THE VIRGINIA BOARD OF PSYCHOLOGY
MINUTES
Tuesday, November 5, 2013

The Virginia Board of Psychology ("Board") meeting convened at 10:10 a.m. on Tuesday, November 5, 2013 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Virginia Van de Water, Ed.D, Chairman called the meeting to order.

BOARD MEMBERS PRESENT: Ali Ahmad
Giordana de Altin Popiolek, Psy.D.
William Hathaway, Ph.D.
Russell Leonard, Jr., Ph.D.
Edward Peck, Ph.D., Vice-Chairman
Barbara Peery, Ph.D.
Thomas Ryan, Ph.D.
Herbert Stewart, Ph.D.
Virginia Van de Water, Ed.D., Chairman

BOARD MEMBERS ABSENT: None

STAFF PRESENT: Catherine Chappell, Executive Director
Deborah Harris – Licensing Manager
Patricia Larimer – Deputy Executive Director, Discipline
Arne Owens, DHP Deputy Director
Allyson Tysinger, Senior Assistant Attorney General

ORDERING OF AGENDA

The Agenda was accepted as presented.

PUBLIC COMMENT

Bruce Keeney, Executive Director of VACP/VPA offered comment with respect to the discussion item under Old Business relating to the definition of ethics as used in the continuing education (CE) requirements in the regulations. He commented that there seemed to be an overlap between ethics, standards of practice, and laws/regulations of Virginia in many CE programs, and he looked forward to the board's discussion later in the meeting..

Jennifer Morgan, Psy.D., Regulatory Affairs Chair, VACP/VPA announced that their Spring conference would be held in Norfolk and invited board members to participate in the annual Conversation Hour with the Board of Psychology, which was always well received. She further commented that VACP/VPA members were interested in the Board's recent proposal to allow CE hours to be rolled over from one renewal cycle to the next and looked forward to the board's discussion in this regard.

APPROVAL OF MINUTES

Upon a motion by Mr. Ahmad and properly seconded by Dr. Hathaway, the Board voted to accept the minutes of August 13, 2013 Board meeting as written. The motion passed unanimously.

CHIEF DEPUTY'S REPORT

Arne Owens, Chief Deputy of the Department of Health Professions (DHP) reported on behalf of Dr. Dianne Reynolds-Cane, Director of DHP. He announced that the State plan to reduce prescription drug abuse was submitted to the National Governors Association (NGA) on August 30, 2013.

He added that Virginia was also working with the NGA to expedite licensure for veterans in healthcare professions with respect to practical nurses, emergency medical technicians and physical therapy professionals.

REGULATORY/LEGISLATIVE UPDATE

Ms. Chappell provided an update on regulatory and legislative matters on behalf of Elaine Yeatts, Senior Policy Analyst.

Regulatory Reform Initiative. Ms. Chappell announced that the proposed regulations drafted in May 2013, in accordance with the regulatory reform initiative, became effective on September 26, 2013.

One-time fee reduction. Ms. Chappell noted that the Board had discussed in May 2013, a DHP recommendation to consider a one-time renewal fee reduction as the result of a projected surplus of revenue for the Board of Psychology. Should the Board accept the recommendation, the change would be an exempt regulation that would go into effect before the next renewal cycle. Upon a motion by Dr. Peck and properly seconded by Dr. Ryan, the motion passed unanimously.

CE Carryover. Ms. Chappell referenced the Board's discussion at the May meeting relating to a stakeholder's request to add language to the statute to allow for the carryover of seven hours of continuing education (CE) in excess of the 14 hours needed for renewal to the next cycle. She remarked that the Board had discussed that often CE programs are three days long and offer more than 14 hours. While DHP had included the Board's request in their submission to the Governor's office earlier in the fall, that recommendation did not move forward. Opportunity for a stakeholder to carry the bill remained and she noted that the minutes would reflect that the Board had supported this change.

CSOTP regulatory review. Ms. Chappell noted that the Regulations Governing the Certification of Sex Offender Treatment Providers (CSOTP) were in need of review but that there was no representation of a CSOTP on the board. Dr. Peck had offered comments on regulatory amendment as had a former member of the Board of Social Work who held the credential and a current member of the Board of Counseling who also held the credential. The Board referred further review of the CSOTP regulations to the Regulatory Committee.

Regulatory Committee Membership. Ms. Chappell commented that due to the recent changes to board composition, the regulatory committee needed new members. Dr. Stewart, Dr. Hathaway and Mr. Ahmad offered to serve on the committee.

