

NEW HAMPSHIRE BOARD OF  
MENTAL HEALTH PRACTICE

BOARD MEETING MINUTES –April 15, 2016

Present: Richard Phelps, MSW, LICSW, H. Alan Goodman, Ph.D., LCMHC Dayl Hufford, D.Min, LPP, Diane Vaccarello, MS, LMFT, Jane Power Kilcoyne, Ed.D, Public Member and Kathleen Skinner Shulman, Ed.D., Public Member.

Not present: ----

The meeting was called to order at 9:00 a.m. by Richard Phelps, LICSW, Board Chair

Draft minutes of the March 18, 2016 meeting were reviewed by the Board. Motion was made by Kathleen Skinner Shulman and seconded by Diane Vaccarello to approve the minutes as recorded.

Vote: For: RP, AG, DV, KSS, DH, JPK  
Opposed: 0  
Recused: 0

**I. CORRESPONDENCE**

- A. Gibbs, Celia, LCMHC - The Board reviewed a letter from Ms. Gibbs asking where in NH Administrative Rule Mhp 301.02 (c)(9) does it state that the CEU requirement has to be taken after one is licensed. Motion was made by Kathleen Skinner Shulman and seconded by Jane Power Kilcoyne to send a letter to Ms. Gibbs informing her that the Board is in the process of issuing a declaratory ruling on this matter and the ruling will be posted on its website once it is issued. The letter to Ms. Gibbs also referred her to NH Administrative Mhp 213.01 Petition to Waive rules.

Vote: For: RP, AG, DV, KSS, DH, JPK  
Opposed: 0  
Recused: 0

- B. Perry, Raymond, Jr. Esq., – The Board reviewed a letter from Mr. Perry dated April 4, 2016 informing it about a contract he has been asked to approve with an entity called ProtoCall Services Inc. The letter states that calls would be made by persons in New Hampshire to the emergency services provided by ProtoCall and be answered by clinicians not licensed in New Hampshire. The services described in the contract include “assessment, intervention, pre-authorization and/or intake” and “counseling”. Mr. Perry’s specific question to the Board is

whether these services constitute “mental health practice” as described under RSA 330-A:2, VI. Motion was made by Jane Power Kilcoyne and seconded by Kathleen Skinner Shulman to send a letter to Mr. Perry stating that it is the opinion of the Board that the services mentioned in his letter do constitute mental health services and the clinicians answering the phone would have to be licensed in New Hampshire.

Vote: For: RP, AG, DV, KSS, DH, JPK  
Opposed: 0  
Recused: 0

## **II. RULES**

A. Mhp 302.01 (a)-(c), (k) & (q) – Pre-licensure supervised practice – Motion was made by Kathleen Skinner Shulman and seconded by Jane Power Kilcoyne to adopt Mhp 302.01 (a)-(c), (k) & (q).

Vote: For: PR, AG, DV, KSS, DH, JPK  
Opposed: 0  
Recused: 0

B. Mhp 101.01 intro. & (b), Mhp 103.01 – Motion was made by Kathleen Skinner Shulman and seconded by Diane Vaccarello to certify that Mhp 101.01 intro. & (b) and Mhp 103.01 are print ready.

Vote: For: PR, AG, DV, KSS, DH, JPK  
Opposed: 0  
Recused: 0

## **III. DECLARATORY RULING**

A. Daly, Andrea – The Board reviewed Attorney Daly’s request for a petition for a declaratory ruling on whether or not candidates for licensure can bill for services. Motion was made by Jane Power Kilcoyne and seconded by Kathleen Skinner Shulman to issue the following ruling:

## DECLARATORY RULING

Pursuant to Mhp 212.01(a), Harbor Homes, Inc. (“Harbor Homes”) petitioned the New Hampshire Board of Mental Health Practice (the “Board”) for a declaratory ruling that neither the New Hampshire Mental Health Practice Act, NH RSA Ch. 330-A, nor its implementing regulations, prohibit a candidate for licensure from billing private insurance companies for his or her supervised work. The Board agrees.

### Facts

Harbor Homes is a New Hampshire non-profit organization that provides, among other things, mental health treatment and behavioral health care to children and adults. As part of its mental health services, Harbor Homes has a staff of licensed clinicians who supervise candidates for licensure in New Hampshire. Both the licensed supervisors and candidates for licensure provide mental health treatment services to patients. Harbor Homes believes, without elaboration, that the Board has previously taken the position that New Hampshire candidates for licensure are prohibited from billing private insurance companies for their pre-licensure supervised practice, even if the insurer approves the request for reimbursement. Harbor Homes now seeks a declaratory ruling from the Board regarding whether the applicable statute and rules prohibit such a practice.

