

COLORADO DOMESTIC VIOLENCE OFFENDER MANAGEMENT BOARD

MEETING MINUTES

August 12, 2022

Attendance:

Domestic Violence Board Members Present:

Andrea Bradbury, Bradley Burbach, Erin Gazelka, Jackie List, Jeanette Barich, Jennifer Parker, Jessica Fann, Karen Morgenthaler, Lori Griffith, Michelle Hunter, Nil Buckley, Raechel Alderete, Sandra Campanella, Stephanie Fritts, , Tracey Martinez

Domestic Violence Board Members Absent:

Nicole Collins, Tally Zuckerman

Staff Present:

Adrienne Corday, Caroleena Frane, Chris Lobanov-Rostovsky, Danielle Lewis, Jess McBrayer, Jesse Hansen, Rachael Collie, Taylor Redding, Yuanting Zhang

Guests:

Alana Rumley-Cook, Athanasius Ohaya, Carrie Smart, Chela Elliot, Eric Maxfield, Gail Prim, Jessica Lucus, Kaye Knaub, Melissa Blair, Marcela Paiz, Leslie Bisco, Peter Di Leo, Kristina Carrera, Russha Knauer

Introductions

The meeting convened online at 9:07 AM. Stephanie Fritts (Chair) introduced herself as the Chair and welcome the Board and guests. Board members, staff, and guests gave introductions. Jesse indicated to Stephanie that a quorum was present.

Stephanie asked if there was consensus to approve the August agenda.

There was consensus to approve August agenda.

Next, the Board reviewed the May minutes. Stephanie asked if there was a motion.

Jessica Fann (Board Member) moved to approve the May minutes. Raechel Alderete (Board Member) seconded the motion.

Michelle Hunter (Vice Chair) called attention to an error in the May minutes. The May minutes referenced Stephanie (Chair) name instead of Michelle's name. Jessica Fann and Raechel Alderete agreed to the amendment.

Jessica Fann moved to approve the May minutes as amended. Raechel Alderete seconded the motion.

Stephanie asked Jesse (Staff member) to prepare the vote. Jesse provided instruction on the new method for casting votes by Board members. The motion passed with nine votes to approve, zero votes to object, and five votes to abstain.

Responses		
	Percent	Count
Yes	64.3%	9
No	0.0%	0
Abstain	35.7%	5
Totals	100%	14

Next, the Board reviewed the July minutes. Stephanie asked if there was a motion.

Erin Gazelka (Board Member) moved to approve the July minutes. Karen Morgenthaler (Board Member) seconded the motion.

Jesse Hansen requested two minor amendments be made to the July minutes. He noted that the title of the document to state “Domestic Violence and Sex Offender Management Board (DVSOMB) and the minutes need to reflect the Domestic Violence Offender Management Board (DVOMB) Members who were absent at the July Board, as well as missing Board members who did attend the meeting. Stephanie asked Jesse to prepare the vote. It was also noted that there were other Board members as well as staff not listed on the document who were present. Erin and Karen agreed to the amendment.

Erin Gazelka moved to approve the July minutes as amended. Karen Morgenthaler seconded the motion.

The motion passed with thirteen votes to approve, zero votes to object, and two votes to abstain.

Responses		
	Percent	Count
Yes	72.7%	13
No	0.0%	0
Abstain	27.3%	2
Totals	100%	15

Announcements:

- Staff Announcements:
 - Jesse Hansen Announced:
 - The DVOMB has received three applications for the Rural Victim Advocate appointment to the Board. Jesse sought Board Members to volunteer to participate on the interview panel for this vacant position. Jessica Fann, Jackie List, and Andrea Bradbury (Board Member) volunteered.
 - Jesse announced the passing of Greg Schmidli who was a prominent DVOMB Approved Provider. A moment of silence was offered to recognize and honor Mr. Schmidli.
 - The November Board meeting is on the 11th, which is Veteran’s Day, a state holiday. He suggested the meeting be moved to November 4th. The Board agreed to this change.
 - Jesse thanked everyone for their involvement and support at the DVSOMB Conference.
 - Taylor Redding (Staff Member) Announced:
 - Conference Updates

- There were around 400 in-person attendees, and a total of 586 including virtual attendance.
- All but just a few sessions are posted to CVENT platform for viewing. The Conference sessions will be available to watch until the end of October.
- Training Events:
 - 2022 Training Calendar
 - DVI01 was held on August 9th and a make-up training to be scheduled sometime in November.
 - Lunch & Learn on the Section 9.0 Revisions – August 16th
 - DVI02 – September 19th
 - DVI03 – October 4th
 - [Training, Resources, Templates & Tips | Division of Criminal Justice \(colorado.gov\)](#)
- Carolina Frane (Staff Member) announced:
 - Modifications to the Section 9.0 revisions:
 - To become a Full Operating Level Approved Provider, the individual has to be a Certified Addiction Specialist (CAS) or have a mental health license.
 - Remove Sections 9.02, II, D and 9.03, II, D; both sections require a basic counseling skill training requirement. These are no longer needed since all CAS and all Master's level clinicians will have these training hours.
 - Nil Buckley (Board Member) asked if the Standards still require at least a CAS to apply? Caroleena responded that yes that person would qualify.
 - Nil Buckley asked further if the degree is in psychology would count and Caroleena indicated that they would still required registration with the Colorado Department of Regulatory Agencies first at the CAS level.

There was consensus by the Board to approve the modifications to Section 9.0 regarding Provider Qualifications.

