



ARIZONA BOARD OF ATHLETIC TRAINING
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SPECIAL SESSION MEETING MINUTES
October 26, 2016

Board Members Present: Eric Freas, ATC – Chair
Bart Peterson, ATC – Vice-Chair
Chuck Baughman, ATC – Athletic Trainer Member
Jennifer Fadeley – Public Member

Board Members Absent: None

Staff Present: Karen Whiteford – Executive Director

Legal Staff Present: Sabrina Khan – Assistant Attorney General

- 1) **CALL TO ORDER** –Mr. Freas called the meeting to order at 9:03 a.m.
 - a) Roll Call – The following Board members were present by telephone: Eric Freas, Bart Peterson, Jennifer Fadeley, and Chuck Baughman.

- 2) **DECLARATION OF CONFLICTS OF INTEREST**

Mr. Baughman noted that on October 3, 2016, he made a statement the he looked up Mr. Cross's certification status on the public website (Item 3.a), but is able to rule impartially on the matter.

- 3) **REVIEW, CONSIDERATION, AND POSSIBLE ACTION ON APPLICATION FOR REINSTATEMENT**

- a) Jerry Cross ATC Lic. #0152, complaint number 16-AT-0152

Mr. Cross was not present at the meeting. Ms. Whiteford provided a timeline of events to the Board members. This timeline showed that several attempts were made to notify Mr. Cross of the meeting, including a certified letter for which he signed. Ms. Whiteford provided a background of events explaining that she received a complaint from a high school administrator regarding Mr. Cross sending sexually oriented text messages to a female student.

Mr. Cross' athletic trainer license expired on February 1, 2016, and his application for license reinstatement was complete on August 29, 2016. Mr. Cross' application was scheduled to be reviewed by the Board at the September 12, 2016, Board meeting. A complaint arose out of Mr. Cross sending sexually explicit text messages to a female student. The review of Mr. Cross' reinstatement application was tabled to the October 3 Board meeting to allow time for Board staff to investigate the complaint. Mr. Cross did not attend the October 3 Board meeting or provide a response to the complaint. The matter was tabled to allow for proper notice to Mr. Cross. A special

meeting was scheduled on October 26, 2016, so the Board could vote on Mr. Cross' reinstatement before the end of the substantive review timeframe on October 28, 2016. Mr. Cross did not appear at the October 26 special meeting.

Mr. Baughman moved the Board enter executive session to obtain legal advice. Mr. Peterson seconded the motion. The motion passed 4-0. The Board left regular session at 9:10.

Upon returning to regular session at 9:24, Mr. Freas noted that he did not believe that A.R.S. § 32-4153(9)(a) & (b) applied because the female student who received text messages from Mr. Cross was not a patient.

Mr. Freas further noted the following possible violations:

- A.R.S. § 32-4153(10)
- National Athletic Trainers' Association (NATA) Code of Ethics Principle 4.1
- Board of Certification (BOC) Standards of Professional Practice Standard 1.6
- Arizona Board of Athletic Training Substantive Policy Statement AT.01-1.2, Level II
- Arizona Board of Athletic Training Substantive Policy Statement AT.01-1.2, Level III

Ms. Khan added the Board of Certification (BOC) Standards of Professional Practice, Standard 1.7 requires trainers or applicants to exercise reasonable care, skill, and judgment in all professional work.

Mr. Baughman moved the Board take a recess. Mr. Peterson seconded the motion. The motion passed 3-0. The Board began recess at 9:28 a.m.

The Board returned from recess at 9:30 a.m.

Mr. Freas asked if the other Board members saw anything other than the aforementioned ethical situations. Mr. Baughman added A.R.S. § 32-4151(B). Mr. Peterson stated he agreed with that violation also.

Mr. Peterson added A.R.S. § 32-4122(1) as a possible ethical violation. Mr. Baughman stated that Mr. Cross had not been convicted of a crime. Ms. Khan stated that all applicants are required to have good moral character as defined in the rules and statutes. Mr. Baughman asked if A.R.S. § 32-4122(1) applied to this situation. Ms. Khan stated that A.R.S. § 32-4122(1) applies to all applicants seeking licensure, as all applicants are required to have good moral character.

Ms. Khan stated that since the Board is expressing concerns about Mr. Cross practicing with minors, the Board needs to articulate specific reasons as to why it believes Mr. Cross should be prohibited from working with minors.

