

NORTH CAROLINA BOARD OF DIETETICS/NUTRITION  
LEGAL ADVISORY MEETING  
10 AM  
CONFERENCE CALL

MINUTES: August 7, 2019

Board Members Present

*via conference call:*

Shelia Garner Link, Kim Iles, Amanda Holliday, Christina Wilson,  
Ananya Sen

Ex-Officio:

Marnie Jones, Administrative Specialist

Guests:

Henry Jones (General Counsel), Brittany McAllister (Director of  
Legislative & Regulatory Affairs, BCNS)

*Absent:*

*Kayla Saunders, Charla Burill*

**Call to Order** – Shelia Garner Link

The meeting was called to order at 10:05 a.m. A quorum was present. Shelia welcomed General Counsel, Henry Jones to the call and indicated to the Board that this call would immediately enter closed session for legal consultation and application review. Amanda Holliday motioned to close the meeting for consultation with the Board’s attorney as well as review of applications, under NCGS §143-318.11 (a)(3), § 143-318.18 (6) and Article 5 of the Bylaws, Section 4 (3) & (8). Dr. Ananya Sen seconded the motion. All approved.

*Brittany McAllister left the call.*

The board was briefed by Henry as to the legal matters at hand, and his recommendations for remedy. The Board discussed various ramifications and resolutions before reaching its decisions.

Analia Camarasa made a motion to reopen the meeting. Dr. Sen seconded the motion. All approved at 12:29pm.

Christina will abstain from voting due to a conflict of interest, but will be present for the open portion of the meeting.

Shelia prefaced the first motion by clarifying that N.C.G.S. §§ 90-357.5(a)(1)(b) and (c)(2) provide that, among other things, an applicant seeking licensure may complete a supervised practice experience that is not less than 1,000 hours under the supervision of “a State-licensed health care practitioner whose licensed scope of practice includes dietetics or nutrition.” **Dr. Sen motioned that based upon the guidance received from legal counsel today, from this date forward, “State” as provided here, in its capitalized form, as is consistent with the rest of the statute, shall be interpreted to mean a “North Carolina health care practitioner whose licensed scope of practice includes dietetics or nutrition.” Amanda seconded the motion. All in favor; Approved.**

Shelia prefaced motion two by recapping that LN licensee, Christina Wilson, completed 600 of her required supervised practice hours under the supervision of a physician licensed in California. Ms. Wilson was issued a license in 2018 based upon the NCBDN’s reading of N.C.G.S. § 90-357.5(c)(2) to include state-

licensed health care practitioners, from any state, whose licensed scope of practice includes dietetics or nutrition. **Amanda motioned that Ms. Wilson has held a license since January 18, 2019 with no issue, and the apparent misinterpretation of the statute was due to Board error and was through no fault of Ms. Wilson; therefore, in accordance with guidance from counsel, in order to be consistent with the purpose of the statute, the Board should allow Ms. Wilson to maintain her license as long as it can be demonstrated through a written record that Dr. Gottfried, the physician who supervised Ms. Wilson for these 600 hours, could qualify with her current credentials to become licensed as a physician in North Carolina. Dr. Sen seconded the motion. All in favor; Approved.**

Shelia prefaced motion three by recapping that applicant Karen Davis's application for licensure as an LN was originally reviewed by the Board in January of 2019. At that time, Ms. Davis presented over 1000 hours of supervised practice completed between 2015 and January of 2018, under the supervision of a licensed naturopath in the state of Oregon. It is recognized that North Carolina does not license naturopaths, and thus such a practitioner could not qualify for licensure as a health care practitioner in North Carolina.