- A recording of the implementation on Appendix I, regarding the teletherapy requirements is now available.
- The equivalency application is now completed and will be sent out this month. The deadline to submit is September 30, 2022.
- The Office of Information Technology is working on updating the Provider Database Management System (PDMS) with all of the changes from Section 9.0.
- Staff has begun utilizing the JotForm platform, to streamline the process of applications and other forms.

Board Announcements

- Stephanie Fritts announced:
 - The 17th Judicial District was awarded two million dollars in federal appropriations for high risk team. The team has been functioning since February.
- Sandy Campanella (Board Member) announced:
 - The specialized unit of the Domestic Violence, Acute Response Team (DVART) at the Boulder District Attorney's Office, received the National County Innovation Award.

Public Announcements

There were no public announcements.

Future Agenda Items

There were no future agenda items

Appeal Hearing: ARC Decision for Provider Reduction in Status¹

Stephanie provided an overview of the appeal process and requirements for the Board. She noted that a Provider can appeal based on a number of Application Review Committee (ARC) decisions including complaint findings and a change in status. Once the provider requests an appeal, the ARC provides all of the materials considered in the decision to the appellant as well as the Board for review.

The purpose of an Appeal is to allow the Provider due process and a reasonable opportunity to give the Board their perspective on the issues related to the appeal. The goal of the Board is to approve and list competent professionals who provide services in accordance with the *Standards*. The Board has empowered the ARC to make decisions based on its policies. The Board has oversight over ARC and serves as the appellant body for Appeals related to the decisions of the ARC. ARC members count towards the quorum but will abstain from the appeal vote. The DVOMB is a Type 2 Board and therefore appeal processes are subject to the Board's policies and procedure, and not the Administrative Procedures Act (APA).

The Board will only consider information specific to the findings outlined by the ARC in the finding letter regarding the modified disposition. The Appellant may bring one representative. This Appeal hearing will be one hour in length: 20 minutes for a verbal presentation by the appellant; 20 minutes for presentation by the ARC Chair; and 20 minutes for questions and discussion by the Board. There are no questions allowed by any party except the Board, and no one other than the appellant or their representative, and the ARC chair may speak during the hearing. We would request all audience members present refrain from speaking or posting anything online regarding the appeal. Applicable time periods may be modified upon request, by either the appellant or a DVOMB member, followed by a motion by a DVOMB member and a vote on the motion.

The DVOMB must vote on the modified disposition by the ARC regarding Mr. Ohaya. They must vote in one of the following three ways:

- Accept the decision of the ARC of reducing Mr. Ohaya to Entry (Associate Level) and the requirement of a Compliance Action Plan (CAP).
- Reject the decision of the ARC of reducing Mr. Ohaya to Entry (Associate Level) and the requirement of a Compliance Action Plan.
- Modify the decision of the ARC of reducing Mr. Ohaya to Entry (Associate Level) and the requirement of a Compliance Action Plan.

Stephanie reminded everyone of the confidentiality issues as this was an open meeting, and to use initials when referring to any client or mental health information.

The Board and staff members introduced themselves to the appellant, Mr. Ohaya. Stephanie then indicated that Mr. Ohaya and his representative have the first twenty minutes to make a statement to the Board.

Eric Maxfield, the attorney of Mr. Ohaya, introduced himself and Mr. Ohaya. Mr. Maxfield stated:

- Mr. Ohaya requests the Board modify the decision of the ARC of reducing Mr. Ohaya to Entry (Associate Level). Mr. Ohaya does not ask you to reject the decision, but simply to modify the requirement to go to Entry Level for a period of time, while undergoing a Compliance Action Plan (CAP), which is similar in substance to the monitoring stipulated by the Colorado Department of Regulatory Agencies (DORA) he is currently under. Mr. Ohaya asks the Board to not move him to Entry Level position and rather stay at the Full-Operating Level. Mr. Ohaya agrees to the CAP that it is consistent substantively with the DORA stipulation.
- Mr. Maxfield announced there is new information from Dr. Roe Leslie, who is Mr. Ohaya's approved monitor through DORA, that was not available to the ARC when it made its decision. This new information was not given to the ARC when they made their decision.

¹ Staff note that Jennifer Parker (Board Member) did not attend this portion of the agenda and exited the meeting to recuse herself. Jennifer left the meeting at 9:45AM and returned at 11:24AM.

- Mr. Maxfield, indicated that the new information is Dr. Leslie's monthly reports through July 2, 2022. He also indicated that there is a Memorandum of Understanding (MOU) that was signed by the DORA Division Director on June 15, 2021. The Memorandum of Understanding provides for robust communication and consultation between DVOMB, and the Mental Health Boards. The Mental Health Board came to have this complete through the DVOMB alerting them. The DVOMB was aware of the complaint, and DORA addressed that complaint first which was resolved mutually by the parties. Mr. Ohaya along with a representative of DORA signed a stipulation, where he agreed to a one-year term to be monitored in his practice. Mr. Ohaya is required to meet with Dr. Leslie once a month, however, he meets with him more often than what is required. He follows Dr. Leslie's direction on attending classes, and is assessed by Dr. Leslie.
- Mr. Maxfield called attention to the MOU with DORA to highlight that it is inexplicable, as a matter of fairness or law, for the Board to deviate in any significant way from the approach that DORA took on these same circumstances.
- Because of this new information from Dr. Leslie, Mr. Maxfield declared that Dr. Leslie assures that Mr. Ohaya is safe to practice.

