

**BOARD OF CLINICAL SOCIAL WORK, MARRIAGE & FAMILY THERAPY,
AND MENTAL HEALTH COUNSELING
GENERAL BUSINESS MEETING MINUTES**

October 14, 2010 at 2:00 p.m.

October 15, 2010 at 8:30 a.m.

**Embassy Suites
9300 Baymeadows Road
Jacksonville, FL 32256
(904) 731-3555**

CALL TO ORDER/ROLL CALL

The meeting was called to order on Thursday, October 14, 2010 at 2:00 p.m. by Ms. Macomber, Chair, and recessed at 4:45 p.m. The meeting was called back to order on Friday, October 15, 2010 at 8:30 a.m. and adjourned at 11:45 a.m. Those present for all or part of the meeting included the following:

Members present:

Mary Macomber, Esq., Chair
Frank Roberts, LMFT, Vice-Chair
Mary Bridgman, Esq.
Sharon Otis, LMHC
William Day, LMHC
Sandra Barlow, LCSW
Susan Gillespy, LMFT
Helen Douglas, RDH

Members absent:

Sue White, LCSW

Staff present:

Deborah Loucks, Board Counsel
Laura Lopez, Prosecutor
Ian Brown, Prosecutor
Sue Foster, Executive Director
Robin McKenzie, Program Administrator
Dee Ramer, Regulatory Supervisor
Court Reporter: Statewide Reporting Service,
904-353-7706

REVIEW AND APPROVAL OF MINUTES

The minutes of the July 8-9, 2010 meeting were reviewed and following review, the following action was taken by the board:

Motion: by Dr. Otis to approve the minutes as presented.

Second: by Ms. Douglas.

Vote: Unanimous

DISCIPLINARY PROCEEDINGS

Ailyn Penate, Registered MHC Intern, Case No. 2009-22047 (PCP: Buller, Day, Mallery)

Ms. Penate was present and was not represented by counsel. A two count administrative complaint filed April 15, 2010, alleged violations of s. 491.009(1)(l), F.S., by making misleading, deceptive, untrue, or fraudulent representations in the practice concerning submitting signed progress notes to employer and billing without providing therapy sessions; and s. 491.009(1)(r), F.S., failure to meet minimum standards of performance involving fraudulent documentation.

A settlement agreement was presented to the board with the following terms: appearance; reprimand; fine of \$500.00 and actual costs of \$2,343.40 to be paid within 2 years of the final order; 8-hour laws and rules course within 12 months; laws and rules affidavit within 30 days; and probation for 1 year with the following terms: appearance with supervisor at first meeting after probation commences and at termination of probation, practice under indirect supervision of psychotherapist approved by the board, submission of quarterly reports from supervisor and probationer, 25% review of records monthly.

Dr. Day was recused due to service on the probable cause panel. Following discussion, the board took the following action:

Motion: by Ms. Gillespy to accept the settlement agreement as presented.

Second: by Ms. Douglas.

Vote: Unanimous.

Mr. Roberts was appointed as the board's monitor and will approve the probation supervisor and review the quarterly reports.

Maxine Anne-Marie Sadhai, LMHC, Case No. 2009-14769 (PCP: Roberts, Otis, Mallery)

Dr. Sadhai was present and was represented by Janice L. Merrill, Esq. A two count administrative complaint filed June 25, 2010, alleged violations of s. 491009(1)(w), F.S., by violating Rule 64B4-9.002(2), F.A.C., by failing to maintain required psychotherapy records; and s. 491.009(1)(r), F.S., failure to meet minimum standards of performance.

A settlement agreement was presented to the board with the following terms: appearance; reprimand; fine of \$750.00 and actual costs of \$3,398.75 to be paid within 2 years of the final order; 8-hour laws and rules course within 1 year; 6 hours of continuing education in ethics and record keeping, and laws and rules affidavit within 30 days. In addition, the administrative complaint will be amended by striking paragraph 23 and sub-paragraph 33.a.

