

**BOARD OF CLINICAL SOCIAL WORK, MARRIAGE & FAMILY THERAPY,  
AND MENTAL HEALTH COUNSELING**

**GENERAL BUSINESS MEETING MINUTES**

**July 8, 2010 at 2:00 p.m.**

**July 9, 2010 at 8:30 a.m.**

**Rosen Plaza Hotel  
9700 International Drive  
Orlando, FL 32819  
(407) 996-9700**

**CALL TO ORDER/ROLL CALL**

The meeting was called to order on Thursday, July 8, 2010 at 2:00 p.m. by Ms. Macomber, Chair, and recessed at 6:30 p.m. The meeting was called back to order on Friday, July 9, 2010 at 8:30 a.m. by Ms. Macomber, Chair. Those present for all or part of the meeting included the following:

Members present:

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

Staff present:

Deborah Loucks, Board Counsel  
Laura Lopez, Prosecutor  
Sue Foster, Executive Director  
Robin McKenzie, Program Administrator  
Dee Ramer, Regulatory Supervisor  
Court Reporter: Sciafani Williams Court  
Reporters, Inc. 863-688-5000

**REVIEW AND APPROVAL OF MINUTES**

The minutes of the April 22-23, 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. White.

Vote: Unanimous.

Ms. Macomber welcomed students on Thursday visiting from Rollins College. They are in the mental health counseling program. There were also students in attendance on Friday.

**DISCIPLINARY PROCEEDINGS (7-9-10)**

**Frankie Anne Tester, LCSW, Case No. 2009-01174 (PCP: Buller, Day, Mallery)**

Ms. Tester was present and was represented by Lisa Augspurger, Esq. A three count administrative complaint filed April 15, 2010, alleged violations of s. 491.009(1)(w), F.S., by violating Rule 64B4-9.001(2), F.A.C., regarding recordkeeping; s. 491.009(1)(r), F.S., failure to meet minimum standards in failure to refer patient after befriending patient and engaging in an intimate relationship; and s. 491.009(1)(k), F.S., of alleged sexual misconduct.

A settlement agreement was presented to the Board with the following conditions: appearance, reprimand, fine of \$1500 and actual costs to be paid within 12 months of the final order, 8 hour laws and rules course within one year; 4 hours in ethics within one year of final order; probation for one year; appearance after probation commences and upon termination of probation; practice under indirect supervision.

Dr. Day was recused due to service on the probable cause panel. Actual costs were \$5,755.58. Following discussion, the following action was taken by the Board:

Motion: by Ms. White to reject the settlement agreement.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Mr. Roberts to revoke her license.

Motion died for lack of a second.

Motion: by Dr. Otis to accept the settlement agreement as presented with the additional requirement that Ms. Tester must obtain a PRN evaluation and agree to all PRN requirements in the contract if required. Dr. Barlow will review the PRN evaluation.

Second: by Ms. Douglas.

Vote: Unanimous.

Ms. Tester agreed to the amended settlement agreement.

**Hermaine J. Baillou, Registered CSW Intern, Case No. 2009-17054 (PCP: Sherrard, Bridgman, Otis)**

Ms. Baillou was present and was not represented by counsel. A two count administrative complaint filed February 12, 2010 alleged violations of s. 491.009(1)(l), F.S., by making misleading, fraudulent representations in the practice by submitting signed progress notes to employer of patients not treated; and s. 491.009(1)(r), F.S., of failure to meet minimum standards by submitting progress notes and dates for patients not seen.

A settlement agreement was presented to the Board with the following terms: appearance, reprimand, fine of \$2000 and actual costs to be paid within 90 days, probation for one year with indirect supervision, 8 hour laws and rules course within one year, and a laws and rules affidavit within 30 days.

Ms. Bridgman and Dr. Otis were recused due to service on the probable cause panel. The actual costs were \$2,458.53. Following discussion, the following action was taken by the Board:

Motion: by Dr. Day to table this case until the next meeting as respondent had numerous questions concerning documents she had signed.