The NCBDN considered Ms. Davis's application in January of 2019 because it read N.C.G.S. § 90-357.5(c)(2) to include state-licensed health care practitioners, from any state, whose licensed scope of practice includes dietetics or nutrition. Due to concerns related to the sufficiency of the supervised practice hours completed, Ms. Davis was not issued a license, but rather, was informed by the Board that additional hours would need to be completed. To date, the NCBDN has not specified to Ms. Davis directly the number of hours that it requires that she redo, but did, in response to Ms. Davis's inquiry on July 2, 2019, indicate based on its then reading of "State-licensed" in N.C.G.S. § 90-357.5(c)(2), that it would approve additional hours she might choose to complete going forward under the supervision of Dr. Renee Schwartz, also a licensed naturopath in the state of Oregon. Based upon the advice of legal counsel, Ms. Davis was advised to discontinue the completion of any additional hours under Dr. Schwartz on July 30, 2019.

*Brittany McAllister rejoined the call at 12:36pm.*

**Kim motioned that in accordance with assistance provided by legal counsel today, noting the supervised hours Ms. Davis completed under Dr. Erlandsen, prior to July 2, 2019, were not completed based upon any dependence upon the Board's prior understanding of "State-licensed," but additional hours completed between July 2, 2019 and July 30, 2019 may have been completed with reliance upon the Board's misreading of "State-licensed" in N.C.G.S. § 90-357.5(c)(2), to the extent that Ms. Davis can find a supervisor that meets the requirements listed in N.C.G.S. § 90-357.5(c)(2) to review and approve hours she may have completed between July 2, 2019 and July 30, 2019, and such hours aid her in meeting the supervised practice requirements specified in this section, the NCBDN allow such hours to be counted toward the statutory requirement of 1000 hours of supervised practice. All other hours completed prior to July 2, 2019, with no reliance upon the Board's misreading of N.C.G.S. § 90-357.5(c)(2), will need to be redone under the supervision of a supervisor that meets the requirements as specified in this section. In accordance with 21 NCAC 17. 0104, which became effective August 1, 2019, the NCBDN will allow Ms. Davis to put her application on hold for up to one-year to complete such hours, or to withdraw her application if she chooses not to complete any additional hours. If Ms. Davis does not choose to put her application on hold to complete the required hours, or withdraw her application, the NCBDN will issue her a denial. Amanda seconded the motion. All in favor; Approved.**

Shelia recapped that Dr. Florio's original application for licensure was reviewed by the Board in March of 2019. On her application, Dr. Florio indicated that she completed 1,000 hours of supervised practice under the supervision of a New York licensed chiropractor, Dr. Tinari, between 1986 and 1989. Dr. Tinari is also a Diplomate of the American Board of Clinical Nutrition; however, he did not receive this credential until 2003, almost fourteen years after Dr. Florio completed her supervised practice under his guidance. Dr.

Florio's application was not approved or denied in March of 2019 as it was determined by the Board that additional information was needed.

On July 17, 2019 the NCBDN voted at its regularly scheduled meeting, in regards to applicant Dr. Florio, in light of the very little documentation from the time-period of supervision, time elapsed since completion of her supervised practice, and inconsistencies in the interview recall, that the Board offer applicant Florio two choices: to withdraw her application, or complete a 1,000 hour supervised practice experience. Since making this decision, the NCBDN has come to learn that "State-licensed" as used in N.C.G.S. § 90-357.5(c)(2) means "North Carolina-licensed." **Amanda motioned that although the Board already voted in July to require Dr. Florio complete 1000 hours of supervised practice in order to meet the statutory supervised practice experience requirements for licensure, that Dr. Florio's previously completed hours also be rejected because they were completed under the supervision of a health care practitioner not licensed in North Carolina, who also did not meet any of the other requirements specified in N.C.G.S. § 90-357.5(c)(2), to be a supervisor. In accordance with 21 NCAC 17. 0104, which became effective August 1, 2019, the NCBDN will allow Dr. Florio to put her application on hold for up to one-year to complete such hours, or to withdraw her application if she chooses not to complete any additional hours. If Dr. Florio does not choose to put her application on hold to complete the required hours, or withdraw her application, the NCBDN will issue her a denial. Dr. Sen seconded the motion. All in favor; Approved.**

Dr. Sen motioned to adjourn the meeting at 12:43pm. Amanda seconded the motion. All approved.