



Montana Department of **LABOR & INDUSTRY**

MONTANA BOARD OF PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL OR OUTDOOR PROGRAMS

Full Board Meeting

Department of Labor & Industry

301 S. Park Avenue, Helena, MT

Basement Conference Room, Conference Call

December 30, 2011

9:30am-11:30am

MINUTES

AGENDA ITEM #1

Call to Order: 9:40am.

Members: Dr. John Santa, Ms. Darcie Kelly, Ms. Penny James, and Mr. Tim Callahan.

Staff: Ms. Cyndi Breen, Ms. Mary Tapper, Ms. Amber Carpenter

Others present: Ms. Lisa Marek, Ms. Mickey Manning, Mr. Dennison Webb, Dr. Joy Jensen, and Ms. Barb Flanders

AGENDA ITEM #2

Review of agenda & approval.

Motion: Mr. Tim Callahan moved to approve the agenda as written.

Second: Ms. Penny James

Discussion: None.

Vote: Unanimous.

Motion carried.

PUBLIC COMMENT STATEMENT:

In accordance with 2-3-103(1), MCA, the Board will hold a public comment period. Please note that Open Forum is the public's opportunity to address the Board on any topic that is not already on the agenda for this meeting. While the Board cannot take action on the issues presented, the Board will listen to comments and may ask the issue be placed on a subsequent agenda for possible action by the Board. The Chairperson of the Board will determine the amount of time allotted for public comment.

No public comment was heard at this time.

AGENDA ITEM #3 Review and approval of minutes June 21, 2011.

Motion: Ms. Darcie Kelly moved to approve the minute as written.

Second: Mr. Tim Callahan

Discussion: None.

Vote: Unanimous.

Motion carried.

AGENDA ITEM #4 Application Review

-Selkirk Outdoor Leadership & Education

Staff provided an overview of the new program application. Mr. Dennison Webb, Dr. Joy Jensen from the program joined the discussion by phone. The application for approval as a small program was received on November 1, 2011. The application check sheet was completed throughout the month of November including fingerprints and background checks for all direct care staff. The onsite inspection was completed in early December 2011 by Bill Wood and Amber Carpenter.

Ms. Darcie Kelly asked for clarification of V.O.E.P.A., policy # 27. Program staff clarified that this is a common conflict resolution policy for outdoor programs. The acronym stands for ventilation, ownership, empathy and plan of action.

Dr. John Santa asked about two critical issues of outdoor programs. First, he asked how the program is prepared for emergency services. Mr. Webb explained that they have extensive policy and procedures regarding emergency services. In addition all lead instructors are at minimum, first responders and have extensive training on emergency services. The group in the field has direct communication at all times via satellite technology including satellite phones and GPS devices.

Second, Dr. Santa ask what approach and training field staff have in dealing with resistant students when there is a need for restraints to maintain safety. Mr. Webb reported that ideally their screening process has the program working with students who are not high risk though it's impossible to predict all scenarios. He stated that should the need arise, all faculty, including entry level staff, are trained in non-violent crisis intervention. Within the context of the training, staff learn how to exercise passive physical restraints.

Ms. Kelly asked about the therapeutic element of the program. Usually a strong mental health component exists in programs. She observed that mental health services are billed separately and are provided only "if required" at this program. Program staff stated that they do not market the program as a clinical program. If the program had a student that required clinical services they would contract with therapeutic staff to participate in the field with other staff. Mr. Webb emphasized that neither he nor Dr. Jensen are clinicians.

Dr. Santa asked if the program is operating in both Montana and Idaho. Mr. Webb said they are operating only in Montana. Dr. Santa stressed the importance of having clinical staff that is licensed in Montana. Mr. Callahan asked about students that they anticipate enrolling with the program. He asked for clarification on which students would be screen out. Program staff reported that their students would present as individuals with leadership potential and those who learn best by doing or a "hands-on" approach. The student may be "in a funk"; the student is not really displaying a lot of motivation, or may be struggling academically or maybe isolating themselves. The student needs the opportunity to "reboot" themselves. Students seem to be able to come into this environment and succeed.