Mr. Ohaya introduced himself and announced his history, education and professional background into his entry into the counseling profession and how he entered into domestic violence counseling. He acknowledged a time when he was grieved when he worked at Counseling of the Rockies. He announced that he would take classes and trainings to ensure that he kept up to date with the trends in the field. Mr. Ohaya explained the feelings he had and the experience he encountered with DORA.

Mr. Ohaya's time ran out and Mr. Maxfield requested five more minutes to close.

Raechel Alderete moved to give Mr. Ohaya five more minutes, Nil Buckley seconded the motion.

The motion passed unanimously with fourteen votes to approve, zero votes to object, and zero votes to abstain.

Responses		
	Percent	Count
Yes	100.0%	14
No	0.0%	0
Abstain	0.0%	0
Totals	100%	14

Mr. Maxfield, closed with bringing attention to the DORA stipulation, admission, and finding of fact that is boilerplate language that was cut and pasted from the statute. He also requested the Board to consider the information from the monitoring reports of Dr. Leslie; more specifically the report on July 2nd which reflects insight, improvement and learning that Dr. Leslie sees from Mr. Ohaya and that Dr. Leslie is focusing on the concerns raised by DORA. Dr. Leslie believes Mr. Ohaya is meeting Standard and that he is reflecting on those particular concerns of DORA.

The Chair indicated that Mr. Ohaya's time has concluded. The Chair then indicated that the ARC Chair, Karen Morgenthaler, had the next twenty minutes to present to the Board.

Karen Morgenthaler (ARC Chair) introduced herself and began her twenty minutes presentation of the ARC process, decisions and rationale. Karen stated the current members of ARC will be abstaining from today's vote but are available for comment and questions. Those members are:

1. Michelle Hunter - Representing Colorado Department of Corrections
2. Jennifer Parker - Representing Mental Health Professionals and DV Providers
3. Detective Sandra Campanella - Representing Law Enforcement
4. Erin Gazelka - Representing Mental Health Professionals and DV Providers

Previous ARC members appointed during the review of the complaint. These members will also be abstaining from this vote.

5. Lori Griffith - Judicial Representative
6. Nil Buckley - Representing Mental Health Professionals and DV Providers
7. Bob Segerstrom who is no longer a Board member.
8. Another Board member, Tracy Martinez, attended one of the meetings as part of the New Board Member Orientation where the complaint regarding Provider 368 was discussed. While Tracy did not vote during the ARC's review, she will not vote given that she was privy to ARC discussion on the matter.

During discussions of the complaint, one ARC member abstained due to potential conflicts and was not present for discussions and was not part of any ARC decision. That member is:

9. Jennifer Parker

The Board's Administrative Policies, located in Appendix D, outline the requirements and the process used by the ARC for matters pertaining to complaints, *Standards* Compliance Reviews, and appeals. To date, both the respondent, Mr. Ohaya, and the ARC have followed the DVOMB Administrative Policies.

Complaint Background (The complaint can be found in section 1 of the appeal folder)

A complaint was filed with the Colorado Department of Regulatory Agencies (DORA) against Mr. Ohaya on May 28, 2019 by DVOMB staff after the ARC received and reviewed a complaint against Mr. Ohaya. DORA opened a case (Number 2020-3022) that alleged numerous violations of DVOMB *Standards*. This case was referred for an investigation to be conducted by the DORA, Office of Investigations, and the report was provided to the ARC for review. This is a regular process that is part of the Memorandum of Agreement (MOA) between the DVOMB and DORA. The purpose of this review is to make recommendations as to whether there were violations of the DVOMB *Standards*. The ARC's review of this report of investigation occurred on April 8th, 2021.

ARC Review to DORA

The ARC responded to DORA indicating that, based on the available information, Mr. Ohaya violated the following *Standards*: 5.02(I)(II)(V), 5.04(I), 5.04(II)(C), 5.05(II)(C)(D), 5.05(VI)(A)(I), 5.05(VII)(A)(I), 5.05(VIII)(A)(I), 5.07(III), 7.05(I)(A)(C), 7.06(H)(II), and 8.01 and 10.06. These violations in this complaint can be summarized as:

1. Mr. Ohaya failed to individualize treatment by consistently rating client competencies as a three (3) independent of the individual circumstances and progression made by clients;
2. Mr. Ohaya failed to consult and document consensus with the Multidisciplinary Treatment Team (MTT);
3. Mr. Ohaya failed to adequately maintain client records as he was unable to produce various documentation requested by the DORA investigator.

The ARC found is that all client examples were identified as three. Providers commonly rate clients on a four or five-point scale where three means demonstration of competencies. He appeared to be consistently rating clients as having a sufficient level of competency no matter where the client was in treatment. Regardless of whether the client had started treatment or was discharging from treatment. Additionally, it was noted there was no communication with probation and therapists about the progress of clients.

On November 12, 2021, the State Board of Addiction Counselor Examiners issued a Stipulation that was agreed and signed by Mr. Ohaya, requiring him to be placed on a period of probation with a practice monitor through DORA. This disposition was based on evidence and the admission that Mr. Ohaya “*failed to adhere to Domestic Violence Offender Management Board (DVOMB) Standards and has falsified or repeatedly failed to make essential entries in client records.*” DORA program staff shared this disposition with the DVOMB staff in December and the Application Review Committee reviewed the DORA disposition and relevant materials at its meeting in January and February of 2022. In consideration of the disposition by DORA, the ARC also reviewed the prior founded complaints and *Standards* Compliance Reviews in consideration for its decision.

