

**MINUTES FOR THE BOARDS OF EXAMINERS FOR ALCOHOL, DRUG AND
GAMBLING COUNSELORS**

MEETING DATE: Friday, September 26, 2014- Via teleconference

MEETING TIME: 9:00 a.m.

MEETING LOCATION: **TMCC Redfield Campus
18600 Wedge Parkway Bldg. B, room 102
Reno, Nevada 89511**

**College of Southern Nevada
Cheyenne Campus
3200 E. Cheyenne Ave. Room 2638
Las Vegas, Nevada 89030**

MEMBER PRESENT: Dianne Springborn, Darlene Dufault, Jacquelyn Wotherspoon, Barbara Hunt, Steve Burt, and Maryann Potter.

STAFF PRESENT: Agata Gawronski Executive Director, Carol Masterson, Executive Assistant, Saul Singer, Investigator, and Keith Marcher, Deputy Attorney General

MEMBERS OF PUBLIC: Colin Hodgen, Tenea Smith, Edward Watts, Dawn Hill,

Item 1: Welcome, Call to Order.

Dianne Springborn called the meeting to order at 9:00 a.m.

Item 2: Public comments

No public comment

Item 3: Approval of the Minutes for June 14th, 2013 meeting.

Darlene Dufault made a motion to approve the minutes with the grammatical corrections, Maryann Potter seconded, motion carried unanimously carried.

Item 4: Emily Garnett, LADC on probation –quarterly report (for possible action)

Agata Gawronski stated that Ms. Garnett had submitted her report and was in compliance with her probation. Steve Burt made a motion to accept Ms. Garnett's third quarterly report as submitted in board packet. Barbara Hunt seconded the motion carried unanimously.

Item 5: Colin Hodgen – discussion and possible decision regarding terms of suspension (for possible action)

Dianne Springborn recused herself and Darlene Dufault took control of the meeting. Ms. Dufault asked Mr. Hodgen to explain why he was before the board and the information to be presented. Mr. Hodgen

stated that he was before the board in response to a letter he received from the executive director on August 14, 2014. He stated that he would like to point out that he has Parkinson's disease that affects his ability to speak, and a visible tremor and stated he was not in withdrawals, tweaking, or afraid of anyone. The letter he received stipulated his current suspension was based on a felony conviction. He felt this was factually untrue. In his response to the board he points out that initially the dates she stipulates as the effective dates of suspension is June 20th, 2014. Mr. Hodgen states the "signed order stipulates the suspension takes effect upon receipt by me, service from the attorney general office." He received the order on August 19th at 11:37a.m., "I take that to be the date of my suspension." Mrs. Gawronski requested the return of all licenses and certification to the Board. Mr. Hodgen physically handed his license to the board President. He continued by stating the letter went on to direct that he not practice or represents himself as a substance abuse counselor, problem gambling counselor, or supervisor. To refrain from any activities that may require my certification. The letter continues by stating that Mr. Hodgen was not to provide any teaching or training to individuals within the profession. Mr. Hodgen's response on August 28, 2104, his contention is that there are many matters that he is well qualified for that does not require licensure or certification in the state of Nevada, examples: (based on educational credentials) are behaviors and practices provided to the content and structure of DSM 5, also qualified to discuss the content and structure of the recently published ASAM criteria. Further assert that I am qualified to discuss the content and structure of the GPPC manual of which he was a co-author. He stated that his assertion to the Board is that the limitations prescribed to him in the letter by Mrs. Gawronski constitute an unnecessary restraint on speech and association. He stated that he was seeking some clarification on both the terms and conditions of his suspension, limitation and restriction that are imposed on him.