Ms. Whiteford then provided the Board with the following examples of text messages that Mr. Cross sent to a female student. The following text messages were stated:

- Sexually explicit meme involving animals (sent on 4/29/16)
- "How would you like to tame my elephant." (sent on 4/30/16 at 1:16 a.m.)
- Uses the word "pussy" on 5/4/16

Ms. Whiteford said that the remaining examples appear to be after the student graduated.

Mr. Baughman stated that his conduct shows a lack of good moral character and that he found 23 sexually oriented text messages sent to a female student. The 23 text messages Mr. Baughman expressed concern about were in addition to the text messages discussed by Ms. Whiteford.

Mr. Freas asked Ms. Khan if the Board has the authority to deny his license based on A.R.S. § 32-4153(10). Ms. Khan confirmed that if the Board found that Mr. Cross failed to adhere to the recognized standards and ethics of the athletic training profession as defined in BOC Standards of Professional Practice, they could vote to deny his license reinstatement.

Mr. Peterson asked if the denial would be reported to the BOC. Ms. Whiteford confirmed that it would be reported to the BOC and the National Practitioner Data Bank (NPDB).

Ms. Khan stated that if the Board had concerns about Mr. Cross working with minors, but otherwise wanted to grant him a license; the Board could restrict his license to prohibit him from working with minors by offering Mr. Cross a consent agreement.

Mr. Baughman asked if the Board could still look at civil penalties. Ms. Khan stated that monetary penalties do not apply because Mr. Cross is not currently licensed. Ms. Khan stated that the Board's options are to grant the license, deny the license, or grant the license with a stipulated consent agreement to prohibit him from working with minors.

Mr. Freas stated that he is not comfortable reinstating Mr. Cross' license based upon the text messages he sent to a female student and has concerns about Mr. Cross working with minors.

Ms. Fadeley stated that Mr. Cross has not shown interest in the process and failed to attend the meetings despite being noticed. She also questioned whether the student was a patient at some point. Ms. Whiteford stated that she attempted to find out by sending an email to the school, but did not receive a response. Ms. Fadeley asked if this impacted the student/teacher relationship within the school. Ms. Khan stated that the high school has jurisdiction to determine possible education or employment violations. Ms. Whiteford stated that the situation would have to be taken to the Board of Education by the school. Ms. Fadeley expressed concern about this situation and questioned whether the Board should grant a license with a practice restriction as she believed Mr. Cross should not practice with minors or adults. Mr. Freas agreed with Ms. Fadeley's comments.

Mr. Freas expressed concerns that future patients could find out about the complaint and would have issue with the Board granting a license to someone who is a possible threat to minors.

Mr. Peterson moved the Board deny the reinstatement of Mr. Cross' application based on A.R.S. § 32-4153(10). Ms. Fadeley seconded the motion.

Ms. Khan presented other statutes and rules that could be added if the Board chose to do so. Those statutes were A.R.S. § 32-4122(1), A.R.S. § 32-4153(10), A.A.C. R4-49-403, A.A.C. R4-49-404, Standards of Professional Practice implemented by the Board of Certification on January 1, 2006.

Mr. Baughman added A.R.S. § 32-4151(B).

Mr. Peterson added the Code of Ethics published by the National Athletic Trainers' Association on September 28, 2005.

Mr. Peterson accepted the additions. Ms. Fadeley accept the additions.

Mr. Peterson amended his motion to include A.R.S. § 32-4153(10), A.R.S. § 32-4122(1), A.A.C. R4-49-403, A.A.C. R4-49-404. Ms. Fadeley seconded the motion. The motion passed by roll call vote.

Vote	Mr. Freas	Mr. Peterson	Mr. Baughman	Ms. Fadeley
Aye	X	X	X	X
Nay				
Recused				

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Abstained				
Absent				

Mr. Freas asked if Mr. Cross would have the opportunity to appeal. Ms. Khan stated that he would have an opportunity to appeal the Board's decision. The process would include a letter of denial, his request for a denial hearing, and an additional appeal depending on the outcomes.

4) CALL TO THE PUBLIC

No members of the public stepped forward to comment.

5) FUTURE AGENDA ITEMS

No future agenda items were added.

6) ADJOURNMENT

Mr. Peterson moved the Board adjourn the meeting. Ms. Fadeley seconded the motion. The motion passed 4-0. The Board meeting adjourned at 9:54 a.m.

Respectfully Submitted,

Karen Whiteford
Executive Director