



Oregon

John A. Kitzhaber, MD, Governor

Oregon Board of Psychologist Examiners
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Public Session Board Meeting Minutes

November 22, 2013

The Grand Hotel at Bridgeport
7265 SW Hazel Fern Rd.
Portland, OR 97224

Members Present: Fran Ferder, Ph.D., Chair
Daniel Munoz, Ph.D., Vice Chair
Patricia Bjorkquist, Ph.D.
Shane Haydon, Ph.D.
James Hendry, Public Member
Sandra Jenkins, Ph.D.
Devin Salinas, Public Member
Anne-Marie Smith, Ph.D.

Legal Counsel: Warren Foote, AAG

Staff: Becky Eklund, Executive Director
Janelle Houston, Operations & Policy Analyst
Karen Berry, Investigator
LaRee Felton, Program Analyst
Ashlie Rios, Office Specialist

Guests: Lori Queen, OPA Liaison
Christian Wolff, M.A.
Raymond Trybus, Walden University
Jim Gardner, Gardner & Gardner
Board Security

INTRODUCTIONS/ROLL CALL

Dr. Ferder called the Board of Psychologist Examiners (OBPE) Public Session meeting to order at 1:10 p.m. on Friday, November 22, 2013, at The Grand Hotel at Bridgeport, 7265 SW Hazel Fern Rd., Portland, OR 97224.

MEETING MINUTES

September 27, 2013 Regular Meeting, Public Session

Mr. Hendry moved and Dr. Munoz seconded the motion to approve the minutes. All voted in favor, no objections, and no abstentions.

FINANCIAL REPORT

Ms. Eklund reviewed the Financial Report given by DAS for the 2013-2015 budget. Our ending balances are on target for our budget and show a \$12,000 cushion. The board did a lot of spending early on for new computers and iPads for board meetings. Ms. Eklund explained that Janelle Houston is paid by OBPE, and Ms. Eklund is paid by LPCT, and then both boards reimburse each other for half.

CONSUMER PROTECTION CASES

Applications

Case #2012-069: Mr. Hendry moved and Dr. Munoz seconded the motion to accept the request to withdraw her application and dismiss the case. All voted in favor, no objections, and no abstentions.

Supervision

Case #1996-044: Dr. Munoz moved and Mr. Hendry seconded the motion to approve the end of supervision. All voted in favor, no objections, and no abstentions.

Case #2011-007: Dr. Munoz moved and Dr. Haydon seconded the motion to approve the end of supervision. All voted in favor, no objections, and no abstentions.

Votes

Case #2012-053: Mr. Hendry moved and Dr. Munoz seconded the motion to approve the Stipulated Order. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-Aye; Dr. Jenkins-Aye; Dr. Bjorkquist-Aye; Mr. Hendry-Aye; Dr. Ferder-Aye. The motion passed.

CPC Recommendations

Case #2013-033: Dr. Haydon moved and Dr. Munoz seconded the motion to dismiss. All voted in favor, no objections, and no abstentions.

Thirty-Day Letter Responses

Case #2012-040: Dr. Haydon moved and Dr. Munoz seconded the motion to issue a Notice of Proposed Disciplinary Action. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-Aye; Mr. Hendry-Aye; Dr. Bjorkquist-Aye; Dr. Jenkins-Aye; Dr. Ferder-Aye. The motion passed.

Case #2013-006: Dr. Munoz moved and Dr. Jenkins seconded the motion to dismiss. Dr. Munoz withdrew his motion. Mr. Hendry moved and Dr. Munoz seconded the motion to issue a Notice of Proposed Disciplinary Action. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-Aye; Mr. Hendry-Aye; Dr. Bjorkquist-Aye; Dr. Jenkins-Aye; Dr. Ferder-Aye. The motion passed.

Case #2013-018: Mr. Hendry moved and Dr. Smith seconded the motion to dismiss. Dr. Munoz voted no, and no abstentions. The motion passed.

Case #2013-031: Mr. Hendry moved and Dr. Bjorkquist seconded the motion to dismiss. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-No; Mr. Hendry-Aye; Dr. Bjorkquist-Aye; Dr. Jenkins-No; Dr. Ferder-Aye. The motion passed.

New Cases

Case #2013-024: Mr. Hendry moved and Dr. Bjorkquist seconded the motion to dismiss. All voted in favor, no objections, no abstentions, and Dr. Munoz recused himself from voting.

Case #2013-029: Mr. Hendry moved and Dr. Haydon seconded the motion to issue a 30-Day letter. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-Aye; Mr. Hendry-Aye; Dr. Bjorkquist-Aye; Dr. Jenkins-Aye; Dr. Ferder-Aye. The motion passed.