Mr. Burt commented that he believed the letter from Mrs. Gawronski should have stated "based on a felony arrest not conviction" is an error. He is aware that the felony DUI program "Diversion" will stand as a felony only if Mr. Hodgen fails to complete the program. Mr. Marcher stated that this was put in the letter because that was the language that was used so that's what got put in the order. But that it could be corrected on the record or corrected in the minutes to make it clear if anybody wanted a copy that is was an arrest that lead to the diversion program. Mr. Marcher stated that there were still obvious grounds for the suspension. Mr. Marcher stated in the scope of practice it does not mention teaching or training. That it was his opinion that realistically Mr. Hodgen could participate in training as long as he does not use his state credentialing. If you provide training and behind your name is the letter L that suggests that you are licensed, that is a violation of the statute. But if you offer training that you are qualified to do, in his opinion Mr. Hodgen could do it. Mr. Burt agreed with Mr. Marcher and further stated that this matter came up because Mr. Burt did find Mr. Hodgen name on a training conference with your licenses behind your name and that is what alerted him that Mr. Hodgen was still holding himself out as a licensed counselor. It was Mr. Burt's belief that the agenda was published prior to August 19, 2014 at 11:37a.m., we would have trusted that Mr. Hodgen would have corrected that with the NADAC conference provider. Mr. Hodgen stated that the proposal that Mr. Burt alludes to had to be submitted in December of 2013 and he began working on materials in April of 2014. He also contended that the suspension did not take effect until August 19, 2014. Mr. Marcher stated that the suspension did in fact take place on August 19, 2014. Mr. Hodgen stated that if to consult the NADAC website it has erased him and the license credentials from the training.

Mrs. Gawronski stated that she would like to point out for the record that she is being roused and for Mr. Hodgen to understand not to separate her from the Board as it is the same body. The letter had been

dictated by her legal counsel. This letter came about because NADAC personnel called our office to verify your credential that you did not have at the time. The order was signed in June but was not sent out by the AG's office until August which we have no control over. However it would have been logical that you would not have provided the credential to NADAC on August 18, 2014. Mr. Marcher stated that he did not believe there needed to be ramification in this matter but that it needed to be clarified that Mr. Hodgen could not use his licensure credentials but could participate in training exercises where he was qualified. Mr. Hodgen agreed and stated that he supported the Board's work.

Darlene Dufault asked if Mr. Hodgen has any further information to present. Mr. Hodgen asked if he was clear in the suspension date of August 19, 2014. Mr. Marcher stated that the order was effective as of August 19th. There was a delay in the order going out of the office due to unforeseen circumstances, the order should have been sent sooner. The 19th is the effective date of suspension.

Mr. Hodgen stated that on the 18th of August he was not aware of the suspension taking place; he was wondering if the statement by Mr. Burt to NADAC on the 30th of July, in which he stated that Mr. Hodgen does not currently hold the credentials that were presented is in fact true.

Ms. Wotherspoon asked to interject that it seems to her that we are splitting hairs and regardless of it being the 18th or 19th, it was known it was going to be in effect and if remembering accurately, the Board allowed some leeway time in order for Mr. Hodgen, to set clients up with new providers and wrap things up. Mr. Marcher agreed and said the delay helped in ensuring this process. Ms. Wotherspoon stated that she is aware that it did not go into effect until the 19th but all parties concerned knew that it was in the process of being in effect. Ms. Hunt stated that the statements made on July 30th would have been from the previous meeting records. Not knowing what the date in fact was.

Mrs. Gawronski stated that Steve Burt signed the order on the July 7th and she delivered it to the AG's office that same day and thought it had gone out as that has been the previous practice. Mr. Marcher stated that the time awarded was overly generous. The clarification on credentialing was established.

Mr. Hodgen stated he disagreed that he felt that he had been caused injury to person, property and reputation on the misrepresentation of the terms and condition of the suspension; He believed he should seek relief and compensation from that injury through compensation and injunction. Mr. Marcher asked Mr. Hodgen how he was damaged, as Mr. Hodgen had the benefit of practicing for two additional months. Mr. Burt clarified that it was actually since March 2014. Mrs. Dufault asked why he was not forthcoming with NADAC when he was representing himself under this licensure to NADAC and why he did not inform them that this was in process. She felt that would have been expected.

Mr. Hodgen states that he was forthcoming in his communication with them. Ms. Wotherspoon stated if Mr. Hodgen was upfront and honest with NADAC, how he sees his integrity being damaged. Mr. Hodgen asserted that he had credential on the 30th of July.