Second: by Ms. White.

Vote: Unanimous.

**Richard B. Hey, Registered MHC Intern, Case No. 2009-10386(PCP: Macomber, Day, Otis)**

Mr. Hey was not present and was not represented by counsel. A two count administrative complaint filed October 5, 2009 alleged violations of s. 491.009(1)(l) and s. 456.072(1)(m), F.S., by making misleading, deceptive, untrue, or fraudulent representations by listing his title as Ph.D. in clinical psychology in an e-mail; and s. 491.009(1)(d), F.S., by engaging in false, deceptive, or misleading advertising by guaranteeing results from initial contact.

Ms. Macomber, Dr. Day, and Dr. Otis were recused due to service on the probable cause panel. A Voluntary Relinquishment of License was signed by respondent agreeing to never reapply for licensure under Chapter 491, Florida Statutes. Following review, the board took the following action:

Motion: by Mr. Roberts to accept the voluntary relinquishment.

Second: by Dr. Otis.

Vote: Unanimous.

**Bonnie J. Whitehurst, LMHC, Case No. 2008-13388 (PCP: Sherrard, White, Adejokun-Ojo)**

Ms. Whitehurst was present and was represented by Brian P. Haskell, Esq. The patient/complainant also appeared and testified before the Board. An administrative complaint filed August 13, 2009 alleged violation of s. 491.009(1)(r), F.S., failing to meet minimum standards by failure to maintain a professional counselor-client relationship with patient.

A settlement agreement was presented to the Board with the following terms: appearance; reprimand; fine of \$1000 and actual costs to be paid within 24 months; probation for 1 year with the following terms: appearance with supervisor before probation commences and at the termination of probation; practice under indirect supervision, 25% review of records once every 2 weeks for minimum of 2 months, then 25% review on monthly basis for minimum of 10 months; submission of quarterly reports from supervisor and probationer; 12 hours of continuing education in ethics and boundaries, and laws and rules affidavit.

Ms. White was recused due to service on the probable cause panel. Following discussion, the following action was taken by the Board:

Motion: by Mr. Roberts to reject the settlement agreement.

Second: by Dr. Day.

Vote: Unanimous.

Motion: by Mr. Roberts to revoke her license.

Second: by Ms. Douglas.

Vote: Motion carried with Dr. Otis opposed.

Costs in this case were \$6828.88.

The meeting recessed for approximately ten minutes and was called back to order by Ms. Bridgman, who presided over Lazaro Garrido's petition for variance or waiver and the following two cases.

**Alain Abreu Hoyos, Registered MFT Intern, Case No. 2009-20602 (PCP: Sherrard, Bridgman, Otis)**

Ms. Abreu was not present nor represented by counsel. A two count administrative complaint filed February 12, 2010, alleged violations of s. 491.009(1)(l), F.S., of making misleading, untrue, or fraudulent representations in the practice concerning submitting completed progress notes to employer without providing therapy sessions; and s. 491.009(1)(r), F.S., failure to meet minimum standards of performance involving fraudulent documentation.

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

Motion: by Dr. Day that Ms. Abreu was properly served and waived her right to a formal hearing.

Second: by Ms. Douglas.

Vote: Unanimous.

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

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Dr. Day 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. White.

Vote: Unanimous.

Motion: by Dr. Day 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 Ms. White.

Vote: Unanimous.

Motion: by Ms. White to accept the Department's recommendation of discipline which is: a reprimand; fine of \$10,250 payable within 90 days; probation for duration of the registered internship with indirect supervision; and completion of an 8 hour laws and rules course and 6 hours of continuing education in ethics, to be completed within one year of the final order.

Second: by Ms. Douglas.

Vote: Unanimous.

Motion: by Dr. Day to assess costs of \$2,286.75 to be paid within 90 days.