In 2013, Mr. Ohaya was subject to a Quality Assurance Review (QAR) by the ARC. The ARC determined that Mr. Ohaya was in violation of victim advocacy coordination, coordination with the criminal justice system, completed evaluations that were non-compliant with the *Standards*, and treatment plans and treatment plan reviews that were not compliant with the *Standards*. The ARC voted to deny continued placement on the Approved Provider List. In 2014, Mr. Ohaya successfully appealed this decision of the DVOMB ARC and the DVOMB instead offered Mr. Ohaya a 12-month Compliance Action Plan (CAP) in lieu of being removed from the DVOMB Approved Provider List. The rationale for the DVOMB to modify the ARC’s decision was due to the fact that the ARC had not yet sought to remediate issues of non-compliance first. Mr. Ohaya completed the CAP and his status as a Full-Operating Level Approved Provider was reinstated.

In 2017, Mr. Ohaya submitted his renewal application whereby his Treatment Victim Advocate (TVA) indicated that she was not involved in the MTT decision-making for treatment and supervision. This prompted a complaint to be filed with DORA (Case 2017-6284). During this time, Mr. Ohaya agreed to another CAP (See CAP dated 8.28.2017) offered by the Application Review Committee (ARC) to remediate issues regarding the inclusion of a TVA and to establish practices that allowed for the ongoing communication with MTT members. Mr. Ohaya completed the CAP on August 28, 2018 which was around the time DORA issued a Letter of Admonition for Case 2017-6284. Because it was determined at the time that Mr. Ohaya had remediated the issues founded in the LOA, the ARC did not require anything further from him and his status as a Full-Operating Level Approved Provider was retained.

In regards to the *Standards* violated in the complaint number 2020-3022, the Report of Investigation (ROI) conducted by DORA notes several important points not indicated in the Stipulated Letter of Admonition. In case you do not specifically recall the details from the ROI, I would call your attention to pages 4, 7, 8, and 9. In these pages, the ROI reports instances where Mr. Ohaya’s assessment of competencies was contra-indicated by clinical indicators and also notes that Mr. Ohaya failed to consult and document consensus with the Multidisciplinary Treatment Team, both violations of the *Standards*.

ARC Findings and Disposition

The ARC voted on February 10, 2022 to remove Mr. Ohaya from the DVOMB Approved Provider List and emailed him a formal letter on February 16, 2022 indicating that his name would be removed from the Approved Provider List effective March 21, 2022.

ARC Rationale

The culmination of the findings from the Report of Investigation and prior cases of non-compliance was of significant concern to the ARC. They noted that there appears to be a pattern of non-compliance with Mr. Ohaya despite opportunities to remediate. The ARC further questioned the extent to which Mr. Ohaya’s lack of adherence to the DVOMB *Standards* and Guidelines was a result of training or practice related issues and moreso a choice to violate the *Standards* and Guidelines willfully. The rationale of the ARC noted that the repeated demonstration of non-compliance with the *Standards*, along with the falsification of records, are serious and

egregious circumstances that jeopardize victim safety and the services to clients. Additionally, the ARC determined in its original disposition that these violations were not appropriate for remediation due to potential danger to clients referred to domestic violence offender services. It is for these reasons the ARC voted to remove Mr. Ohaya.

Request for Reconsideration

The DVOMB Administrative Policies grant Approved Providers the option to request reconsideration by the ARC when they disagree with a decision of the ARC. To do so, they must meet the following criteria:

1. The documentation relied upon by the ARC was in error;
2. There is new documentation relevant to the decision of the ARC was not available at the time for consideration;
3. The ARC lacked sufficient grounds to support the decision made;
4. The ARC failed to follow the DVOMB Administrative Policies.

After an extension was offered to Mr. Ohaya, his legal counsel submitted a request for reconsideration on behalf of Mr. Ohaya on March 21st, 2022 seeking a request for reconsideration. This request asserted the following:

“Mr. Ohaya asks [sic] the ARC to reject or modify the original decision. In support of this request, Mr. Ohaya relies on two grounds from the DVOMB’s Administrative Policies: First, the documentation relied upon by the ARC was in error, and second, the ARC lacked sufficient grounds to support the decision made. Each of these grounds provides an independent and separate basis to reject the original decision or to modify it.”

ARC Request for Reconsideration

The ARC reviewed this request for reconsideration on April 7th, 2022 and considered the arguments and materials submitted.

Karen referred to Danielle Lewis, the Office of the Attorney General representing the Board, to provide further context of the factors considered by the ARC when reviewing the reconsideration. Danielle Lewis stated that she was present at the meeting in April 2022 as part of the ARC’s process for requesting reconsideration. She also noted the ARC considered:

- The length of time between the investigation commencing in 2019 and the decision being made in 2022.
- The fact that DORA did come to a different resolution with Mr. Ohaya in that the ARC was recommending delisting and DORA concluded that probation and the practice monitor was appropriate.
- The ARC considered the fact that the ARC did approve Mr. Ohaya’s reapplication materials in 2021 despite the fact that the investigation was ongoing.

Danielle Lewis referred back to Karen. Karen continued with her statement noting that the ARC then deliberated over the circumstances of the request for reconsideration against the need to ensure services are delivered in a way that will not harm clients or jeopardize the safety of victims. The ARC contemplated the length of time this complaint took to process. She stated that this was not due to any error on the part of the ARC, but due to the requirement that ARC has to rely on the investigation and disposition by DORA. That is the ARC cannot decide until DORA has rendered a decision first. Despite this fact, the ARC did see how this would be a detriment to Mr. Ohaya. The ARC assessed what impact there would be if Mr. Ohaya were to remain on the Approved Provider List and how that could be done safely. The ARC also contemplated the reputational harm for the DVOMB if no consequence is administered for repeated compliance issues. The ARC considered the practice monitor currently supervising Mr. Ohaya. Lastly, the ARC considered the impact COVID-19 may have had during this time and the continued need for Providers. Based on the totality of these considerations, the ARC decided on the following.