Mr. Roberts and Dr. Otis were recused due to service on the probable cause panel. Following discussion, the board took the following action:

Motion: by Dr. Day to reject the settlement agreement.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Dr. Day to add the following terms to the previous settlement agreement: probation of two years, quarterly review of 25% of her charts randomly selected, a quarterly review of the process of her counseling and 6 hours of continuing education in multicultural counseling within a year. The reports must come from the supervisor and supervisee. After one year of probation, Dr. Sadhai may request early termination of her probation.

Second: by Ms. Douglas.

Vote: Motion carries with Dr. Barlow opposed.

Dr. Day was appointed as the board's monitor and will approve the probation supervisor and review the quarterly reports.

George Benjamin Perlin, LCSW, Case No. 2009-03219 (PCP: Macomber, Otis, Day)

Mr. Perlin was not present and was not represented by counsel. An administrative complaint filed October 5, 2009, alleged violation of s. 491.009(1)(t), F.S., by violating an order of the board by failure to pay a fine of \$1,000 and costs of \$2,399.54 in case no. 2008-04961.

No response has been received from the respondent. Ms. Macomber, Dr. Otis, and Dr. Day were recused due to service on the probable cause panel. Following discussion, the following action was taken by the board:

Motion: by Ms. Bridgman that Mr. Perlin was properly served and waived his right to a formal hearing.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Ms. Bridgman to accept the investigative report into evidence for the purposes of imposing penalty.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: Ms. Bridgman to adopt the findings of fact and find that these facts constitute a violation of the practice act as set forth in the administrative complaint.

Second: by Dr. Barlow.

Vote: Unanimous.

Motion: by Ms. Douglas to adopt the conclusions of law and find that the respondent has violated the practice act as set forth in the administrative complaint.

Second: by Mr. Roberts.

Vote: Unanimous.

Motion: by Ms. Douglas to suspend Mr. Perlin's license until he is in compliance with the provisions of the final order.

Second: by Ms. Gillespy.

Vote: Unanimous.

Ms. Lopez withdrew the motion for costs.

Deanna M Paul, Registered MHC Intern, Case No. 2007-38650 (PCP: Sherrard, White, Adejokun-Ojo)

Ms. Paul was present and was not represented by counsel. A three count administrative complaint filed August 13, 2009, alleged violations of s. 456.072(1)(hh), F.S., by failing to successfully complete a PRN recommended drug treatment program; s. 491.009(1)(w), F.S., by violating s. 491.0045(3), F.S., by failing to remain under supervision; and s. 491.009(1)(r), F.S., failure to meet minimum standards by asking client to loan her money and by inappropriately hugging and kissing a client.

Following discussion, the following action was taken by the board:

Motion: by Mr. Roberts that service by the Department was proper in this case.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Mr. Roberts to accept the Department's motion for determination of waiver.

Second: by Dr. Day.

Vote: Unanimous.

Motion: by Ms. Douglas to adopt the findings of fact and find that these facts constitute a violation of the practice act as set forth in the administrative complaint.

Second: by Ms. Bridgman.

Vote: Unanimous.

Motion: by Ms. Douglas to adopt the conclusions of law and find that the respondent has violated the practice act as set forth in the administrative complaint.

Second: by Dr. Day.

Vote: Unanimous.

Motion: by Ms. Bridgman to accept the investigative report into evidence for the purpose of imposing penalty.

Second: by Mr. Roberts.

Vote: Unanimous.

Motion: by Dr. Otis to impose suspension of her license pending an evaluation by PRN. Ms. Paul may petition the board to have the suspension lifted and her license reinstated. The board retains jurisdiction to impose conditions at the time of reinstatement.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Dr. Otis to stay the imposition of costs until the respondent's license is reinstated. Payment of \$4,676.32 is due within one year of having the license reinstated.

Second: by Ms. Bridgman.

Vote: Unanimous.

APPEARANCES

Linda Nelson, Registered MHC Intern, Termination of Probation

Ms. Nelson was present and was not represented by counsel. She is appearing to request termination of probation. She had been placed on three years probation which began March 15, 2007 and all conditions of her final order have been met.

Following discussion, the board took the following action:

Motion: by Dr. Otis to terminate her probation.