Again Mr. Webb stressed that they are not a clinical programs. Dr. Santa asked how students will be referred to the program. Mr. Webb reported that enrollment is driven by educational consultants. In addition the program staff plans on touring Montana and Idaho as part of their marketing plan.

Dr. Santa asked if the program has a written exclusionary statement, identifying exactly what type of student that the program wouldn't take. Mr. Webb stated that exclusions are referenced in the suicide screening and admissions policy. Dr. Santa

recommended that the program have a standalone statement regarding exclusions. Ms. Kelly comments on the suicide policy. It says, "if the student makes a credible suicide threat". Dr. Santa commented that there have been serious consequences for outdoor programs in Montana who have not completed thorough physical and mental assessments on students who enroll in outdoor programs. Deaths have occurred where proper screening of students did not occur in a timely manner. Mr. Webb said that a thorough assessment/evaluation is completed prior to accepting a student into the program. Dr. Santa suggested the written policies don't reflect this. It was suggested the program amplify the policies around screening making it very clear the criteria for admission and the requirement for a recent physical that includes drug toxicity and emotional screenings. He further suggested the program expand their suicide screening. All screenings should occur within 30 days of admission and be conducted by a licensed professional i.e. a medical doctor, a nurse practitioner, or licensed mental health professional, psychologist or psychiatrist. The professional should be licensed in Montana or hold an equivalent credential in another state.

Motion: Dr. Santa moved to approve the SOLE application contingent on receipt of updated policies as per the preceding discussion including an amplified suicide policy and physical and emotional screenings including drug toxicity testing within 30 days of entering the program. Screening must be performed by a licensed professional as defined in the preceding discussion. The policies shall be submitted to the Board office, reviewed and approved by staff prior to licensure being issued.

Second: Ms. Kelly

Discussion: None.

Vote: Unanimous.

Motion carried.

-Selkirk Outdoor Leadership & Education renewal exemption request

The program is asking that the Board consider their request for a renewal exemption due to licensure being granted 6 months prior to the renewal deadline of June 30th.

Staff referenced 24.181.2101(4) which states the renewal process and lack of Board authority to prorate fees.

Motion: Dr. Santa moved to include SOLE in the required renewal process with fees due by June 30th according to 24.181.210(4). The Board does not have authority to offer a renewal exemption to the program.

Second: Ms. Kelly

Discussion: None.

Vote: Unanimous.

Motion carried.

AGENDA ITEM #5 Follow-up site visits

According to 24.181.505(3) programs are subject to a site visit at least once every 3 years. Two programs were included in the most recent trip.

- Elk Mountain

Amber Carpenter, site visit inspector, reported that in reviewing staff files it was revealed that required certifications for CPR, First Aid and MANDT training had expired. In addition, a clinical staff file revealed that the clinician was licensed in Idaho but not in Montana. The staff person is providing mental health services in Montana.

Motion: Dr. Santa moved to open a board generated complaint against Elk Mountain Academy for failure to comply with current certifications and for providing clinical services by an unlicensed individual. In addition, the Board recommends that the individual providing clinical services be referred to the Board of Social Work Examiners and Professional Counselors for unlicensed practice.

Second: Ms. Darcee Kelly

Discussion: None.

Vote: Unanimous.

Motion carried.

-Clearview Horizons

Ms. Carpenter reported that the program was found to be in compliance with all site visit requirements.

Motion: Dr. Santa moved to approve the site visit report as presented.

Second: Mr. Tim Callahan

Discussion: None.

Vote: Unanimous.

Motion carried.

-Procedures on site visit exemptions and future site visit

Staff reviewed old and new rules, regarding site visits for programs. New rules allow for site visit exemptions if a school holds an accreditation with Joint Commission or NIPSA. Staff will send letters to programs with accreditation requesting all documents sent directly to the Board office from the accrediting body. Board staff will compare the received documentation with the Board's current checklist and request additional materials if needed. NIPSA renews their accreditation every 6 years and JACOH is every 3 years. Schools that hold accreditations include Monarch, Chrysalis, Summit, Montana Academy, and Turning Winds.

AGENDA ITEM #6 Update on compliance/unlicensed practice, Mary Tapper Executive Session

Motion: Dr. Santa moved to enter executive session at 11:15am.