Mr. Marcher reiterated that the only reason Mr. Hodgen was not suspended prior to that date was the delay in the office and that all parties involved knew the order was coming out and going to be in effect. Mr. Marcher stated Mr. Hodgen knew this at the meeting when they suspended you and everyone that you dealt with subsequent to the suspension should have been told also. Realistically, if there was something in that order that you disagreed with you had a right to ask for reconsideration, and a right to file a

petition for judicial review. Those time frames have now passed, that order is effective and cannot be attacked legally. The order is staying put. Stated if Mr. Hodgen felt he had been wronged by the board that he could exercise his constitutional right to pursue some type of litigation. Jackie Wotherspoon asked if he had told NADAC prior to the 30th of July. Mr. Hodgen stated he had not.

Barbara Hunt stated that there was a felony arrest and if he does not complete the diversion program there will be a felony on his record. Mr. Hodgen stated that he agreed that he had benefited from the Board in the arena of suspension instead of revocation, that this was indeed very serious and he was allowed to wrap up his affairs and that he began to close practice that day.

Item 6: Tenea Smith- LADC renewal application (for possible action)

Tenea Smith, LADC was due for renewal and sent her renewal application with the appropriate fee to the Board's office however did not mention her recent arrest as required. Ms. Smith was brought in before the Board to explain it. Mrs. Gawronski stated that Ms. Smith recently applied for LCADC Internship and submitted her criminal history report with the application, which was denied based on her arrest.

Ms. Smith explained to the Board, that she assumed that she did not have to resubmit her record, since the Board already was in possession of the police report. It was explained to Ms. Smith by Keith Marcher that not answering questions on the application is in fact considered forgery and that she needs to resubmit her application with late fee to the Board office. Steve Burt made motion to approve the renewal application, Barbara Hunt second it, motion carried.

Item 7: Dawn Hill – LCADC intern application review (for possible action)

Darlene Dufault recused herself as Ms. Hill is a direct source of referrals to her program. Ms. Hill addressed the board giving an in-depth review of her educational qualification and experience in the mental health field. Steve Burt stated that under NRS 641C.330 it was an interpretation of NRS 341C.330 section one **and** section two or section one **or** section two. Clarification was needed as to whether the applicant must meet one or both of the requirements to apply for LCADC. Mrs. Gawronski state that we have been operating under the understanding that an applicant must meet one of the required sections. Barbara Hunt made a motion to accept Dawn Hill's application for LCADC-I, Maryann Potter seconded the motion was carried with one abstention.

Item 11: Edward Watts – intern application review for acceptance, denial or other administrative action (for possible action)

Mrs. Gawronski asked Darleen Dufault if she had received the original application with all required documents. Mrs. Dufault stated that she had the original signed application, fingerprint cards but that there were no money orders included.

President Springborn stated that it was her understanding that Mr. Watts had applied or wanted to apply for internship. Mr. Watts said yes.

Dianne Springborn asked Mr. Watts to explain the process he had gone through to obtain his internship. Mr. Watts stated that until July thought all was proceeding as it was suppose to, he had turned in his hours, internship fee, and supervision agreement. Then he was notified by his supervisor Jeff Carson on

August 5, 2014 that there was no record of him that he needed to cease and desist from counseling. He stated that he did cease and desist at that point. He stated that he had done his CEU's, hours everything I needed to do. He was informed by Agata Gawronski to turn in another application, "I filed for an application and there were some communication errors between me and Ms. Agata". "She said I needed to come and ask the Board to be an internship". "For all intensive purposes I had been without knowing counseling without internship." "When I was made aware that I was doing this, I immediately stopped."