Second: by Ms. Douglas.

Vote: Unanimous.

Kristina J. Netherland, LMHC, Request for Reinstatement of License

Ms. Netherland was present and was not represented by counsel. She is requesting reinstatement of her license. The Professionals Resource Network provided an evaluation.

Following discussion, the following action was taken by the board:

Motion: by Dr. Otis to reinstate her license.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Dr. Otis to extend the deadline of payment of fines for two years from the date of the final order that reinstates her license.

Second: by Ms. Bridgman.

Vote: Unanimous.

Deborah A. McDaniel, Registered MHC Intern applicant

Ms. McDaniel was present and was not represented by counsel. She is appearing due to an affirmative response on the applicant history section of the application.

Following discussion, the following action was taken by the board:

Motion: by Ms. Douglas to approve her application pending applicant's agreement to comply with any PRN recommendations.

Second: by Mr. Roberts.

Vote: Unanimous.

John C. Jordan, Registered MHC Intern Applicant

Mr. Jordan contacted the office on Sept. 29 and stated he will be unable to attend this meeting, but will attend the meeting in January.

Frankie A. Tester, LCSW, Commencement of Probation

Ms. Tester was present with her supervisor, Linda M. Meyerholz, and was represented by Lisa Augspurgen, Esq. Ms. Tester's appearance was required at the first meeting after her probation commences.

REVIEW OF APPLICATIONS

Mary Hurley, MFT Intern Applicant

Ms. Hurley was present and was not represented by counsel. She is appearing due to an affirmative response on the applicant history section of her application. Following discussion, the board took the following action.

Motion: by Ms. Douglas to approve her application pending completion of a PRN evaluation and applicant's agreement to comply with the PRN recommendations.

Second: by Ms. Bridgman.

Vote: Unanimous

Shannon Aileen Hallock, MHC Exam Applicant

Ms. Hallock was not present nor represented by counsel. Her file is before the board for review to determine if she meets the statutory requirements for licensure. Following discussion, the board took the following action.

Motion: by Ms. Douglas to deny her application based on not meeting the educational requirements.

Second: by Dr. Otis.

Vote: Unanimous.

PETITION FOR DECLARATORY STATEMENT

Dean R. Cauley, Ph.D., MBA

Dr. Cauley is requesting a declaratory statement regarding s. 491.003(9), F.S., concerning the use of the term "psychological testing" and "psychological assessment" in his specific situation.

Following discussion, the following action was taken by the board:

Motion: by Dr. Day to decline to issue a declaratory statement because the board does not have the authority to give the approval. Pursuant to Chapter 491.003, F.S., Dr. Cauley may provide testing, treatment and provide a diagnosis of a psychological nature if he is trained to provide these services.

Second: by Ms. Barlow.

Vote: Unanimous.

PETITION FOR VARIANCE OR WAIVER OF RULE

Andres Torrens, LCSW

Mr. Torrens is requesting a waiver of Rule 64B4-31.007(1)(c), F.A.C., concerning the definition of a qualified supervisor for registered mental health counselor interns.

Following discussion, the board took the following action:

Motion: by Mr. Roberts to deny based on the rule requiring appropriate coursework, no specific hardships stated and he did not show how he had met the purpose of the underlying statute, or how his situation was different than others affected by the same rule.

Second: by Ms. Gillespy.

Vote: Unanimous

TOPIC DISCUSSIONS

Qualified Supervisor: Limit to Number of Supervisees

Board staff presented a statistical report showing the number of qualified supervisors and the number of interns that are currently under supervision. Staff has the capability of listing/contacting each qualified supervisor when the board determines a reasonable number that one can legitimately supervise. The board members were concerned with this documentation showing there were LMFT supervisors, LCSW supervisors, and LMHC supervisors that are allegedly currently supervising between 13 and 59 interns! The board is receiving many complaints/cases against registered interns and these cases are showing that many are in private practice without supervision. There was discussion on limiting the number of interns that a qualified supervisor can supervise and limiting the number of years that one can continue in the registered intern status. No number was discussed at this meeting.