ARC Modified Disposition

The ARC chose to modify its disposition to remove Mr. Ohaya and instead chose to:

1. Keep Mr. Ohaya's name on the DVOMB Approved Provider List and reduce his status to Entry Level;
2. Require Mr. Ohaya to complete a Compliance Action Plan (CAP) for a minimum of 12-months under the supervision of a Domestic Violence Clinical Supervisor chosen by the ARC and to complete the CAP requirements identified further in the letter dated April 12, 2022. The CAP requirements seek to specifically address the founded violations identified in the complaint.
3. Stipulate that Mr. Ohaya is not eligible to apply for Full-Operating Level until May 13, 2026.

ARC Rationale

Full Operating Level Approved Providers are not required to have ongoing supervision. Upon completion of the CAP, there was concern that Mr. Ohaya would regress. Karen noted that the supervision he is receiving right now by his practice monitor through DORA is not a DVOMB Approved Provider. The DVOMB has a statutory responsibility to ensure that the Provider has remediated issues and will follow them. In the history of the DVOMB, no other provider has been subject to three CAPs. Of the most concern is that Full-Operating Level providers may co-facilitate with Trainees who are new to this field and seeking approval by the Board. There was concern that his status would allow for him to train others during co-facilitation, for which the ARC determined he is not appropriate to do so at this time. The DVOMB contemplated the reputational harm of this and that a non-sanction may result in stakeholders losing faith in the DVOMB's ability to address ongoing issues of compliance.

Appeal

The DVOMB Administrative Policies grant Approved Providers the option to appeal the decision of the ARC after the process for requesting reconsideration. To do so, they must meet the following criteria:

1. The documentation relied upon by the ARC was in error;
2. There is new documentation relevant to the decision of the ARC was not available at the time for consideration;
3. The ARC lacked sufficient grounds to support the decision made;
4. The ARC failed to follow the DVOMB Administrative Policies.

On Friday May 13th, 2022, an appeal was filed for Mr. Ohaya by his legal counsel. This request asserted the following:

"Mr. Ohaya agrees to the CAP to the extent [sic] it is substantively equivalent to the DORA stipulation, but does not agree that the status downgrade to Entry Level is justified. Standing alone, the CAP and its detailed requirements are consistent with the DORA stipulation and provide for ample public protection by ensuring both supervision and monitoring. Therefore, the DVOMB should modify the ARC disposition, retaining the CAP but eliminating the downgrade from Full Operating Level."

Recommendations:

The ARC has reviewed these materials and disagrees with the arguments seeking relief from the decision to reduce Mr. Ohaya from Full-Operating Level to Entry Level. Mr. Ohaya has admitted to violating the *Standards* and has a history of failing to demonstrate that his ability to comply with the *Standards* will continue following the completion of a CAP. As a result, the ARC determined that should Mr. Ohaya remain on the Approved Provider List, he needs ongoing supervision from a Domestic Violence Clinical Supervision (DVCS) which is required at the Entry Level status.

Generally speaking, the practice of the ARC is to seek to remediate issues first when circumstances warrant. The circumstances here involving a pattern of compliance issues elevates the burden of considering client harm

and victim safety. There is no requirement for the decision of DVOMB to be consistent with that of the decision of DORA. This is codified in Colorado Revised Statute 18-6-103(4)(a)(III)(D) which states:

“Notwithstanding any action taken by the department of regulatory agencies against a treatment provider, the board may take action against a treatment provider including, but not limited to, removing a treatment provider from the approved provider list. The board may determine the requirements for a treatment provider’s name to be placed on the list after his or her name has been removed from the list pursuant to this subsection (4)(a)(III).”

ARC recommends the Board uphold the findings of ARC and the modified disposition to:

1. Keep Mr. Ohaya’s name on the DVOMB Approved Provider List and reduce his status to Entry Level;
2. Require Mr. Ohaya to complete a Compliance Action Plan (CAP) for a minimum of 12-months under the supervision of a Domestic Violence Clinical Supervisor chosen by the ARC and to complete the CAP requirements identified further in the letter dated April 12, 2022. The CAP requirements seek to specifically address the founded violations identified in the complaint.
3. Stipulate that Mr. Ohaya is not eligible to apply for Full-Operating Level until May 13, 2026.

ARC Rational:

Full Operating Level Approved Providers are not required to have supervision upon completion of the CAP. There was concerns that Mr. Ohaya would regress without supervision. He is currently receiving supervision by his practice monitor through DORA. However, Dr. Leslie is not a DVOMB Approved Provider. The Statutory responsibility to ensure the Provider has remediate issues and follow them. In the history of the DVOMB, no other provider has been subject to three CAPs. The highest concern is that Full Operating Level Providers may co-facilitate with trainees who are new to the field and seeking approval by the DVOMB. The ARC determined he is not appropriate to do so at this time. The DVOMB contemplated the reputational harm of this, and that no sanction may result in stakeholders losing faith in the DVOMB’s ability to address ongoing issues of compliance.

The DVOMB’s Administrative Policies grant Approved Providers the option to appeal. The decision of the ARC after the process for requesting reconsideration, to do so, they must meet the following criteria:

1. The documentation relied upon by the ARC was an error.
2. There is new documentation relevant to the decision of the ARC was not available at the time of a consideration.

Karen Morgenthaler’s time expired. She requested five more minutes to close.