Case #2013-032: Mr. Hendry moved and Dr. Munoz seconded the motion to dismiss. All voted in favor, no objections, and no abstentions.

Case #2013-034: Dr. Bjorkquist moved and Mr. Hendry seconded the motion to dismiss. All voted in favor, no objections, and no abstentions.

Case #2013-036: Mr. Hendry moved and Dr. Munoz seconded the motion to issue a 30-Day letter. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-Aye; Mr. Hendry-Aye; Dr. Bjorkquist-Aye; Dr. Jenkins-Aye; Dr. Ferder-Aye. The motion passed.

Case #2013-038: Mr. Hendry moved and Dr. Haydon seconded the motion to dismiss. All voted in favor, no objections, no abstentions, and Dr. Ferder recused herself from voting.

Case #2013-039: Mr. Hendry moved and Dr. Jenkins seconded the motion to issue a 30-Day letter. Roll call: Dr. Smith-Aye; Dr. Haydon-Aye; Dr. Munoz-Aye; Mr. Hendry-Aye; Dr. Bjorkquist-Aye; Dr. Jenkins-Aye; Dr. Ferder-Aye. The motion passed.

THIRTY-DAY INVESTIGATION EXTENSIONS

Cases #2012-040, 2013-021, 2013-027 , 2013-031, 2013-033, 2013-035, & 2013-037.

Daniel Munoz moved and Sandra Jenkins seconded the motion to extend the 30 day investigations listed above. All voted in favor, no objections, and no abstentions.

PUBLIC RECORDS, MEETINGS TRAINING

Mr. Foote provided training to the Board regarding their responsibilities as public officials. He began with activities that they are not allowed to do, including:

- Use their position to gain or use as a stepping ladder for themselves or family members and friends.
- Not hear or participate in discussions during a board meeting that:
 - Are related to an individual they may have a personal relationship with such as a co-worker, business partner, etc. If this were to happen, the board member should recuse him or herself. Recused means that an individual has left the meeting room completely before the discussion has begun. This also means that board members do not discuss the case with other board members who were present in the meeting.
 - Have a bias or fixed attitude against a licensee.

The public may record the public meeting session and doing so appropriately would be to have those devices known and placed on the front table. Members of the public also have the right to issue a public records request of any public information regarding the OBPE.

Public Meetings Law

Decisions by governing bodies are arrived at openly during public session. Anything regarding general business, rulemaking, statutes should be discussed and decisions made in a public forum. The reason we discuss the specific issues confidentially before voting is because the OBPE is a health-licensing agency, and this involves the board discussing medical records, client records, and other things that could violate HIPAA if made public. The board chair always runs the

meeting; no citizen can openly address the board except when called upon during the meeting. The general rule is no public participation during a public meeting.

Violating public meeting law can be as simple as having a quorum of board members or committee members discussing any board issue or substantive issues; however, if it is discussing meeting location or general information, then it is not considered a public meeting of the Board. Documenting these meetings consist of making minutes of the topics discussed and the discussion. It is not considered a violation of public meetings law when board members meet and discuss an upcoming presentation on behalf of the Board.

Executive Session

The press has a right to be present during executive session; however, they cannot discuss or report on what was discussed during this part of the meeting. Another reason to enter executive session would be to discuss issues with legal counsel to address the board regarding a complaint. Legal advice is also confidential.

Gifts

The Board members are only allowed to accept gifts under \$50. It's good practice to not accept gifts at all on the idea of "owing" these individuals something because of their gesture.

Lobbying

Some state boards do hire a lobbyist and are registered as such. If Board members do decide to change legislation, it's a good idea to contact your representatives to educate them. When this is done the board member needs to make it clear that they **are** a board member but they **are not** speaking for the board.

IDENTIFYING UNLICENSED PRACTICE

Dr. Ferder asked the Board "How assertive or aggressive should individual board members or staff be in searching for unlicensed practice?" Dr. Munoz views it as if you're a corporation then you have a legal responsibility to protect your trademark; if you don't, then it loosens the standards. He feels that OBPE is the practice and discipline of psychology in Oregon and being vigorous is our obligation to stakeholders, consumers, licensees.

Dr. Ferder spoke regarding the art therapists that the Board tried to discipline, and it ended up coming back at the Board. The Board learned information regarding their work and therapeutic modalities and terminology of therapy. Dr Haydon agreed that it was a complicated time, and it was based on a shift within their educational processes. Legal Counsel said the key is public protection, which is the purpose of the Board; however, all instances may not need to be investigated. The Director decides where we want our investigative resources to go. Dr. Ferder wondered if the Board needed its own unlicensed practice committee if they decided to go further with them; however, Mr. Hendry believes it falls under the responsibility of the Consumer Protection Committee.