Members voiced concerns that it appears that registered interns are not receiving appropriate supervision from their qualified supervisor, and this could constitute a below the standard violation. The board recommended that registered interns be given a survey during the renewal cycle, which will begin at the end of the year. The survey would include the following questions:

How long have you been an intern?

How many times have you taken the national exam?

Who is your current qualified supervisor?

The board discussed that staff might send a letter to the department chairs of the top 50 universities where the registered interns graduated from, informing them of the current situation; that many interns do not appear to be under supervision, some have been interns for over 10 years, and qualified supervisors appear to be supervising a very high number of interns. The law requires a registered intern remain under supervision until he or she is fully licensed to practice their profession, even if the two year post-master's supervision requirement has been satisfied.

Can Refresher Laws and Rules course be Required for Renewal?

During the July 2010 meeting, the board requested counsel to research whether or not a refresher laws and rules course can be required for continuing education renewal and whether it might be contained within the areas of ethics and boundaries. Following discussion, the board directed staff to send an e-mail to all continuing education providers requesting that one hour within the three hour required ethics course for renewal be directed towards discussing the current laws and rules of the 491 professions.

Qualifications to Evaluate and Treat Sexual Offenders

During the July 2010 meeting, the board directed staff to provide the minutes and history from the prior board meetings where this issue was discussed. Dr. Larry Barlow with the Florida Board of Marriage and Family Therapy Association spoke to this issue. Following discussion, the board suggested that board counsel provide draft rules at the next board meeting to include: restricting treatment and assessment to full licensees and that the training should be in all of the course content areas shown in the previous rule that was repealed.

RULES DISCUSSION

Rule 64B4-5.001 Disciplinary Guidelines

Rule 64B4-5.005 Minor Violations, Notice of Noncompliance

Rule 64B4-5.007 Citations

Ms. Loucks and Ms. Lopez will meet on revisions to these rules and will provide drafts for the next meeting.

OTHER BUSINESS

Ratification of Continuing Education Providers

Following discussion, the following action was taken by the board:

Motion: by Dr. Otis to approve.

Second: by Ms. Douglas.

Vote: Unanimous.

Application Denials

Following discussion, the following action was taken by the board:

Motion: by Dr. Otis to deny applicants listed from Maria Cadarso through Audrey Weyler.

Second: by Ms. Douglas.

Vote: Unanimous.

Committee of One Actions

Following discussion, the following action was taken by the board:

Motion: by Dr. Otis to approve.

Second: by Ms. Bridgman.

Vote: Unanimous.

Orders to Vacate

Following discussion, the following action was taken by the board:

Motion: by Ms. Macomber to approve the Order to Vacate of Nicolas Angelo Mancini and Kathleen Horne.

Second: by Ms. Douglas.

Vote: Unanimous.

REPORTS

Assistant Attorney General

The following rules were noticed on 8/27/10 and will become effective on 10/17/10:

Rule 64B4-3.008 Supervision Required until Licensure.

Rule 64B4-3.0085 Intern Registration.

Prosecuting Attorney

Ms. Lopez reported that as of October 10, 2010 the Prosecution Services Unit had 79 open disciplinary cases. Of the 79 cases, 1 is on criminal hold, 39 are pre-probable cause, 14 are agendaed for probable cause and 25 are public cases where probable cause has been found. Thirty cases are more than one year old. Ms. Lopez requested that the board grant her permission to continue working on these cases, rather than seek outside counsel.

Motion: by Ms. Bridgman to grant permission to Ms. Lopez to continue working on year old cases.

Second: by Ms. Barlow.

Vote: Unanimous.

Executive Director

Ms. Foster provided budget information for the board's review.

FOR YOUR INFORMATION – NO ACTION TAKEN

ASWB Letter Regarding Conscience Clauses

E-Mail from Dana Kinnard, LMHC – file a complaint

ASWB Letter to Sue Foster

Board Chair/Vice Chair Meeting Information

Professional Resource Network (PRN Brochure)

ADJOURNMENT The meeting was adjourned by Ms. Macomber at 11:45 a.m. on Friday.