Raechel Alderete moved to give Karen Morgenthaler five more minutes, Andrea Bradbury seconded the motion.

The motion passed unanimously with fourteen votes to approve, zero votes to object, and zero votes to abstain.

Responses		
	Percent	Count
Yes	100.0%	14
No	0.0%	0
Abstain	0.0%	0
Totals	100%	14

Karen continued with the rational:

3. The ARC laced sufficient grounds to support the decision made.
4. The ARC failed to follow the Administrative Policies.

On Friday May 13, 2022 an appeal was filed by Mr. Ohaya by his counsel. The request stated the following; Mr. Ohaya agrees to the CAP to the extent it is substantially the equivalent to the DORA's stipulation. But Mr. Ohaya does not agree to the status downgrade to Entry Level justified. Standing alone the CAP and its detailed requirements are consistent with the DORA's stipulation and provide for ample public protection by ensuring both supervision and monitoring. Therefore, Mr. Ohaya is asking the DVOMB to modify the ARC disposition retaining the CAP and eliminating the downgrade from Full Operating Level.

Recommendations

The ARC has reviewed these materials and disagrees with the arguments seeking relief from the decision to reduce Mr. Ohaya from Full-Operating Level to Entry Level. Mr. Ohaya has admitted to violating the *Standards* and has a history of failing to demonstrate that his ability to comply with the *Standards* will continue following the completion of the CAP. As a result of the ARC determined that should Mr. Ohaya remain on the Approved Provider list, he needs ongoing supervision from a Domestic Violence Clinical Supervisor (DVCS), which required at the Entry Level status.

Generally speaking the practice of the ARC is to seek remediate issues first when the circumstances warrant. The circumstances here involving a pattern of compliance issues, elevates the burden of considering client harm and victim safety. There is no requirement for the decision of the DVOMB to be consistent with that of the decision of DORA this is codified in the Colorado revised statute 16-11.8-103(4)(a)(III)(D) which states:

“Notwithstanding any action taken by the department of regulatory agencies against a treatment provider, the board may take action against a treatment provider including, but not limited to, removing a treatment provider from the approved provider list. The board may determine the requirements for a treatment provider's name to be placed on the list after his or her name has been removed from the list pursuant to this subsection (4)(a)(III).”

ARC recommends the Board to:

1. Uphold the findings of the ARC and the modified disposition to keep Mr. Ohaya's name on the Approved Provider list and reduce his status to Entry Level.
2. Require Mr. Ohaya to complete a Compliance Action Plan for a minimum of 12 months under the supervision of a Domestic Violence Clinical Supervisor chosen by the ARC and to complete the CAP requirements identified further in the letter dated April 12, 2022. The CAP requirements seek to specifically address the founded violations identified in the complaint.
3. Stipulate that Mr. Ohaya is not eligible to apply for Full Operating Level Until May 13, 2026.

Discussion and Questions by the Board:

- Raechel Alderete asked if Dr. Leslie is an Approved DVOMB Clinical Supervisor?
 - Mr. Ohaya indicated no, Dr. Leslie is not an Approved DVOMB Clinical Supervisor. However, he still utilizes an Approved DVOMB Clinical Supervisor since his last CAP and they meet every month.
- Raechel Alderete asked has supervision agreement with Peter Di Leo then been submitted to the staff for approval?
 - Staff indicated that the Board appointed supervisor of Mr. Di Leo occurred with the CAP in 2017. Since then, Mr. Ohaya completed his CAP and it appears he has kept Mr. Di Leo on his own volition and is not a requirement at this point because the decision of the ARC is being appealed.
- Stephanie Fritts asked for clarity on the timeline of the complaints.

- Staff indicated that there was a complaint launched in 2017 as a result of that complaint Mr. Ohaya underwent a *Standards Compliance Review* and received a CAP. He completed that CAP in 2018. This was a new complaint subsequent to that, which originated in 2019.
- Jeanette Barich (Board Member) offered a written statement for the Board.
 - “I believe the presenting issues are due mainly to incomplete records. We have components of a file or record, which, may or may not have been selectively chosen, and limited, or no access to the file, in its entirety. When it comes down to Mr. Ohaya supplying the records, it is like asking an ER doctor for your medical records from two years prior. While Standard 10.06 indicates that it is the responsibility of the provider to maintain records this is not standard practice for individual providers who work with or at an agency. I do not even know if it is legal to do so and have concerns with regards to this practice opening both the providers and treatment agencies up for additional liability concerns, particularly with regards to the transfer of medical records and possible HIPAA violations. I believe that this case offers the DVOMB and the various committees’ additional opportunities for growth and demonstrates the need for more work to be done. Work could entail reviewing the legality and viability of Section 10.06, DVOMB Approved Providers liability regarding contract work versus employment at a treatment agency, reviewing the checks and balances of the MTT process and do others have culpability in this process if they are being asked to be part of it, the number, or types of CAPs one can receive in a time bound constraint and many additional questions and concerns this case brought up for me. While Mr. Ohaya has had two previous CAPs, he has successfully completed and complied with all of the requirements. It does not appear to be a pattern of behavior. He demonstrates insight and knowledge of the *Standards* in his response to the complaint, his timely filing of documents, his personalized statements in the monthly report and more. DORA, in response to submission of a formal complaint by the DVOMB is requiring Mr. Ohaya to adhere to a Compliance Action Plan (CAP) of a practice monitor. The Department of Regulatory Agencies/Addictions Board, which deals with a “disadvantaged and vulnerable population” and who also takes public safety very seriously, voted that a practice monitor was a sufficient measure for the said complaint(s). I do not feel a DVOMB approval status, should be more restrictive or punitive than the licensure boards of the State of Colorado, Department of Regulatory Agencies. With that said and the limited information provided, I am in partial agreement with the ARC response to Mr. Ohaya indiscriminately scoring offender competencies.”
- Nil Buckley asked Mr. Ohaya how many groups he has had over the past 12 months and how many individuals were in the group?
 - Mr. Ohaya, stated he has three domestic violence groups a week, one group being a female group, he has nine males on Wednesday, and nine males on Saturday.
- Nil Buckley asked Mr. Ohaya what his case load is outside of providing Domestic Violence Offender Treatment.
 - Mr. Ohaya indicated that he has DUI groups, Level 2 (two) education group, Level 2 (two) therapy group, a Cognitive-Behavioral Therapy (CBT) group that meets once a week, and an anger management group.
- Nil Buckley asked Mr. Ohaya if the individuals in his other groups are second contacts or if they are also doing domestic violence treatment with Mr. Ohaya?
 - Mr. Ohaya responded indicating that the CBT group it is their second clinical [contact].
- Erin Gazelka offered a response to Jeanette’s comments regarding incomplete records. She noted, yes, the ARC never has access to the full record and it is the nature of evidence in court and as in this proceeding. She cautioned the Board from looking at things through the lens that we should not act because we don’t know everything. She also noted that she takes very seriously Jeanette’s comment regarding the notion that a consequence should only be pursued if it is clear.
- Raechel Alderete asked Mr. Ohaya if he was paying for the supervision fees for Mr. De Lio.
 - Mr. Ohaya stated that he does.
- Andrea Bradbury inquired if the time it took this complaint is normal since it was submitted in 2019.

