



ARIZONA BOARD OF OCCUPATIONAL THERAPY EXAMINERS

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Regular Session Minutes

December 13, 2013

Board Members Present: Christine Feltman Rosenberg, Chair, OTR Member
John Tutelman, Vice Chair, Public Member
Dr. Donald Hosenfeld, OT Member
Dr. Beth Williamson, OTR Member
Karen Belyan, Public Member

Staff Present: J. Randy Frost, Executive Director
Vicki Egurrola, Administrative Assistant

Legal Staff Present: Christopher Munns, Solicitor General
Seth Hargraves, Assistant Attorney General

Call to Order

The regularly scheduled meeting of the Arizona State Board of Occupational Therapy Examiners was called to order at 1:30 p.m. Christine Feltman Rosenberg, Chair, presiding.

Roll Call

All Board members were present.

Approval of Minutes

Regular Session Meeting Minutes of November 15, 2013

Dr. Beth Williamson moved to approve the November 15, 2013 meeting minutes as presented. John Tutelman seconded the motion. The motion passed 5-0.

Executive Session Meeting Minutes of November 15, 2013

John Tutelman moved to approve the November 15, 2013 executive session meeting minutes as presented. Karen Belyan seconded the motion. The motion passed 5-0.

Declaration of Conflict of Interest

Dr. Beth Williamson declared a conflict with agenda item number 6 (b) (1) and recused herself from participation in the discussion and the outcome.

Review Meeting Schedule

The Board reviewed the meeting schedule for:

- January 10, 2014
- February 14, 2014
- March 14, 2014

There were no changes made to the meeting schedule.

Initial Review of New Complaints

There were no new complaints.

Open Complaints/Investigations

Formal Interview, Jane Rivera (Smith), 13-OTA-4929. Board Chair Christine Feltman Rosenberg. Moved to go into executive session for legal advice at 1:32 p.m. John Tutelman seconded the motion. The motion passed 5-0.

The Board returned from executive session at 1:46. Upon return, Executive Director Randy Frost announced that on the previous day some emails regarding Ms. Rivera's case had been shared amongst Board members that is a violation of the open meeting law. Mr. Frost provided Ms. Rivera's attorney, Kenneth R. Baker, a copy of the email and invited him to review it. Dr. Donald Hosenfeld and Karen Belyan, two of the Board members in question, provided verbal statements that the email in question would not affect their ability to decide on the outcome of the interview in a fair and unbiased manner. The third Board Member, Dr. Beth Williamson, recused herself from the matter.

After reviewing the email of the three Board members, Mr. Baker addressed the Board. Mr. Baker commented on the content of the email and stated that it was apparent to him that the three Board members in question had already prejudged Ms. Rivera. Mr. Baker requested that the Board table the matter and consider some sort of a consent agreement in the future.

John Tutelman, after some brief discussion, moved that the Board table the informal interview of Jane Rivera and request that the Board's Assistant Attorney General negotiate a disciplinary consent agreement with Mr. Baker, on the Board's behalf. Christine Feltman Rosenberg seconded the motion. The motion passed 4-0. Dr. Williamson recused herself and did not vote on the matter. The Board will take up the matter at the January 10, 2014 meeting.

Following the Board's actions, Ms Christine Selgar, who filed the original complaint against Jane Rivera, requested to address the Board. Ms. Selgar expressed her displeasure with the Board's actions and voiced her concern for Ms. Rivera's ability to continue to practice.

Michael Welker, 13-OTA-4873. Staff informed the Board that the formal hearing for Mr. Welker will most likely be heard at the February 14, 2014 meeting.

Status of Compliance with Board Order/Approval of Board Ordered CE

1. Joel Tagle, 13-OTA-5436. Staff informed the Board that Mr. Tagle was set for formal hearing for non-compliance with his consent agreement.
2. Sarah Musgrave, 13-OTA-4722. Staff informed the Board that Ms. Musgrave was set for formal hearing for non-compliance with her consent agreement.

Public Hearing on Failure to Comply with Board Order

Joel Tagle, 13-OTA-5436

Time: 3:15 p.m.

Christine Feltman Rosenberg, Chair, opened the interview by sighting the pertinent statutes and rules. This is the date, time, and place where the matter dealing with Complaint # 13-OTA-5436, Joel Tagle, is scheduled to be heard by the Arizona Board of Occupational Therapy Examiners.

