 8:00 a.m. to 9:00 a.m., and at any other time since the previous board meeting.

HARNER/SCHMETZER
Motion carried 8-0-0

VIII. FORMAL ADOPTION OF CONTINUING EDUCATION AUDIT REVIEWS

A motion was made and seconded to approve the recommendations made by the Board Director and Board Members who conducted the review of the Continuing Education Audit.

SCHMETZER/STOCKTON
Motion carried 8-0-0

IX. OLD/NEW BUSINESS

A. Licensure Reinstatement for Licenses Expired for Three-Plus Years Recommendations

1. Dixie Dugan, 34002765A

A motion was made and seconded to approve Ms. Dugan's application for reinstatement of her LCSW contingent on her passing the ASWB clinical level examination and the Jurisprudence examination.

HARNER/SCHMETZER
Motion carried 8-0-0

2. Arlene Ouellette Tippy, 34003319A

A motion was made and seconded to approve her application contingent on her providing a letter explaining why she let her license lapse and passing the jurisprudence examination.

HARNER/BRENNER
Motion carried 8-0-0

B. Rick L. Long, 34000540A – Request to Surrender License

A motion was made and seconded to accept his request to surrender his license to practice as a clinical social worker in Indiana.

HARNER/STOCKTON
Motion carried 7-0-1

C. Implementation and examination for LMHCA

A motion was made and seconded to approve the National Board of Certified Counselor's National Counselor Examination as the board approved examination for licensure as a Licensed Mental Health Counselor Associate.

STOCKTON/REDIGER
Motion Carried 8-0-0

It was discussed by the Board and determined to delegate the authority to determine the implementation date for the LMHCA to the LMHC Section of the Board.

BRENNER/STOCKTON
Motion Caried 8-0-0

D. Military Spouse Licensure

Mr. McGee made the Board aware of the recent legal changes which provided for expedited licensure of active duty military personnel and their spouses. The Board determined that the applicant has the burden of showing he or she meets the requirements for expedited licensure and these applications need to be approved by the Board on a case by case basis.

X. ADMINISTRATORS' REPORT

Mr. McGee reminded the Board that it is set to present before the Regulated Occupations and Evaluations Committee on January 23, 2012. Mr. McGee informed the Board that Ronnie Saunders would be attending the Association of Social Worker Board's fall conference on behalf of the Board. Kimble Richardson indicated that he would check his schedule to see if he could attend as well. Mr. McGee informed the Board that negotiations regarding LAC and LCAC licensure examinations were currently underway and it was intended that these contracts would be finalized for board approval by November 26, 2012.

XI. ADJOURNMENT

There being no further business and having completed its duties, the meeting of the Behavioral Health and Human Services Licensing Board adjourned at 2:50 p.m.

SCHMETZER/STOCKTON
Motion carried 8-0-0

**Kimble Richardson, M.S., L.M.H.C., L.C.S.W., L.M.F.T., L.C.A.C., Board President
Behavioral Health and Human Services Licensing Board**