EXECUTIVE DIRECTOR'S REPORT

Ms. Chappell thanked the Board members for their continued support and attendance at meetings. She stated that attendance was critical to ensure that a quorum be established so that decisions can be rendered. Each Board member held a key role on the Board and while each had one vote, the Board spoke as one with respect to decisions.

She welcomed the new board members and asked that they review their notebooks on board membership and complete conflict of interest training.

Ms. Chappell distributed a report of the Board's finances for the past quarter in an effort to provide transparency and for Board member information. As of September 30, 2013, the ending cash balance indicated that sufficient cash flow existed. As she had discussed in the Regulatory and Legislative Update, the cash balance was projected to be more than needed to sustain the Board's activities, which led to the request for the one-time fee reduction.

She referenced the guidance documents to be discussed under New Business, which had been developed as a result of discussion with other executive directors at DHP on best practices and would ensure that the Board's actions were consistent with other DHP boards' actions.

Ms. Chappell announced that Board counsel, Howard Casway, had been out on approved leave for several months and recently advised that he would retire from state services effective January 1, 2014. She recognized his many years of contribution and guidance to the Behavioral Sciences Boards and added that Allyson Tysinger, Senior Assistant Attorney General and her staff would be helping the Board in the interim. The Board was appreciative of Mr. Casway's guidance and insight over the years and they asked staff to send him a card on behalf of the Board.

In addition, Ms. Chappell commented that she had the pleasure of representing the Board at the Association of State and Provincial Psychology Boards (ASPPB) annual meeting in October. She commented that her travel was fully funded by the ASPPB because they encouraged new administrators to attend the annual meetings. The ASPPB is the testing vendor for the licensing examination. She offered that participation in national associations such as the ASPPB allowed for networking with other boards and facilitated the sharing of ideas and information on trends/issues that other jurisdictions may also be addressing. She added that Dr. Hathaway had attended the meeting last year, at his own expense, and had reported to the Board about a "universal licensure application" offered by ASPPB which served as a repository of information and was helpful as licensees moved from state to state. Ms. Chappell remarked that she also had learned about this product at the recent meeting and that she would be researching the matter further and report back to the Board in the future as to the feasibility of using such application in Virginia.

DISCIPLINARY CASE UPDATE

Ms. Larimer stated that there were 36 open, active cases for the Board of Psychology. Out of those 36 cases, 12 cases were being investigated by the Enforcement Division; five (5) cases were with the Administrative Proceedings Division to draft disciplinary documents; four (4) cases were at the informal conference stage; and 11 cases were at Board level. In addition, she reported that the Board was following four (4) licensees to ensure that they are in compliance with their Board Orders.

She announced eight standing dates for 2014 as needed for disciplinary proceeds: February 7, March 21, May 2, June 6, July 25, September 5, October 17, and November 21.

She added that DHP's standard was to resolve disciplinary cases involving patient care within 250 days and that she was actively working to reach this goal for the Board's disciplinary cases.

Ms. Chappell added that Ms. Larimer was developing a reference of historical case decisions which would be a tool for the Board in making consistent determinations regarding disciplinary cases.

Ms. Chappell stated that Ms. Larimer was also working on the 2013 continuing education audit and requested that Ms. Larimer provide the results of the audit at the next Board meeting.

BOARD STAFF UPDATE

Ms. Harris reported that since the last meeting, the Board had received and processed 101 Psychology applications, which included 8 reinstatement applications; and issued 74 clinical psychology licenses and 8 sex offender treatment provider certifications.

BOARD COUNSEL UPDATE

Ms. Tysinger reported that she and her staff would be available to the Board as counsel until a new attorney general had been identified for the Board. She anticipated that a retirement party for Mr. Casway would be held in early 2014 and that the Board would receive an invitation.

She commented that she would provide an update on the appeal to circuit court in the Bagley matter at the next meeting.

BOARD OF HEALTH PROFESSIONS (BHP) REPORT

Dr. Van de Water reported that no BHP meeting had been held in the recent past and that she hoped to report at the next meeting

NEW BUSINESS

Ms. Chappell presented several proposed guidance documents for the Board's review. The documents had been developed as a result of staff's discussions with other DHP leaders and Board counsel relating to "best practices" to ensure consistency of actions.

Delegation of Authority. A proposed guidance document on Delegation to the Executive Director and Board Staff was presented which detailed administrative duties and decisions to be rendered by staff. Upon a motion by Dr. Hathaway and properly seconded by Dr. Peck, the Board voted to accept the guidance document as written. The motion passed unanimously.