Board Members present for the hearing: Christine Feltman Rosenberg, John Tutelman, Dr. Donald Hosenfeld, Dr. Beth Williamson, and Karen Belyan.

The State was represented by Seth Hargraves, Assistant Attorney General.

Ms. Rosenberg then asked the defendant to come forward, state his name, and indicate if he was represented by legal counsel. The defendant, Joel Tagle, was present but he was not represented by legal counsel. Ms. Rosenberg then informed Mr. Tagle of his legal rights.

Ms. Rosenberg, Chair, stated let the record show that the Board Members have been furnished with copies of the following:

1. The Complaint and Notice of Hearing
2. The Respondent's Answer
3. All pleadings of record

Christopher Munns, Solicitor General, representing the Board, was present.

Ms. Rosenberg, Chair, read the opening statements concerning the proceedings of the formal hearing.

Ms. Rosenberg swore in the participants of the hearing.

Seth Hargraves, Assistant Attorney General, was called upon by Ms. Rosenberg to make an opening statement on behalf of the State. Mr. Hargraves admitted into evidence an April 2013 consent agreement between Mr. Tagle and the Board where upon Mr. Tagle agreed to probation and continuing education in exchange for a license. Mr. Hargraves also admitted into evidence documentation from Board Staff advising Mr. Tagle that he was in violation of the terms of the consent agreement.

Ms. Rosenberg then called upon the defendant to make a statement. Mr. Tagle stated that he had completed some of the terms of the consent agreement and had proof of completion of continuing education.

The State called its first witness. Executive Director, Randy Frost. Mr. Hargraves provided Mr. Frost a copy of the consent agreement between Mr. Frost and the Board. Mr. Frost was asked to identify the document. Mr. Frost identified the document as the actual consent agreement. The document was then accepted by Ms. Rosenberg as exhibit 1. Mr. Hargraves then asked Mr. Frost to summarize the requirements of the consent agreement. Mr. Frost answered questions given by the State and the defendant.

The Defendant, Joe Tagle, was then called upon to present his case. Mr. Tagle stated that he had tried to comply and had asked for approval on several classes but did not receive a response from Board Staff. Mr. Frost stated that he hadn't received anything. Mr. Tagle admitted into evidence copies of certificates of course completion.

The State, Seth Hargraves, asked Mr. Tagle about an email that he stated that he sent to staff requesting course approval. Mr. Hargraves asked Mr. Tagle if he had a copy of the email. Mr. Tagle stated that he did not have a copy but could call the email up on his cell phone. Mr. Hargraves requested that he do so.

The Board reviewed the email and the various course documents. The Board also had several questions regarding the courses. The Board allowed the documents to be submitted into evidence as A, B, and C.

The State made a closing statement. Mr. Hargraves pointed out that Mr. Tagle did comply with certain aspects of the consent agreement but failed to comply with the continuing education requirements. Mr. Hargraves asked the Board to find Mr. Tagle in non-compliance and issue the proper discipline.

The Defendant, Joel Tagle also made a closing statement. Mr. Tagle asked the Board to consider the courses he submitted.

After all the testimony was given, Chair, Christine Rosenberg, concluded the evidentiary portion of the hearing. Ms. Rosenberg invited Board members to comment and/or make a motion.

After some brief comments by Board members, on a motion by Mr. Tutelman and seconded by Ms. Belyan, the Board unanimously agreed to adopt the following as findings of fact:

1. The Defendant failed to gain pre-approval of continuing education courses as required by his consent agreement.
2. The Defendant did not complete the number of continuing education hours required by his consent agreement
3. The Defendant failed to update his address with the Board, which did not allow Board staff to effectively communicate with him.

On motion by Mr. Tutelman and seconded by Dr. Hosenfeld, the Board unanimously agreed to adopt the following as conclusions of law:

1. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct under A.R.S. § 32-3401(10) (p) (Violating or attempting to

violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate this chapter).

2. The conduct and circumstances described in the Findings of Fact constitute unprofessional conduct under A.R.S. § 32-3401(10) (u) (Violating any federal law, state law, rule or regulation directly related to the practice of occupational therapy).