The Board took a break at 2:23 p.m. and reconvened at 2:40 p.m. in public session.

DISCIPLINE IN THE NEWSLETTER

Ms. Eklund spoke regarding publishing discipline in the newsletter. The issue was discussed in 2010, and the board decided to continue publishing discipline and board actions at that time. It is a practice of other state boards to publish board action in their newsletters. The Board discussed the topic and decided to continue this practice. Mr. Hendry referenced the State Bar's newsletter and noted that they go into specifics regarding a case and he uses these details and applies them to his own practice as an educational tool. One example the OBPE can follow in its newsletter is to educate other psychologists. The Board liked the idea and advised staff to publish detailed disciplinary descriptions.

PUBLIC COMMENT

Christian Wolff spoke to the Board regarding the matter of discipline on the website Licensee Lookup. He would like to see a more clear distinction between a Proposed Discipline and a Final Disciplinary Action rather than just a yes or no for both. Ms. Felton responded to Mr. Wolff's suggestions; any change to the *Licensee Lookup* must be done through the host, which is not the OBPE. To fulfill the request would require staff to separate all of the historical actions taken into two separate PDF's, one for proposed actions and the second for final actions. The current system allows the public to view any and all proposed and/or final actions taken against a licensee in one place, at one time, and minimizes the confusion of separate fields/reports.

2013 ASPPB CONFERENCE

Mr. Jim Hendry presented topics he heard at the 2013 ASPPB Conference in Las Vegas, Nevada. ASPPB emphasized the idea that they are a resource who wants to be utilized by the state boards. The main topic of interest at the conference was child custody evaluations. A majority of the child custody evaluation are done with the 10% of the population who have the most difficult psychological problems. ASPPB's recommendation in handling a complaint regarding child custody is to institute a "cooling off rule" that prohibits anyone from filing a complaint for at least 60 days after the final ruling. States that have adopted these rules have shown a 50% decrease in those types of complaints. They also adopted rules that did not allow either parent to file a complaint while the evaluation is still pending. Matthew Sullivan, expert in child custody evaluations, was a keynote speaker at the conference.

The second topic was unlicensed practice and their recommendation to use cease and desist orders. Legal Counsel warned about using these orders and the biggest concern is that the OBPE does not have statutory authority to use those specific terms "cease" or "desist".

Mr. Hendry attended an investigation session, and they talked about jurisdiction issues regarding telepsychology. There still isn't any narrowed down field on how to deal with which jurisdiction will handle the complaints that come from the psychologists who are practicing via the internet with clients in other states; they are still working on how to handle those. Mr. Hendry's personal opinion is that the OBPE needs to attend ASPPB meetings to keep updated on useful, national issues. The Board discussed a few of the topics and whether or not they related to issues, complaints, or processes at the OBPE.

VOTE TO APPROVE LICENSES

Corey D. Anderson, Psy.D.; Christiane Brems, Ph.D.; Meghann E. Case, Psy.D.; Jared T. Cox, Ph.D.; Arlen S. Craig, Ph.D.; Megan L. Ensley, Psy.D.; Mason E. Fries, Ph.D.; Irina

Gelman, Psy.D.; Anthony N. Giardina, Psy.D.; Susan Gritzner, Psy.D.; Mark E. Johnson, Ph.D.; Paul M. Kaufmann, Ph.D.; Shianling S. King, Ph.D.; Joel N. Lampert, Psy.D.; Chloe E. Lee-Zorn, Psy.D.; Sheldon M. Levy, Ph.D.; Sandra S. MacPhail, Ph.D.; Meghan A. Marty, Ph.D.; Lilia G. Miramontes, Ph.D.; Cassandra M. Mitchell, Psy.D.; Sandy Newsome, Ph.D.; Christopher H. Smith, Ph.D.; & Lisa M. Wurzelbacher, Ph.D.

Dr. Munoz moved and Mr. Hendry seconded the motion to approve all licenses listed above. All voted in favor, no objections, and no abstentions.

STATISTICS

Licensure

133 new applications have been received and 89 licenses have been issued in 2013. There are currently 1698 total licensees, including 1323 active, 198 semi-active, 170 inactive, 3 on probation and 2 suspended.

Consumer Protection

48 complaints have been filed in 2013. There are currently 30 open cases under investigation (including the investigation files scheduled for Board consideration), with 3 in the contested case process. Of the open cases under investigation, 24 are regarding licensed practice, 1 is regarding an applicant, and 5 are regarding unlicensed practice.

The Oregon Board of Psychologist Examiners Board Meeting adjourned at 3:13 p.m.

Respectfully Submitted:

// Becky Eklund //

Becky Eklund, Executive Director

January 17, 2014

Date