Second: by Ms. White.

Vote: Unanimous.

**Richard Day, LMHC Case #2009 – 20153 (PCP: Buller, Mallery, Day)**

Mr. Day was not present nor represented by counsel. A six count administrative complaint filed April 22, 2010 alleged violations of Section 491.009 (1)(k), (a), (b), (c), (h), (l), F.S., involving sexual misconduct in the practice of psychology in Georgia with suspension of license, providing false information on the applicant history section of his Florida Mental Health Counselor application; fraudulent representations in the practice.

A signed and notarized voluntary relinquishment of license form was presented to the Board with the following terms: respondent agrees to never reapply for any profession under Chapter 491, F.S.

Dr. William Day was recused due to service on the probable cause panel. Following discussion, the following action was taken by the Board:

Motion: by Ms. White to accept the voluntary relinquishment.

Second: by Ms. Douglas.

Vote: Unanimous.

**LICENSURE PROCEEDINGS (7-8-10)**

**Andrew Stone, CSW Exam Applicant**

Mr. Stone was present and was not represented by counsel. A notice of intent to deny, filed March 5, 2010, was issued to applicant. The board voted to deny the application at the January board meeting due to affirmative responses on the applicant history section of the application.

Mr. Stone requested a hearing before the board to address this denial. Following discussion, the following action was taken by the board:

Motion: by Dr. Otis to vacate the notice of intent to deny.

Second: by Ms. White.

Vote: Unanimous

Motion: by Ms. White to approve his application pending completion of a PRN evaluation and applicant's agreement to comply with the PRN recommendations. Mr. Stone is to contact PRN within 30 days.

Second: by Ms. Bridgman.

Vote: Unanimous.

## **RECONSIDERATIONS (7-8-10)**

### **Contemporary Teaching, CE Provider**

Staff is requesting that the board rescind the order of intent to deny filed on May 12, 2010. This provider was on the denial list in error. The provider submitted additional documentation and was then placed on the ratification for approval list, but staff failed to remove from the denial list.

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

Motion: by Dr. Otis to vacate the Order of Intent to Deny.

Second: by Dr. Day.

Vote: Unanimous.

## **PETITIONS FOR VARIANCE OR WAIVER**

### **Lazaro Garrido, Rule 64B4-3.003(3)(b) (7-9-10)**

Mr. Garrido was present and was not represented by counsel. He is requesting a variance and waiver to the exam rule as he has taken the national clinical mental health exam numerous times and is unable to pass the exam.

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

Motion: by Dr. Otis to deny the petition for variance or waiver.

Second: by Ms. Douglas.

Vote: Unanimous.

### **Susan B. Lander, Rule 64B4-3.003(3)(a) (7-8-10)**

Ms. Lander was not present and was not represented by counsel. She is requesting a waiver for the exam which she failed with 101 correct answers and needed 103 to pass. She also has some medical injuries and is asking that the board accept her score as passing and issue a license.

There was no evidence she has made a request for special accommodations. Following discussion, the following action was taken by the board:

Motion: by Ms. White to deny the petition for variance or waiver.

Second: by Ms. Douglas.

Vote: Unanimous.

## **APPEARANCES (7-8-10)**

### **James Lumberson, Probationary Appearance with Supervisor**

Mr. Lumberson is required to appear before the board with his supervisor. Temporary approval had previously been granted by Dr. Day for Dr. Thomas to serve as supervisor during probation. Formal approval by the board is requested.

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

Motion: by Ms. White to approve Dr. Thomas as Mr. Lumberson's permanent supervisor during his probationary period.

Second: by Dr. Otis.

Vote: Unanimous.

### **Jennifer Alfert, Registered MHC Intern Applicant**

Ms. Alfert 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 Dr. Day to approve her application pending completion of a PRN evaluation and applicant's agreement to comply with the PRN recommendations.

Second: by Ms. Douglas.