3. The conduct and circumstances described in the Findings of Fact constitute a violation of R4-43-406(B) (A licensee shall notify the Board in writing within 30 days of a change in mailing address).

On motion by Mr. Tutelman and seconded by Dr. Williamson, the Board unanimously agreed to the following order:

Respondent will be placed on probation for the period of 1 year. Within 60 days of the effective date of the order, Respondent shall submit to Board staff the proposed continuing education courses for approval. Within 6 months of the effective date of the Order, Respondent shall complete 20 hours of Board staff pre-approved continuing education as follows: (1) 5 hours of continuing education in billing, (2) 5 hours of continuing education in ethics, (3) 5 hours of continuing education in standards of occupational therapy practice, and (4) 5 hours of continuing education in the administration and management of occupational therapy services. The continuing education hours shall be in addition to the hours required for the renewal of Respondent's occupational therapy license under A.A.C. R4-43-203. Respondent's failure to complete the continuing education may subject him to future disciplinary action by the Board under A.R.S. § 32-3442.

Christine Feltman Rosenberg, Chair, concluded the formal interview.

Sarah Musgrave, 13-OTA-4722

Solicitor General, Christopher Munns advised Ms. Musgrave of her right to an attorney.

Ms. Rosenberg swore in the participants of the hearing.

Seth Hargraves, Assistant Attorney General, was called upon by Ms. Rosenberg to make an opening statement on behalf of the State. Mr. Hargraves admitted into evidence a March 2013 consent agreement between Ms. Musgrave and the Board whereupon Ms. Musgrave agreed to probation and to notify clients that she had practiced without a license.

Ms. Rosenberg then called upon the defendant to make a statement. Ms. Musgrave stated that she had been terminated from her job and had gone through a divorce. She stated that she attempted to make the required notifications but could not get a list of patients from her former employer. She stated that she wrote the letters and delivered them to her former employer for distribution.

The State called its first witness, Executive Director, Randy Frost. Mr. Hargraves provided Mr. Frost a copy of the consent agreement between Mr. Frost and the Board. Mr. Frost was asked to identify the document. Mr. Frost identified the document as the actual consent agreement. The document was then accepted by Ms. Rosenberg as exhibit 1. Mr. Hargraves then asked Mr. Frost to summarize the requirements of the consent agreement. Mr. Frost answered questions given by the State and the defendant. The Board asked Mr. Frost if we had any proof that Ms. Musgrave sent letters to her former employer. Mr. Frost

read from an email sent by Ms. Musgrave's former supervisor stating that he did not receive anything from Ms. Musgrave.

The State then called upon Vicky Egurrola of Board staff. Ms. Egurrola stated that she had been in contact with Ms. Musgrave's former supervisor throughout the process and stated that he said that he initially spoke with Ms. Musgrave but never heard from her after that.

The State then called upon Mr. Frost for an additional question. Mr. Hargraves questioned Mr. Frost about the email received from Ms. Musgrave's former supervisor. Mr. Hargraves had additional questions for Ms. Egurrola.

Ms. Musgrave questioned Ms. Egurrola about her contact with her former supervisor and a conversation with her ex husband regarding her whereabouts.

The Defendant, Sarah Musgrave, was then called upon to present her case. Ms. Musgrave provided the Board with documentation that was admitted into evidence. She stated that she had tried to comply and that she was notified just recently that she was to appear to the Board. She stated that she had a restraining order against her ex husband.

The State, Seth Hargraves, asked Ms. Musgrave about the letters and her contact with her ex supervisor. He wanted to know if she followed up to see if the letters were sent. Ms. Musgrave said she attempted several times.

The Board reviewed the various documents provided. The Board also had several questions regarding her interactions with her former supervisor and her interactions with Board staff.

The State made a closing statement. Mr. Hargraves pointed out that if Ms. Musgrave could rectify the situation of mailing the letters and coordinate with Board staff that the State would agree to a modification of the original consent agreement.

The Defendant, Sarah Musgrave, waved her right to a closing statement.

After all the testimony was given, Christine Rosenberg, Chair, concluded the evidentiary portion of the hearing. Ms. Rosenberg invited Board members to comment and/or make a motion.

