

**PUBLIC NOTICE OF A MEETING FOR
STATE OF NEVADA BOARD OF PSYCHOLOGICAL EXAMINDERS**

MEETING MINUTES

March 8, 2024

1. Call to Order/Roll Call to Determine the Presence of a Quorum.

The meeting of the Nevada State Board of Psychological Examiners was called to order by President Whitney Owens, Psy.D., at 8:02 a.m. on March 8, 2024, online via "Zoom" and physically at the office of the Board of Psychological Examiners, 4600 Kietzke Lane, Ste. B-116, Reno, Nevada 89502.

Roll Call: Board President, Whitney Owens, Psy.D.; members, Lorraine Benuto, Ph.D.; Stephanie Holland, Psy.D.; Catherine Pearson, Ph.D.; Stephanie Woodard, Ph.D. were present at roll call. Monique Abarca, LCSW and Soseh Esmaeili, Ph.D., were absent. Despite the two-member absence at roll call, there was a quorum of the Board members.

Also present were Deputy Attorney General (DAG) Harry Ward; Board Investigators Dr. Gary Lenkeit and Dr. Sheila Young; Executive Director Laura Arnold; Administrative Director Sarah Restori; members of the public: Dr. Teri Belmont, Yvonne Fritz, Kevin Austin Gardner, Donald Hoier, Brian Joseph, Dr. Brian Lech, Sabrina Schnur, and Brent Vogel.

2. Public Comment - Note: Public comment is welcomed by the Board and may be limited to three minutes per person at the discretion of the Board President. Public comment will be allowed at the beginning and end of the meeting, as noted on the agenda. The Board President may allow additional time to be given a speaker as time allows and in their sole discretion. Comments will not be restricted based on viewpoint. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken (NRS 241.020).

President Dr. Owens reminded those who participate in public comment that they are limited to three minutes per person, and the public comment is reserved for comment only. It will not be used as a platform for questions and answers. If members of the public have a statement that is longer than three minutes, she asked that they please submit a statement in writing and the Board will include it in the written materials that

are posted. If the public has questions for which they would like answers, she asked that they please email the Board office at nbop@govmail.state.nv.us.

There was no public comment at this time.

3. (For Possible Action) Public Hearing to Solicit Comments on a Regulation (Legislative Counsel Bureau File Number R095-23) Proposed for Adoption; Possible Action to Make Revisions to and/or Forward any/all the Proposed Regulation to the Legislative Counsel Bureau In Accordance with NRS Chapter 233B. (See Attached Public Notice for Information on the Draft Regulation)

Dr. Owens began by stating during its October 13, 2023, meeting, the Board conducted a workshop to respond to AB244 by adding definitions for psychological examinations, testing, and evaluation, and a provision to NAC 641.234 regarding the disclosure of psychological test material. She went on to state they also revised NAC 641.136 to comply with AB 267, which revised NRS 641.220 by increasing cultural competency CE instruction from 2 hours to 6 hours as passed in the 2023 legislative session.

Dr. Owens went on to state, as a reminder, AB244 was the 2023 Legislative Session bill that establishes certain rights of a person compelled to submit to a mental or physical examination under certain circumstances. Because that legislation violates ethics codes for licensed Psychologists and creates risks to public safety, the Board provided a public statement in response to it, which can be found on the Board's website.

The Legislative Counsel Bureau (LCB) has provided a draft of the proposed regulation changes in LCB file number R095-23.

The LCB made revisions to the proposed definitions and the revisions to NAC 641.234 that the Board approved during its October 13, 2023, Workshop, and those LCB revisions have been forwarded to Dr. Lenkeit, who was the primary drafter of the proposed regulations, for his consideration and for purposes of any further discussion. A comparison of what the Board approved and what the LCB drafted are provided in the Staff Report for this agenda item and were forwarded to Dr. Lenkeit in advance of today's meeting.

Dr. Owens opened the Hearing to public comment on LCB File No. R095-23.

Dr. Brian Lech shared his public comment regarding AB244. He stated, when the regulation makes the distinction between test material and test data, it kind of refers to a standard. He stated his concern is that when people read the regulation, they might think that it's the test data cannot be released. He hopes they can make that clearer in the regulation as opposed to referring someone to the standard, and make that distinction.