- Jesse Hansen responded indicating that the DVOMB and DORA have a Memorandum of Understanding regarding the processing of complaints. He indicated that the DVOMB does not possess the authority to pursue complaints on its own and must use DORA to conduct investigations. He noted there was a period of a few months where DORA did not open the case which required the DVOMB staff to follow-up. He stated that once a complaint is opened, an investigation can be conducted by DORA and it is normal for these cases to take 12 to 36 months to process.
- Jessica Fann asked if there was an option with DORA to allow for one's status to be reduced?
 - Tracey Martinez responded that there was an option for negation prior to the stipulation being signed.
 - Jessica clarified her question and indicated that she was trying to compare the ARC's decision with the measure taken by DORA?
- Michelle noted that the Full-Operating Level status does not require supervision, so should Mr. Ohaya complete the CAP, there would be no requirement for ongoing supervision from an approved DVCS.
- Stephanie recognized that Eric Maxfield requested permission to address to Jessica's question. He indicated that it was his understanding that when a mental health board makes a finding, they can revoke a license, they can restrict a license, and they can place conditions on a license. There is not an ability to change a license to a different license, but they can affect what a licensee may do.
- Caroleena offered further clarification on Jessica's question indicating that unlike the DVOMB, the mental health licenses do not have different levels. So there really would not be an option to reduce with DORA.

Stephanie asked if there was any further discussion by the Board. There was no further discussion and Stephanie concluded that portion of the hearing and asked if there was a motion.

Jeanette Barich made a motion to uphold the decision of the ARC with an option to modify the proposed sanction taken by the ARC.

Stephanie asked if the motion needed to explicitly state what modifications were being voted upon. Danielle Lewis indicated that the specifics of the modifications needed to be known by the Board so that it was clear what Board members were voting upon.

Jeanette Barich clarified her motion to uphold the decision of the ARC and modify the proposed Administrative Actions taken by the ARC to include considerations of the CAP requiring a DVCS and for the ARC do discuss co-facilitation or lack thereof, the ability to cofacilitate, or supervise as a Full-Operating Provider while under his CAP.

The Chair sought to clarify this motion. Staff clarified the requirements of a CAP. The discussion clarified the motion to the following.

Jeanette Barich moved to modify the decision of the ARC to uphold the CAP as required and to reject the reduction to Entry Level. There was no second on the motion.

The motion failed without a second.

Jessica Fann moved to uphold the decision of the ARC, Jackie List seconded the motion.

Discussion:

Erin Gazelka reiterated that supervision was a key factor regarding the ARC's decision. There was no further discussion.

Stephanie asked Jesse to prepare the vote. The motion passed with four votes to approve, two votes to object, and eight votes to abstain.

Responses		
	Percent	Count
Yes	28.6%	4
No	14.3%	2
Abstain	57.1%	8
Totals	100%	14

Jesse indicated to Mr. Ohaya and Mr. Maxfield that he would be sending a letter regarding the decision of the Board.

Break

No business was conducted during this time.

Revised Definition for Domestic Violence in the Standards:

Stephanie referred this item to Erin. Erin addressed the Board stating that the *Standards* Revision Committee brought this item before the Board for review and discussion. As the Committee was working on revisions to the Core Competencies, it became clear that a more expansive definition for domestic violence was needed for purposes of the *Standards*. This definition is not intended to replace the criminal legal definition, but instead serve as a more comprehensive clinical definition that is not limited by statute.

Erin Gazelka, the Chair of the *Standards* Revisions Committee, stated that the committee would like to expand the definitions of domestic violence for the purpose of facilitating improved treatment services and being able to hold clients accountable for behavior that isn't criminal, but would fall within the use of violence and abuse.

Discussion:

Stephanie Fritts mentioned that the legal definition for purposes of the criminal statute is limited and does not encompass the full range of domestic violence behaviors.