Vote: Unanimous.

**Laura Koning, Registered MHC Intern Applicant**

Ms. Koning 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. White to approve her application pending completion of a PRN evaluation and applicant's agreement to comply with the PRN recommendations.

Second: by Ms. Douglas.

Vote: Unanimous.

**REVIEW OF APPLICATIONS (7-8-10)**

**Nicholas Angelo Mancini, MFT Exam Applicant**

Dr. Mancini was not present nor represented by counsel. Staff is requesting a review of his educational documentation. In addition, Dr. Mancini is requesting a marriage and family therapist provisional license.

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

Motion: by Ms. White to deny his application for licensure due to missing coursework.

Second: by Dr. Otis.

Vote: Unanimous.

**Elisha I. Ibejunjo, Registered MHC Intern Applicant**

Mr. Ibejunjo was present and was not represented by counsel. He is appearing due to an affirmative response on the applicant history section of his application. After discussion, Mr. Ibejunjo withdrew his application for licensure as a registered MHC intern.

**Sarah R. Cooper, MHC Exam Applicant**

Ms. Cooper is requesting a review of alternate documentation submitted as part of her post-master's experience requirement. Following discussion, the following action was taken by the board:

Motion: by Ms. White to appear before the board to discuss her supervision.

Second: by Ms. Bridgman.

Vote: Motion passed with Ms. Gillespy opposing.

Motion: by Ms. White to reconsider the prior vote.

Second: by Dr. Barlow.

Vote: Unanimous.

Motion: by Dr. Day to deny the approval of the supervision hours in question.

Second: by Ms. Bridgman.

Vote: Motion failed.

Motion: by Ms. Douglas to approve the hours for supervision.

Second: by Ms. White.

Vote: Motion passes with Dr. Day opposing.

## **REVIEW OF CONTINUING EDUCATION PROVIDERS (7-8-10)**

### **Florida Postgraduate Sex Therapy Training Institute**

A complaint was received from a LMHC alleging discrimination. Dr. Susan Lee and Richard Segal were present to speak to the board about the issue. Following review and discussion, the board took the following action:

Motion: by Ms. White to allow Dr. Lee to continue her continuing education providership.

Second: by Dr. Otis.

Vote: Unanimous.

### **Lakeside Behavioral Healthcare**

A complaint was received alleging that a continuing education presenter did not have the proper background. Ms. Nicholas-Chance and Mr. Joe Horton were present and spoke to this issue. Following review and discussion, the board took the following action:

Motion: by Ms. White to rescind approval for Mr. Horton to teach the domestic violence course for Lakeside Behavioral Healthcare.

Second: by Dr. Day.

Vote: Unanimous.

Motion: by Dr. Day to direct board staff to obtain documentation from the provider that their other domestic violence course instructors/presenters meet the criteria required in Rule 64B4-6.004, F.A.C.

Second: by Ms. White.

Vote: Unanimous.

Motion: by Dr. Day to authorize staff to review the materials on behalf of the board.

Second: by Ms. White.

Vote: Unanimous.

## **TOPIC DISCUSSIONS (7-8-10)**

### **Standard Conditions of Probation**

Ms. Lopez presented a sample settlement agreement for review and discussion of standard conditions of probation for future agreements.

### **Chapter 2010-92 Laws of Florida**

The Legislature amended sections of the Florida Statutes to include the definition of a “qualified practitioner” to mean a clinical social worker, mental health counselor, or marriage and family therapist licensed under Chapter 491. This will require promulgation of rules to set forth the coursework, training, qualifications, and experience for Chapter 491 licensees to evaluate and treat sexual offenders.

Motion: by Ms. White to notice the rule for development with the language that was in the previous rule prior to its repeal.

Second: by Dr. Otis.

Vote: Unanimous.

