

**MEETING MINUTES**  
**Board of Alcohol and Drug Counseling**  
April 11, 2019

**1. ROLL CALL**

The meeting of the Board of Alcohol and Drug Counseling was called to order by Jill Colegrove, Chair, at 9:00 a.m., in Licensure Unit Room LU1, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meetings Law.

The following members answered roll call:

**Members Present:**

Christine Chasek, Member  
Lori Cleveland, Vice-Chair  
Jill Colegrove, Chair  
Victor Gehrig, Member  
Jody Gilfillan, Member  
Tomeka Johnson, Secretary  
Ian Lemmer, Member

**Member Absent:**

Natasha Robinson, Member

**Staff Present:**

Kris Chiles, Licensure Unit  
Nancy Herdman, Licensure Unit  
Mindy Lester, Assistant Attorney General  
Trevor Klaassen, Investigations  
Mark Meyerson, Investigations

**2. ADOPTION OF AGENDA**

**MOTION:** Gehrig moved, seconded by Chasek, to approve the agenda. A voice vote was taken. Voting aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer (7). Voting nay: None (0). Absent: Robinson (1). Motion carried.

**3. APPROVAL OF MINUTES (1-10-19)**

**MOTION:** Chasek moved, seconded by Gilfillan, to approve the minutes of 1-10-19. A voice vote was taken. Voting aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer (7). Voting nay: None (0). Abstain: None (0). Absent: Robinson (1). Motion carried.

**4. INVESTIGATIVE REPORTS & OTHER CONFIDENTIAL INFORMATION -  
CLOSED SESSION**

9:02 a.m. - Robinson entered meeting

**MOTION:** Gehrig moved, seconded by Lemmer, to enter into closed session at 9:02 a.m. to hear discussions of investigative/confidential nature, and for the prevention of needless injury to the reputations of the individuals. Colegrove repeated the motion purpose. A roll call vote was taken. Voting aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer, Robinson (8). Voting nay: None (0). Abstain: None (0). Absent: None (0). Motion carried.

9:03 a.m. - Gilfillan departed meeting (conflict)

9:06 a.m. - Chasek departed meeting (conflict)  
Gilfillan entered meeting

9:20 a.m. - Johnson departed meeting  
Chasek entered meeting

9:43 a.m. - Johnson entered meeting  
9:45 a.m. - Klaassen and Meyerson departed meeting

**MOTION:** Gehrig moved, seconded by Robinson, to return to open session at 10:11 a.m. A roll call vote was taken. Voting aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer, Robinson (8). Voting nay: (0). Absent: None (0). Motion carried.

## **5. REVIEW, RECOMMENDATIONS AND REPORT OUT – OPEN SESSION**

### **a. Applications, Summary of Mail Ballot Votes and Reinstatements**

Convictions:

#### **Y'Shall Davis – PLADC Applicant**

**MOTION:** Gilfillan moved, seconded by Gehrig, to deny the application. Motion basis is failure to disclose convictions, failure to follow recommendations of evaluation, diagnosis, substance use history, and failure to provide information as requested by the Board. A roll call vote was taken. Voting Aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer, Robinson (8). Voting nay: None (0). Absent: None (0). Abstain: None (0). Motion carried.

#### **Gina Maldonado – PLADC Applicant**

**MOTION:** Chasek moved, seconded by Cleveland, to recommend issuance of the license. A roll call vote was taken. Voting Aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer, Robinson (8). Voting nay: None (0). Absent: None (0). Abstain: None (0). Motion carried.

#### **Randall Rogers – 2<sup>nd</sup> PLADC**

**MOTION:** Johnson moved, seconded by Lemmer, to recommend issuing a 2<sup>nd</sup> PLADC. A roll call vote was taken. Voting Aye: Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer, Robinson (7). Voting nay: Chasek (1). Absent: None (0). Abstain: None (0). Motion carried.

#### **Christine Newton – PLADC Applicant**

**MOTION:** Lemmer moved, seconded by Chasek, to recommend issuance of the license. A roll call vote was taken. Voting Aye: Chasek, Cleveland, Colegrove, Gehrig, Gilfillan, Johnson, Lemmer, Robinson (8). Voting nay: None (0). Absent: None (0). Abstain: None (0). Motion carried.

10:16 a.m. - Break  
10:27 a.m. - Meeting resumed

Herdman reported the following mail ballot results:

- Loren Dexter, PLADC applicant - issue license.
- Sheila Griffen, PLADC applicant - issue license.