There was consensus for the Standards Revision Committee to continue working on a revised definition of domestic violence.

Post-Sentence Offender Evaluation and Section 4.0 Requirements:

Stephanie referred this item to Erin. Erin addressed the Board stating that Section 4.0 currently delineates between pre-sentence and post-sentence evaluations. However, these types of evaluations are essentially the same thing. This means that both require full forensic evaluations with the same requirements. Although the *Standards* do not require length, the sheer number of requirements make these evaluations very labor intensive, producing a very lengthy document. She argued that the full forensic evaluation is necessary at the pre-sentence stage, but not at the post-sentence stage of a case.

Erin suggested that a briefer document could sufficiently place an offender in treatment with still intensive assessments and reduce the workload, and thus burnout for Domestic Violence service providers. She also noted that doing full forensic evaluation reports is possibly beyond the scope of some DVOMB Approved Providers.

Some DVOMB Approved Providers have expressed confusion about whether the evaluation summary satisfies the requirements in Section 4.0, whereas other Provider have not necessarily backed them up with full evaluation reports. The length of time these evaluations take exceeds the monetary value and the market rate for these evaluations and it is significantly different than pre-sentence evaluations for the court on the SOMB side. Many providers are working with probationers with misdemeanors, and supervising agents are already resistant to the meager \$100-150 market rate on these evaluations for misdemeanants.

Erin noted that the evaluation process appears to be contributing to burnout amongst current Approved Providers. Further, she indicated that the burdens of the evaluation is making it difficult to recruit people into this field generally.

Erin described that the conversation with the ARC about proposing revisions to Section 4.0. The ARC discussed different approaches to separate the presentence and post-sentence evaluation processes to be more reflective of their purposes. This discussion included the need for a short-term approach to provide some relief to the Approved Providers currently doing these evaluations.

The second piece of this conversation was what body would assume this work should the Board find it necessary to explore. There was a suggestion for possibly asking the ARC to form a subworking group to start the work for the short-term approach.

Board Discussion:

- Nil Buckley echoed the comments made by Erin regarding the stress of completing the evaluations.
- Jeanette Barich feels that it is time consuming and does not think that there needs to be so much thoroughness with offender evaluations. She indicated that the treatment plan is truly what guides the time and type of treatment.
- Lori Griffith empathized with the kind of resources, the time that is involved, and the lack of funding for doing the domestic violence evaluations.
-

Public Comment:

- Carrie Smart shared her concern that judges do not have to follow the *Standards* and probation has to be very careful to make sure that clients can participate in domestic violence treatment according to the *Standards* and getting them into treatment as quickly as possible.
- Peter Di Leo supports all that has been said and believes this is a great opportunity to make these changes.
- Alana Rumley-Cook thinks that evaluations are really important, and acknowledges that the Domestic Violence Evaluations are so expensive, and think that it is important to look at the contracts between both sides.

There was consensus to explore revisions on Section 4.0.

Erin Gazelka suggested this be a sub-committee of the ARC.

There was consensus to form a sub-committee to explore possible revisions to Section 4.0.

Legislative Review and DVOMB Annual Legislative Report:

Joel Malecka spoke about the legislative session and provide some context to the interests sought by the bill sponsors for the DVOMB reauthorization bill. Jesse shared the plan for authoring and producing the legislative report which is due by January 31st, 2023. Jesse indicated that there is an opportunity to highlight policy issues for the legislature to be aware of. Jesse stated that there will be time on the September agenda for a more robust conversation about what policy issues should be highlighted as part of the first report.

Adjourn

The meeting adjourned at 12:45AM

Respectfully submitted by,
Adrienne Corday

Approved



Voting Legend
 1 = Yes
 2 = No
 3 = Abstain
 NP = Not Present at the Time of Vote

Individual Voting Results

Active Participants	Total Participants						
15	15						
Last Name	First Name	Motion 1	Motion 2	Motion 3	Motion 4	Motion 5	Motion 6
Bradbury	Andrea	1	1	1	1		1
Burback	Bradley	3	1	1	1		3
Gazelka	Erin	3	1	1	1		3
List	Jackie	3	1	1	1		1
Barich	Jeanette	1	1	1	1		2
Parker	Jennifer	1	1	NP	NP	NP	NP
Fann	Jessica	1	1	1	1		1
Morgenthaler	Karen	1	1	1	1		3
Griffith	Lori	1	1	1	1		3
Tracey	Martinez	1	1	1	1		3
Hunter	Michelle	1	3	1	1		3
Collins	Nicole	NP	NP	NP	NP	NP	NP
Buckley	Nil	NP	1	1	1		3
Alderete	Raechel	1	1	1	1		2
Campanella	Sandra	3	1	1	1		3
Fritts	Stephanie	3	3	1	1		1
Zuckerman	Tally	NP	NP	NP	NP	NP	NP

Motion 1: Jessica Fann moved to approve the May minutes as amended. Raechel Alderete seconded the motion.
 Motion 2: Erin Gazelka moved to approve the July minutes as amended. Karen Morgenthaler seconded the motion.
 Motion 3: Raechel Alderete moved to give Mr. Ohaya five more minutes, Nil Buckley seconded the motion.
 Motion 4: Raechel Alderete moved to give Karen Morgenthaler five more minutes, Andrea Bradbury seconded the motion.
 Motion 5: Jeanette Barich moved to modify the decision of the ARC to uphold the CAP as required and reject the reduction to Entry Level. There was no second on the motion. There was no second on the motion.
 Motion 6: Jessica Fan moved to uphold the decision of the ARC, Jackie List seconded the motion.