Dianne Springborn asked Mr. Watts what made him think he could counsel without an internship. Mr. Watts stated that he was hired by Cornerstone Counseling and they knew he was going to apply for internship. Darlene Dufault stated that she had his supervision agreement and it clearly stated that he was counseling clients during that period of time. Barbara Hunt asked if Mr. Watts had ever been issued a certificate for internship. Mr. Watts stated no, from what he understood he had his supervision agreement signed by Karinda Rousseau and Jeff Carson and that they had sent it in. I had not heard back anything saying that I could not counsel, so I went ahead basically business as usual, did everything I was supposed to do, took all my CEU's. Jacqueline Wotherspoon asked if his employer or supervisor requested a copy of his certificate before they assigned him clients. Mr. Watts stated; they did not, this was his first time ever having anything to do with counseling, he had done PSR, QMAHA work before and this was his first attempt at counseling professionally. He stated that he did not know what to do other than fill out paperwork, turn everything in. President Springborn asked Mr. Watts when he says "turn everything in" I'm not sure what you mean by that and who you turned it into, because up until recently we did not have paperwork on you. Mr. Watts stated that Karinda Rousseau filled out a learning agreement in April and she turned that over to Jeff Carson who filled one out also and turned that into the Board along with my CEU's and that is when we were notified that there was no information having to do with my application anything on record.

Mrs. Dufault stated that she was looking at the fingerprint cards to see if there had been a background check prior to counseling clients. Mr. Watts said he had actually done one previously when doing Medicaid, but it was not the one associated with the fingerprint card issued by the Board. President Springborn stated that we are talking about a background check performed for the Board of Examiners for the State of Nevada according to the NRS. A person cannot practice substance abuse counseling if you do not have a certificate issued from this Board. Who at that agency or anywhere else filled out this Supervisor's agreement and sent it in. Mrs. Dufault stated, that she had a supervisors agreement that was filled out and dated 8/8/14 this represents a period of time after he was counseling clients. Mr. Watts said he was notified on August 5 at that time he filled out another application agreement immediately and was told to hold off on my application until I came to the board.

Mr. Marcher asked Mr. Watts you have this application that you have brought to the board for this meeting. Have you ever submitted a previous application to the Board? Mr. Watts responded by saying yes he filled out the supervision agreement. Mr. Marcher reiterated; what you just filled out for the Board today is an application to be certified as an intern. Have you ever submitted one of those before. Mr. Watts responded; No.

Mrs. Potter stated that she was interested in the credentials of the supervisors. Mr. Marcher stated that there are potential cases involving the supervisors. So we are not allowed to talk about the supervisor. Today we are talking about this individual who was allowed to practice without certification from the

Board. He practiced as an intern for a certain amount of time but did not have a certificate, what we're here to determine today is a decision on the application in front of the Board and your decision on it. Mrs. Gawronski stated she would provide a time line; first request for application: 06/30/2014 without appropriate fees. It was sent back and asked for money order. It was resent to us signed by Mr. Watts on August 1, 2014. The application has a note on it that it was corrected and an application packet was sent to Mr. Watts by Carol on August 4, 2014. Mrs. Dufault asked if that was the first packet sent to Mr. Watts. Mrs. Gawronski responded yes that was the first application packet sent. The other documents on file are the supervision agreements signed by Mr. Watts and his then supervisor effective May 1, 2014 it does not have an end date. Then we received a progress report from Mr. Watts reporting period 05/1/2014 to 6/30/2014 claiming 202 hours completed, and under the intern number section Mr. Watts printed "applying" signed by both Mr. Watts and his supervisor. After submitting the progress report, Carol sent Mr. Watts a letter and returned his \$112.50 check for progress report fee and late fees, stating in the letter that he did not hold a license with our Board and should not be doing drug and alcohol counseling. The documented 202 hours would not be applied towards his internship. If you are doing drug and alcohol counseling, you are ordered to stop. Mrs. Gawronski sent a cease and desists. Carol made several attempts to reach Mr. Carson to inform him Mr. Watts could not practice. Mrs. Gawronski informed Mr. Watts that there was an ongoing investigation with supervisors and to hold on to the application she did not believe he could intern at this time. Mr. Watts became very upset. Mrs. Gawronski told him he could come and address the Board for a final decision. Mrs. Gawronski stated that she did not receive the faxed application until the day prior to the board meeting and that she had to supply him a new application to fill out.