## **6. HISTORY OF GOVERNOR'S EXECUTIVE ORDER, REGULATION REVIEW (172 NAC 15), BOARD APPROVAL AND NEXT STEPS**

Chiles provided the history of the Governor's Executive Order, dated July 6, 2017, which suspended all rulemaking until December 31, 2017. During the suspension period, every state agency was required to conduct a review of all existing and pending regulations and submit a report to the Office of the Governor by November 15, 2017. The report needed to address the following questions:

1. Do the costs of the regulation outweigh the benefits?
2. Does a process exist to measure the effectiveness of the regulations?
3. Has a less restrictive alternative been considered?
4. Was the regulation solely promulgated due to a state statute?
5. Was the regulation promulgated as a result of a federal mandate?

Any regulation deemed to be more restrictive than required under state or federal law or creates an undue burden on Nebraskans, shall be revised or repealed. Additionally, staff were required to identify regulation language that is repeated in statute and remove the duplicative statutory language from the regulations.

The report was reviewed and in February 2019, the Department was advised to make the regulation changes identified in the report by July 2019.

Chiles reported the regulation process includes the following steps:

- Obtain Board input and support of the regulation revisions.
- Draft forwarded to Legal for the attorney to do a first review.
- If there are questions from Legal, will be forwarded to Board via e-mail to respond.
- Back to Legal for further review.
- Draft to the Public Health Director for approval.
- Draft to the Governor's office for review and approval to hold a public hearing.
- Upon approval for public hearing, hearing notice must be published 30 days prior to hearing date.
- After hearing, Board review testimony and determine if any changes needed.
- Board of Health review and approval.
- Public Health Director review and approval.
- Attorney General review and approval.
- Governor review and approval.
- File with the Secretary of State and becomes effective 5 days after filing.

If the review results in 'non-approval' at any step listed above, the process starts over.

Chiles reported 172 NAC 10 is a new regulation that governs credentials issued to individuals set out in Nebraska Revised Statute (Neb. Rev. Stat.) § 38-121, which includes alcohol and drug counselors. These regulations are based on recent statutory changes in the Uniform Credentialing Act and for the purpose of eliminating the same duplicative language in all profession and occupation specific regulations. This provides requirements, guidance, and consistency to all individuals who may be applying for a credential, renewing and reinstating a credential, and definitions and other processes that are consistent for all credential holders. Chapter 10 is set for public hearing on 3-20-19 and is scheduled for review by the Board of Health on 4-29-19.

#### 172 NAC 15

Some items discussed are as follows:

- Client Definition – Changed alcohol/drug to substance use.
- Education – Revised a couple of course descriptions to make them clearer but did not change content.
- Supervision of PLADC – Can be in-person or interactive video conferencing that is HIPPA compliant.
- Unprofessional Conduct, Competence – Chiles discussed that there are currently 7 protected classes under Federal Law. Age, Disability, National Origin, Race or Color, Religion, Sex, and Familial status. Given these classifications are in law, there is no statutory authority to expand on these in regulations. The current regulations, Chapter 15, include "sexual orientation." The members were reluctant to use only the discrimination categories in their regulations. However, they understood these are the only ones that are statutory recognized, and based on that, the Board wanted to move the regulations forward.

11:58 a.m. - Johnson departed meeting

- Other Unprofessional Conduct Areas – Removed section that were already in statute.

## **6. EXAMINATION REMEDIATION DISCUSSION/IDEAS FOR THOSE WHO FAIL THE LICENSE EXAMINATION (Continued Discussion)**

The Board agreed to add remediation requirements to the regulations for those who fail the examination 4 times per IC&RC membership requirements. Remediation would include additional documented supervision and education in areas where deficient on the examination.

With this last item, the Board supported moving the regulations forward to Legal for review.

## **7. UPDATES/REPORTS**

- **2019 Legislation**

LB 112: Bill waives initial licensing fees for young workers, military and low income. It was signed by the Governor on 3-21-19 and will be effective in September. Chiles was asked about the impact on Licensure Unit income and she suggested the members review the fiscal note on the bill.

LB 499: Proposes to adopt the APA code of ethics.

LB 627: Proposes to prohibit discrimination based on sexual orientation or gender identity. The bill has not moved.

- **Justice Behavioral Health Committee**

There was no report.

- **Disciplinary/Non-Disciplinary Action Report, License Statistics, Examination Statistics & Administrative Fees**

Disciplinary/Non-Disciplinary Action Report beginning January 1, 2019:

- Celeste Kirkland – Petition for Disciplinary Action filed on 3-27-19
- Mark Porter – Suspended on 3-2-19

Examination Results beginning January 1, 2019: 9 pass, 2 fail

Statistics: LADC – 713  
PLADC – 387

## **8. ADJOURNMENT**

The chair declared the meeting adjourned at 12:34 p.m.

Respectfully Submitted,

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Tomeka Johnson, Secretary  
Board of Alcohol and Drug Counseling

Summarized by:  
Nancy Herdman, Health Licensing Coordinator, Licensure Unit