### Discussion

Prior to obtaining a license, an individual may provide mental health services as a candidate for mental health licensure in accordance with RSA 330-A:22 and Mhp 302. The statute authorizes a candidate for licensure to provide mental health services so long as:

- The candidate is supervised by a person licensed under RSA Ch. 330-A;
- The candidate has a supervision agreement on record with the board;
- The supervisor assumes professional and legal responsibility for the candidate in the supervision agreement;
- The candidate has regular meetings with the supervisor; and
- The candidate is not providing services in an independent or private mental health practice.

The regulations provide further detail regarding the requirements for supervision, which are set forth in Mhp 302. These requirements include, among other things, identifying information of the candidate and supervisor, Mhp 302.01(b), the schedule for supervision, Mhp 302.01(d), and the goals of the supervised practice, Mhp 302.01(d)(5). Each license type has further requirements for supervised practical experience. See Mhp 303.02 (Pastoral Psychotherapists); Mhp 304.02 (Social Workers); Mhp 305.02 (Mental Health Counselors); and Mhp 306.02 (Marriage and Family Therapists). There is nothing in RSA 330-A:22 or the Mhp 300 rules regarding the requirements for supervised practice that prohibits candidates for licensure from billing for their services.

The billing for services is addressed by the ethical and professional standards, which are set forth in Mhp 500. All licensees are obligated to comply with the ethical standards set forth in this section of the rules. Mhp 501.01. With regard to a candidate for licensure, the supervisor is responsible for ensuring that the candidate for licensure complies with the ethical standards. RSA 330-A:22, II(b). By way of example, these standards prohibit a candidate or his or her supervisor from engaging in any fraudulent or dishonest billing practices. Mhp 502.01(j). In addition, the Mental Health Bill of Rights, set forth in Mhp 502.02, also provides clients the right to full information about his or her treatment provider's knowledge, skills, experience and credentials. Thus, while the billing for a candidate for licensure services is permissible under the statute and rules, it must be done in accordance with the ethical and professional standards set forth in Mhp 500.

Conclusion

Nothing in RSA Chapter 330-A or Mhp 300 prohibits a candidate for licensure to bill for services in accordance with the ethical and professional standards in Mhp 500.

Vote: For: RP, DV, KSS, DH, JPK  
Opposed: 0  
Recused: 0  
Not present for vote: AG

Upon the motion of Jane Power Kilcoyne and seconded by Kathleen Skinner Shulman, the Board, by roll call vote, resolved to conduct a non-public session for the purpose of discussing applications, investigations of alleged misconduct of licensees, final disciplinary action and other adjudicatory decisions, in accordance with RSA 91-A:3, II (c), RSA 91-A:3, II (e), RSA 91-A:5, IV, *Lodge v. Knowlton*, 118 N.H. 574 (1978), RSA 330-A:29, V, and the Board's executive and deliberative privileges. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present.

[Non-public minutes held separately]

Upon the motion of Jane Power Kilcoyne and the second of Kathleen Skinner Shulman, the Board by roll call vote, resolved to withhold the minutes of the preceding non-public session, with the exception of approved applications, responses to motions and disciplinary actions until they are served from public disclosure pursuant to RSA 91-A:3, III on the grounds that public disclosure would be likely to affect adversely the reputation of a person other than a Board member and to render the proposed action ineffective. Each member recorded his or her vote on the motion, which passed by the unanimous vote of all members present.

## **I. APPLICATIONS APPROVED FOR LICENSURE**

- A. Approved mental health counselors: Beaton, Catherine, DeMarzo, Abigail, Hannon, Daniel, Melanson, Megan, Rumsey, Aaron, Watson, Deborah and Young, Melissa.
- B. Approved clinical social workers: Campenal, Christopher, Hoimes, Erin, Johns, Meaghan, Plante, Erin, Roche, Marcia, and Simeone, Rita.
- C. Approved marriage & family therapists – Lazdowski, Christine.
- D. Approved pastoral psychotherapists – no applications for review this month

## **II. APPROVED CANDIDATE FOR LICENSURE: SUPERVISORY AGREEMENTS**

- A. Mental Health Counselors: Deame, Jared, Fetras, Sarah, Finnegan, Marie, Larose, Ellen, Littlehale, Megan, Mayo, Ashley and Vinson, Kathryn.
- B. Social Workers: Braconi, Elizabeth, Pearce, Kristy, Psula, Silke and Timbas, Elizabeth.
- C. Marriage & Family Therapists: Durocher, Erin
- D. Pastoral Psychotherapists: no agreements for review

## **III. DISCIPLINARY ACTION**

- A. Durost, Steven, LCMHC #605 – The Board approved a Settlement Agreement with Mr. Durost (see [nhlicenses.nh.gov](http://nhlicenses.nh.gov) to read the entire agreement).

Meeting was adjourned at 12:30 PM

Next meeting is scheduled for May 20, 2016