By-Laws. Ms. Chappell presented revised Psychology By-Laws for consideration. She proposed that the Board include the guidance document on Delegation to the Executive Director and Board Staff in the Guidance Document By-Laws. The revised document also clarified committee structure and clearly defined committee roles and responsibilities. Upon a motion by Dr. Peck and properly seconded by Dr. Ryan, the Board voted to accept the guidance document as written. The motion passed unanimously.

Repeal of 125-3.4 and 125-3.5. Ms. Chappell asked the Board to consider repealing guidance documents 125.3.4 and 125.3.5 as these guidance documents were now incorporated into the by-laws. Upon a motion by Mr. Ahmad and properly seconded by Dr. Peery, the Board voted to accept the repeal of Guidance Documents 125-3.4 and 125-3.5. The motion passed unanimously.

Technology-Assisted Therapy and the Use of Social Media. Ms. Chappell presented a proposed guidance document in regards to Technology-Assisted Therapy and the Use of Social Media. The Board members discussed the document and determined that further research and study was needed. They referred the matter to the Regulatory Committee.

Impact of Criminal Convictions, Impairment, and Past History on Psychology Licensure in Virginia. Ms. Chappell presented a proposed guidance document on the Impact of Criminal Convictions, Impairment, and Past History on Psychology Licensure in Virginia. Upon a motion by Dr. de Altin Popiolek and properly seconded by Dr. Peck, the Board voted to accept Guidance Document 125-2 as written. The motion was passed unanimously.

OLD BUSINESS

Psychological Evaluations. Ms. Chappell commented that Dr. Hathaway had asked for a discussion as to whether the term "psychological evaluations" was a protected term. Concern was expressed as to the types of psychological evaluations performed by practitioners other than psychologists, but agreed that the term was not protected. The Board concurred that they would relay their concerns to the Board of Counseling, suggesting perhaps that the Board of Counseling issue guidance regarding the provision of this service within the scope of counselor education, training, and experience. Ms. Chappell offered to address the matter at the next Board of Counseling meeting.

The term "Ethics" as used in Continuing Education regulations. Ms. Chappell commented that Dr. Van de Water had asked for a discussion of the term ethics as used in the CE regulations, inquiring if the regulations require ethics, standards of practice and laws to be one CE program, or if licensees needed to complete CE in one of those three areas. The Board agreed that often a CE program in ethics does encompass standards of practice as well as laws in Virginia. The matter would be further contemplated at the next board meeting.

EXECUTIVE SESSION

Dr. Peery moved that the Board of Psychology convene in closed meeting pursuant to §2.2-3711(A) (27) of the Code of Virginia in order to consider the recommended decision by an agency subordinate and to consider two consent orders. She further moved that Catherine Chappell, Patricia Larimer, and Deborah Harris 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 matters. The motion was seconded by Mr. Ahmad and carried.

Reconvene:

Dr. Peery 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.

Decisions.

Vanessa Irizarry, LCP. The Board considered the recommended decision of an agency subordinate that Dr. Irizarry pay a monetary penalty within 30 days from the date that the order was entered due to her failure to comply with the continued competency requirements for licensure renewal. The Board accepted the recommendation as presented. They also asked that the sanctions listed under Guidance Document 125-5.1 be reviewed at the next board meeting.

Ronald Jacobson, PhD, LCP. The Board considered the consent order for voluntary surrender for indefinite suspension of Ronald Jacobson's right to renew his license to practice as a clinical psychologist in the Commonwealth of Virginia. The Board accepted the consent order as presented. Dr. Hathaway did not participate in the deliberation.

Susan Frank, LCP, CSOTP. The Board considered the consent order for indefinite suspension of Dr. Frank's license to practice as a clinical psychologist in the Commonwealth of Virginia and her certificate to practice as a certified sex offender treatment provider in the Commonwealth of Virginia. The indefinite suspension would be stayed upon proof of Dr. Frank's entry into the Health Practitioners' Monitoring Program (HPMP) and compliance with a Recovery Monitoring Contract with the HPMP. The Board accepted the consent order as presented.

Credentials Files. Because of the Board's action to amend the By-laws relating to committee structure, no credentials file was considered during executive session. The applicants would be notified in writing of their ability to request a meeting with at least two members of the credentials committee at an informal conference.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 12:10 p.m.

Virginia Van de Water, Ed.D.
Virginia Van de Water, Chairman

Catherine Chappell
Catherine Chappell, Executive Director