Saul Singer, investigator for the Board of Examiners for Alcohol, Drug and Gambling Counselors stated that Mr. Marcher made a good point that there are several things surrounding this that he cannot address due to the investigation. Mr. Singer stated that Mr. Watts was a witness who cooperated in an investigation. What Mr. Singer learned was that Mr. Watts in the summer of 2013 sent an email to the board asking how to become a drug and alcohol counselor. That was the only correspondence prior to the agreement found in the office. Prior to the investigation I contacted Amy Martin owner of Cornerstone and asked he about Mr. Watts. She told Mr. Singer that she had hired Mr. Watts around January 1st of 2014 believing that he had internship status and that the papers were in order. When Mr. Watts was asked, he stated he believed his credentials at the time were in order, and he did not need to do anything else. He practiced for approximately eight months with that agency. Both supervisors stated they completed a supervisor's agreement with him. The first supervisor's agreement was never received at the Board but the second was. The first supervisor's agreement was given to Mr. Watts and for whatever reason it was never received.

As part of the investigation we subpoena the records from Cornerstone Counseling, in reviewing those files what was found was that twenty-two files contained the signatures of Mr. Watts on progress notes as being the counselor, on some files he had also done the intakes and wrote psycho-socials all of the cases were court referred. They were either DUI or similar type court program cases and apparently Cornerstone has a fair number of those types of referrals for the courts in Las Vegas. We did not pursue any action in terms of complaints against Mr. Watts. Because there are no administrative violations, he is not licensed therefore there is no violation. Others involved did have complaints filed. Mr. Singer spoke with Mr. Watts and invited him to present his appeal at this meeting.

President Springborn asked Mr. Watts when he stated that he thought all his credentials were in order, what credential he was talking about. Mr. Watts responded that he had a QMHA certification through Medicaid, and an MSW. "This was known by Cornerstone when I started counseling. It was not until Ms. Rousseau came on as my supervisor that she would follow my progress from there. At no time did they ask for my internship packet". "I filled out the application to get an application, and waited to hear anything back" I continued to do what I've been trying to do for seven years and that is becoming a counselor". Mrs. Gawronski stated that Mr. Watts did fill out the request for application but did not fill out the actual application. Mr. Watts stated he had not.

Mrs. Hunt stated she had concerns of someone practicing without a background check, the fingerprints are dated August of this year. President Springborn said from January 2014 to August 2014 you were practicing without a license. Mr. Watts stated yes he had. Mrs. Dufault stated that she felt part of the blame fell on the employer and supervisor for not requiring proof of certification from anyone providing counseling in their agency. The employer had the obligation to provide the information, as well as the supervisor is required to do that. But on the other side of this, this is a very educated man and when you receive something like an application that is not an authority to practice, it is simply an application.

Mr. Burt stated that he agreed with Mrs. Dufault there are two sides to this, but that the only portion we could discuss was his portion, as the other was still under investigation. Mr. Burt stated that Mr. Watt's piece of this was to fill out the paperwork, ask the question why he had no number or certificate. While Mr. Watts may have missed things, what the Board has to decide is was this some sort of criminal intent, or evasive movement on your part. If those are true then we do need to be concerned about issuing you a certificate at this point. Mr. Burt further went on to state that he understood Mr. Watts point that when you walk into an agency and new to the field, you should be able to trust your supervisors and agency to provide you with the appropriate information. But you must still take care of what is legally required of you to take care of. He stated he was worried that this attention to detail is either a huge inattention to detail that was missed or some intention to evade.

Mr. Watts stated that he never had malicious intent to hide anything. He felt he is always very forthcoming with his background.

Mr. Marcher stated that the Board's options were: As it is an initial application for certification; basically the board needs to either, accept it, deny it, or accept it with conditions. The other option is to table until the other cases are wrapped up and an informed decision can be made.

After a lengthy discussion it was decided to table this item until more information was obtained. Steve Burt motioned to table, Barbara Hunt second, motion carried.