Dr. Larry Barlow, LMFT and executive director of the Association of Marriage and Family Therapists - Florida Division (FAMFT) and Jim Akin, executive director of the Florida Chapter of National Association of Social Workers (NASW) spoke to the issue. The board directed staff to provide the minutes and history from the prior board meetings where the issue was initially discussed. Ms. White provided contact information for William Samek from the Florida Psychological Association who spoke to the issue at a previous board meeting.

### **Fingerprinting/Background Checks**

This agenda item was requested by Ms. White. Dr. Barlow spoke to the Board about the issue. At this time, there is no statutory authority to require fingerprinting prior to application for any of the 491 professions.

### **RULES DISCUSSION (7-8-10)**

#### **Rule 64B4-3.008(2) Supervision of Provisional Licensees**

Draft language was provided for the board's review and following discussion, the board took the following action:

Motion: by Dr. Day to notice this for rule development with the draft language as presented with the deletion of supervision via electronic means. This will not have an impact on small business.

Second: by Ms. Douglas.

Vote: Unanimous.

#### **Rule 64B4-3.0085 Intern Registration**

Draft language was provided for the board's review and following discussion, the board took the following action:

Motion: by Ms. White to notice this for rule development with the amended draft language and it will not have an impact on small business.

Second: by Ms. Douglas.

Vote: Unanimous.

#### **Rule 64B4-3.0035 Demonstrating Knowledge of Laws and Rules for Licensure**

Board Counsel will research for the next meeting 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, rather than in the medical errors area.

### **OTHER BUSINESS (7-8-10)**

#### **Ratification of Continuing Education Providers**

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

Motion: by Ms. Bridgman to approve.

Second: by Ms. Douglas.

Vote: Unanimous.

#### **Application Denials**

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

Motion: by Dr. Day to deny applicants listed in the agenda from CE-Classes.com through Training for Life.

Second: by Ms. Douglas.

Vote: Unanimous.

#### **Committee of One Actions**

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

Motion: by Ms. Bridgman to approve.

Second: by Dr. Barlow.

Vote: Unanimous.

## **REPORTS (7-8-10)**

### **Assistant Attorney General**

Board Counsel submitted a rules report showing the status of the rules and effective dates.

The following rule became effective 04/06/10:

Rule 64B4-5.001 Disciplinary Guidelines.

The following rule was repealed, effective 4/27/10.

Rule 64B4-3.006 Security and Monitoring Procedures for Licensure Examinations.

The following rule became effective 04/29/10:

Rule 64B4-11.007 Definition of "licensed Clinical Social Worker, or the Equivalent, who is a Qualified Supervisor".

The following rules became effective 05/11/10:

Rule 64B4-4.002 Application, Examination & Initial Active Status License Fee for Licensure by Examination.

Rule 64B4-6.006 Approval of Continuing Education Providers of Hypnosis Training Programs.

The following rules became effective 06/07/10:

Rule 64B4-3.003 Examination for Licensure.

Rule 64B4-4.005 Biennial Licensure Fee.

### **Prosecuting Attorney**

Ms. Lopez reported that as of July 7, 2010 the Prosecution Services Unit had 68 open disciplinary cases. Of the 68 cases, 37 are pre-probable cause, 3 are agendaed for probable cause and 27 are public cases where probable cause has been found. Twenty six 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. White.

Vote: Unanimous.

### **Executive Director**

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

Ms. Foster discussed the Division's request to use unlicensed activity funds from all the boards for a statewide campaign. The board is interested, but wants to know how much it will cost. They also would like for the 491 counseling professions/therapists to be mentioned in the advertisement. They would also like MQA to use what has already been used or developed to save on costs.

## **FOR YOUR INFORMATION**

CE Provider Audit Results

Telegram.com article on previously licensed MHC in FL

National Exam Pass Rates

Travel Information

Biennial Licensure Fee reduced to \$125

## **ADJOURNMENT**

The meeting was adjourned by Ms. Bridgman at 12:00 p.m. on Friday.