Second: Ms. Darcee Kelly

Discussion: None.

Vote: Unanimous.

Motion carried.

Ms. Mary Tapper reminded board members that the information disclosed in executive session is attorney client communication with no information to be discussed outside of this session. Ms. Tapper reported on the proceedings with Ranch for Kids. June 2011 the Board moved to issue a cease and desist letter to the program. Ranch for Kids responded by filing an injunction asking the court to

not close their program. The Department filed a response and a counter claim asking for the program to be shut down, for a review of the administrative record, and for attorney fees for injunctive relief to order that the operation stop. The Judge in Lincoln county set a hearing by phone in October 2011. The Judge asked that each side brief the issues. Former PAARP Board Counsel Colleen White now serves as Prosecuting Attorney for the Building Codes Bureau. Building Codes also has action pending against Ranch for Kids as they are non-compliant with that Bureau. Department attorneys agreed to combine the complaints to build a stronger case. Ranch for Kids has petitioned for religion exemption which became effective in October of 2011. The Judge considered this as new evidence and made the decision to remand the case back to the administrative proceeding. A follow-up call by Board Counsel was held yesterday. Legal Counsel for Ranch for Kids reported that it was their intention to get into compliance with building codes. The Department would still like to keep the complaints together.

Board members see the religious exemption as dangerous in efforts to protect the public and the Board ought to pursue legislation to eliminate the language. Ms. Tapper has gone back and reviewed the original legislation. She learned from a letter submitted by Pine Haven that an adjunct ministry is "a facility that does not charge a fee for its services, does not accept public funds or accept governmental contracts. A facility is an adjunct ministry of a church which is incorporated in Montana." Ms. Tapper suggested that the Board could promulgate a rule that outlines the intent of the original exemption by writing a definition for adjunct ministry.

Motion: Dr. Santa moved to exit executive session at 11:35am.

Second: Ms. Darcee Kelly

Discussion: None.

Vote: Unanimous.

Motion carried.

AGENDA ITEM #7 Rule Revisions – Tabled for the next meeting.

The Board tabled this agenda item with intent to schedule the next meeting as an in person meeting devoted to a complete review of the administrative rules. Included in the review shall be:

- the addition of a definition for adjunct ministries exemptions that follows the intent of the 2007 legislation,
- check sheet revisions for both the application and site visits,
- consideration of periodic program submissions of employee lists and employee credentials logically at renewal time,
- periodic cross check of direct care staff and fingerprint and background check results, i.e. at renewal time and during the triennial site visits and
- rules or policies pertinent to board generated complaints.

AGENDA ITEM #8 Board-generated complaints, Mary Tapper

Ms. Tapper reviewed a correspondence from the Legal Department regarding board generated complaints. Staff will provide a list to the Board for the next meeting to consideration of processing of complaints.

AGENDA ITEM #9 Department reports and updates –Tabled due to time constraints

- Governor’s open meeting policy
- Budget
- Accela Data Base

-Board Chair Training January 10, 2012 and February 2012

Motion: Dr. Santa moved that Tim Callahan and Darcie Kelly will attend the training.

Second: Ms. Penny James

Discussion: None.

Vote: Unanimous.

Motion carried.

-FBI audit results. Staff reported that the Department successfully participated in an audit of receiving, processing and disposing of fingerprint records on June 22, 2011.

AGENDA ITEM #10 Elections of Board Officers, 24.181.404

Board Chair, Co-Chair, Screening panel chair, Adjudication chair.

Motion: Ms. James moved to seat Board positions as follows:

John Santa Chair; Darcie Kelly Co-Chair; Screening Panel Chair, John Santa, with Penny James and Darcie Kelly as panel members; Adjudication Chair, Tim Callahan with Mile Chisholm as panel member.

Second: Ms. Kelly

Discussion: None

Vote: Unanimous.

Motion carried.

AGENDA ITEM #11

Next meeting shall be an in person meeting for February 2012 for the primary purpose of reviewing rules.

ADJOURNMENT

Motion: Ms. James moved to adjourn the meeting at 12:05pm.

Second: Ms. Kelly

Discussion: None

Vote: Unanimous.

Motion carried.