Item 8: Inactive Status – discussion and decision on the length of the Inactive status for licensed/certified counselors and interns / Steve Burt (for possible action)

Mr. Burt directed the Board to the information in their packets regarding NAC regulation for deactivation of a license or certificate/ reactivation expiration and renewal. He stated that he and Mrs. Gawronski have discussed that there is a large number of deactivated licenses in the system, that have been deactivated for a long period of time and if reactivated they would be totally unprepared for our current environment as far as DSM5 , new ASAM, etc. So he brought it to the Board to discuss the matter as it

will lead into the re-development of a policy and procedures manual. After reading the NAC Mr. Burt pointed out there was no procedure for renewing a deactivate license as deactivated. The previous director initiated a practice that at the end of the twelve months deactivation, the counselor could renew that deactivation. Mr. Burt purposed the NAC be better defined and that if the Board agreed to allow longer deactivation periods should the Board install new requirements. President Springborn stated that she believed that you could only deactivate for one year. Mr. Marcher stated that the regulations stated a license/certificate could be deactivated for one year. If the certificate/license was not reactivated with accompanying CEU's it would become expired. Mr. Burt asked about those who have been deactivated more than a year. Mr. Marcher stated they were considered expired according to regulations. Mrs. Gawronski stated that it had been the practice of the previous administration to grant multiple deactivation periods and this practice had continued. Mr. Marcher stated that this Board could draft some different regulations regarding deactivation of a license, but as this regulation read it was for one year only. If you do not reactive you are expired and must reapply. Mr. Marcher suggested in all fairness to those previous deactivated persons, that they be given notification of one year deactivation allowance. President Springborn suggested that we look at a retired license/certification. Mr. Marcher stated that in many boards if a person goes inactive they would have certain requirements that must be met in order to become active. But as the regulation states today they can only deactivate for one year. Agata stated that our office will now require twenty CUE's for each year prior to giving the final deactivation approval. Mrs. Hunt made a motion to send a letter to all license/certificate holders on inactive list notifying them they have one year to make a decision to reactive their license or allow license to expire. Mrs. Wotherspoon second it, the motion was carried.

Ms. Wotherspoon asked if a future agenda item could be added before NRS and NAC changes were made to discuss adding a retired certificate/license to the regulations.

Item 9: Renewal Notice for the counselors – update (for possible action)

Mrs. Gawronski shared with the Board the new renewal card that will be going out to all counselors the cost is minimal and all counselors can download forms online. License verification can also be completed online. Mr. Burt made a motion to approve the renewal notice, Mrs. Wotherspoon seconded. The motion carried.

Item 10: Executive Director Report (proposed budget, website updates, Ethics training by Saul Singer) – (for possible action)

Mrs. Gawronski gave the Board an overview of the website, office hours posted, oral board dates, and changes in complaint process. With the new software we are able to pull many queries and be more efficient. She informed the Board that Saul Singer was offering a confidentiality course. We are revising the training for the renewing supervisors; it will now be a one day in person course starting in January. Mrs. Gawronski also informed the Board of the board training being offered by the Attorney General's office on October 29th, 2014 and asked if the members planning to attend would contact her with confirmation.

Ms. Wotherspoon made a motion to accept the Executive Directors Report, Ms. Hunt seconded, and the motion was carried.

Item 12: Executive Directors evaluation and compensation review (for possible action)

President Springborn gave an overview of the evaluation stating that Mrs. Gawronski's overall performance is above average, and has shouldered enormous stress this year with all the changes within the office and regulations. She proposed to the Board that Mrs. Gawronski receive a 4% raise in the coming year. Mr. Burt made a motion to approve the evaluation including a 4% raise retroactive to her hire date of September 12, 2014. Ms. Hunt seconded and the motion was carried.

Item 13: Public Comment

There was no public comment

Item 14: Adjournment (for possible action)

Dianne Springborn asked for a motion to adjourn the meeting, Steve Burt made a motion to adjourn, Jacquelyn Wotherspoon seconded, and the motion was carried. The meeting was adjourned at 11:30 a.m.