



## Chemical Dependency Professionals Board Meeting

Special Session -June 19, 2019

Minutes

Members Present: Wendy Haynes-Britton, Andrew Moss, Alex Bishara, Philip Atkins, Maximino Cortes, Trisha Farrar, John Lisy, Jim Mermis

Members Not Present: Gregory Hogg, Debra Thompson

Others Present: Jill Smock-Executive Director, Bobby Robbins-Investigator, Lisa Hartman-Assistant Attorney General (Assigned General Council)

Chairperson Wendy Haynes-Britton called the meeting to order at 11:17 am. Vice Chair Andrew Moss completed the roll call. A Quorum was established.

**Motion:** to approve the May 17, 2019 meeting minutes.  
T. Farrar, J. Lisy                      Approved, 11:20 am

### **General Announcements:**

W. Haynes-Britton noted that this is Investigator Bobby Robbins's last meeting with the Board as he will be soon vacating his role. Several Board members thanked B. Robbins for his work during his tenure as the Investigator and wished him well in future endeavors.

### **Ethics Committee Task Review**

M. Cortes led the discussion on finalizing the language on the Impairment Question, which is to be included in the Board's application process for licensure and certification.

During discussion: A. Bishara asked if the Impairment Question would be included on the application for renewal and L. Hartman confirmed. J. Lisy recommended that there should be examples of "Neurodevelopment Disorders" on the application due to the broad nature of the term, and he recommended that Pedophilia, Exhibitionism, and Voyeurism be specifically added to the list as bullet points for diagnosis due to the potential for harm to patients that could be present with those conditions. A. Bishara asked if the list of conditions in the question was intended to be comprehensive, and M. Cortes noted that the list was intended to provide examples of major categories of mental illness. P. Atkins questioned how having information about applicant's mental health and SUD diagnoses could be impacted by 42 CFR Part 2 and HIPAA. L. Hartman stated that she would review to see if applications are kept as a part of public record and noted that certain information could be redacted if that is the case. J. Lisy suggested reviewing the legal protections that the Medical Board has put in place for their evaluation of applicant impairment.

P. Atkins also expressed concern about the use of labeling with applicants. W. Haynes-Britton shared an example of the Impairment Question used by the CSWMFT Board, which did not contain specific examples of mental health conditions. P. Atkins and A. Moss discussed the purpose of the Impairment Question being a risk management function to protect the public. P. Atkins suggested that the Board utilize a broad question about impairment and if endorsed, applicants could receive a follow-up document. Overall, the Board agreed with a broader Impairment Question and moved to vote on the following language:

**Motion:** On the drug screen question:

**“Have you tested positive on a drug screen in the last 2 years, inclusive of any period of incarceration, for an illegal and/or unprescribed drug?”**

**If yes, please fully explain the circumstances, with sufficient detail.**

J. Lisy, A. Moss

Approved, 12:00 pm

**Motion:** On the Impairment Questions:

**“Do you currently have any disease or condition that interferes with your ability to competently and safely perform the essential functions of your profession, including but not limited to: (1) mental or emotional disease or condition; (2) alcohol or other substance use disorder; and/or (3) physical disease or condition, that may presently interfere with your ability to competently and safely perform the essential functions involved in practice as licensee or certificate holder of the Ohio Chemical Dependency Professionals Board. “**

**If yes, please fully explain the circumstances, with sufficient detail:**

J. Lisy, J. Mermis

Approved, 12:37pm

Member engaged in lengthy discussion about the usefulness of asking applicants about past or current treatments and ultimately unanimously decided that asking applicants about treatment did not serve the greater purpose of improving risk management and potentially created undue risk for privacy concerns. Board members agreed to exclude treatment-related questions regarding the Impairment Question.

L. Hartman noted that recovering individuals are covered under the “disability” definition. L. Hartman also stated that according to 4758.20(A)(6), the Board has the ability to define terms of sobriety for license and certificate holders.

### **Plan for Hearings**

L. Hartman noted that the Board can either hire a hearing officer who is present at hearing, or the Board can decide to hear the hearings and appoint a Board member to act on behalf of the Board. In the latter scenario, the decision of the appointed Board member must be voted upon and ratified by the Board. Full hearings would still be processed as Goldman hearings.

L. Hartman reviewed the Notice of Opportunity and Consent Agreement forms as well as a Goldman hearing script. She provided an overview of the hearing process, including how information is entered

into evidence and how the prospective/current licensee or certificate holder is able to be present but cannot speak. T. Farrar asked if the prospective/current licensee or certificate holder is allowed to hear deliberations, and L. Hartman noted that they are not permitted to do so. L. Hartman continued to state that any time there is a Board action, there has to be an opportunity for a hearing. B. Robbins noted that the Board should consider safety issues in relation to hearings, and L. Hartman discussed conducting the hearing in the James A. Rhodes State Office tower due to increase law enforcement security. M. Cortes asked if the person in question is allowed to have legal representation; L. Hartman affirmed and also noted that legal representation is also not able to speak. W. Haynes-Britton noted that the appointee from the Board cannot be the Board Chair or a member of the Ethics Committee. P. Atkins was nominated by W. Haynes Britton to be the Board appointee for hearings.

**Motion:** to allow the Board to enter into an agreement with P. Atkins to be the Board appointee for hearings.

A. Moss, T. Farrar

Approved, 1:10 pm

**Motion:** Adjournment

P. Atkins, J. Lisy

Approved, 1: 13 pm



Chair Wendy Haynes-Britton