After some brief comments by Board members, on a motion by Dr. Williamson for a non-disciplinary action and seconded by Mr. Tutelman, the Board unanimously agreed to the following:

Respondent will receive a letter of concern, keeping her on original probation until March 13, 2014. Within that time frame, the respondent shall send via registered mail, original patient letters to Board staff. Board staff will then send the letters to Mr. Sean Butler of Kingman Regional Hospital. If the letters are not received by staff, the issue will come back to the Board for further disciplinary action.

Substantive Review, Discussion, and Vote Re: Applications for Licenses as Follows:

a. Initial Applications

Jessica Alviljar	Cynthia Broughton	Cathy Cartwright	June Crawford
Christine Draper	Esperanza Gutierrez	Lacy Hafen	Devyn Hall

Gloria Hayes	Holly Hussey	Sharmeen Khan	Kim Lane
Joanna Lipoma	Cathryn Noble	Theresa Petrenchik	Ana Roberts
Grace Swoopes	Stefanie Whalen	Elyse Wilson	Nicole Wilson

John Tutelman moved to approve 20 of the 21 initial applications listed. Christine Feltman Rosenberg seconded the motion. The motion passed 5-0.

The Board reviewed the initial application of Michelle Siegel. Ms. Siegel was previously licensed in Arizona and was under a consent agreement when she left the state in 2006. Ms. Siegel did not renew her license or complete her consent agreement. The Board reviewed her application and the accompanying documentation. Ms. Siegel was then called upon to address the Board and answer questions. After hearing Ms. Siegel, Dr. Williamson made a motion to go into executive session for legal advice. Karen Belyan seconded the motion. The motion passed 5-0. The Board went into executive session at 2:12 p.m. Upon return from executive session at 2:24 p.m., John Tutelman moved to deny the initial application of Michelle Siegel based on her failure to complete the terms of her consent agreement. Dr. Beth Williamson seconded the motion. The motion passed 5-0. The Board advised Ms. Siegel to complete the terms of the consent agreement and then re-apply for licensure.

b. Renewal of Licenses

Danielle Agins	Vicki Belser	Diana Benjamin	Scott Brown
Jordan Chitwood	Tracey Collier	Robert Coons	Lisa Cummings
Lauren Cunningham	Sunny De Baun	Irene Devan	Scott Ferrin
Steven Frey	Lucian Fulger	Connie Garcia	Jennifer Garza
Victoria Harris	Kordell Howell	Sharran Huynh	Lurea Inman
Debbie Johnson	Cathy Joseph	Deborah Kooiman	Christina Leong
Donald Loscheider	Vikas Maheshwari	Nancy McDonough-Hall	Amanda Meredith
Vivana Montalvan	Christine Morris	Victoria Namihas	Corri Nিকে
Andrea Nuzzo	Thomas O'Hara	Emily Pennington	Michael Petkovic
Molly Pilcher	Shivali Rane	Sheri Raven	Leslie Reimann
Patricia Robinson	Aimee Scafaria	Pamela Schmidt	Adrienne Scott
Erika Scott	Wendy Scott	Revette Shahara	Eileen Shores
Janet Shreve	Michael Simmons	Rossana Sioridia	Kalli Sparish
Sarah Starr	Monica Suarez	Simone Thomas	Jessica Walczak
Carrie Ward	Marty Wilcox	Kathleen Williams	Shawn Williams
Susan Zehr			

John Tutelman moved to approve the 61 renewal applications listed. Christine Feltman Rosenberg seconded the motion. The motion passed 5-0.

c. Limited Permits

Erica Kopp	Tricia White
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John Tutelman moved to approve the 2 limited permits listed. Donald Hosenfeld seconded the motion. The motion passed 5-0.

Review, Discussion, and Possible Action on Administrative Matters

Mr. Frost briefly went over administrative matters. He advised the Board of an FBI audit on our fingerprinting procedures.

Review, Discussion and Possible Action, Other Board Business and Reports

All other Board business was tabled until the January 10, 2014 meeting due to time constraints.

Agenda items for next meeting – if any

There were no new agenda items for the next meeting.

Call to the Public

There were no public members wishing to address the Board.

Adjournment

There being no further business before the Board, the meeting adjourned at 5:11 p.m.

Respectfully submitted,

J. Randy Frost
Executive Director