Dr. Lenkeit addressed this comment by stating that it had originally said "a person in possession of psychological test material shall not disclose the material, etc.," and Dr. Lenkeit added "or psychological data". He stated, it should say "psychological test data" in each place rather than just "data." He went on to state that the APA Code of Ethics sections below makes that distinction. He stated that Dr. Lech is correct in that psychological testing data can be released under certain circumstances, but test material cannot. Dr. Lenkeit asked for suggestions on how to address this point.

Dr. Owens added that Dr. Lenkeit was asked to work on this regulation due to his expertise in testing and assessment and his familiarity with drafting regulations.

Dr. Owens opened the floor to public questions since the nature of this regulation affects all psychologists in Nevada.

Dr. Teri Belmont asked what they are thinking is the difference between test material and test data in terms of thinking about those test protocols that include test materials like the WAIS form?

Dr. Lenkeit answered Dr. Belmont's question by clarifying that test data is a subset of test material, but as soon as any test data goes into the realm of having part of the actual test on it, it is not releasable.

Dr. Thomas Kinsora shared his public comment. He stated his concern is that there's been a lot of confusion in the field of psychologists and particularly neuropsychologists not knowing what section 9.04 means. He states some believe the moment somebody writes a response on the sheet, the whole answer sheet becomes releasable test data. Because the majority of psychologists and neuropsychologists say if there's any information on the test form that that reveals protected test information, it can't be released and even the examinees answers can reveal the test questions. For example, someone can share what answers they chose on the MMPI to qualify for disability. He stated that he doesn't think psychologist in general understand what section 9.04 even means, because it's written horribly and there needs to be some protection or some warning to the psychologist that if you release a test form that has answers on it, you are possibly creating a problem with regard to test security.

Dr. Lech stated he would be concerned that a narrow reading of what test data is would fly against NRS 629 and what seems to be the legislative formula for having patients have access to their information. If test data is released, it should be without the test materials. His recommendation would be to state that test material is distinguished from test data.

Dr. Holland suggested adding the term "protected" material to alert psychologists to copyrighted material.

Dr. Belmont suggested being explicit in the language saying this section includes protocols. Protocols are defined as..., and once information is placed on protocols that contain protected test material, they become protected test material.

Dr. Owens suggested the possibility of creating a subcommittee to work on this language to address the potential holes that could create potential problems. Dr. Owens stated anyone can be on the subcommittee and would have to be noticed at the next Board meeting. Dr. Chapple-Love expressed interest in being on the subcommittee. Dr. Owens pointed out the process of a subcommittee to address this issue could take several months. Dr. Lenkeit expressed concern regarding the length of time that could take. He made the suggestion for psychologists to submit suggestions in writing and he could put something together and distribute the draft to the Board prior to the next Board meeting. To keep from delaying this issue, Dr. Owens suggested making as few changes as possible to get it good enough to not risk the LCB returning the draft again. Dr. Lenkeit agreed with this suggestion. Dr. Lenkeit requested that individuals send their recommendations for wording changes as soon as possible. These would be submitted to nbop@govmail.state.nv.us.

Dr. Owens opened discussion to the Board to consider whether to bring R095-23 back to the Board for a continued hearing during the April meeting to give Dr. Lenkeit the opportunity to receive comments from those interested and prepare revisions that lessen the risk of LCB sending the draft back again.

On motion by Stephanie Holland, second by Catherine Pearson, the Nevada Board of Psychological Examiners approved continuing the hearing of R095-23 to the Board's April 2024 meeting for further discussion and consideration. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

During public comment following the Board's motion, Dr. Belmont added the following comment. She asked if the paragraph referring to sections 9.04 and 9.11 of the ethics code is necessary to have in there or can we make our own definition in place of that section. Stating, this is what data means..., this is what material means..., this is what protocols are, and make that the definitional paragraph.

Dr. Kinsora added the following comment. He stated that he has concerns referring to a specific section because the APA Ethical Guidelines are going to change. There are supposed to be some new ones out, a lot of people have complained about section 9.04, which may not even exist, and 9.11 may completely change. He questioned if a new Ethical Guideline comes out, does one have to rewrite the whole section. The other concern he shared was thinking of any instance in which giving a client a raw test form

with all of their answers doesn't reveal information that could compromise test security, even if it's just "1s" and "2s" on the forms. He ended by stating we are at a risk of losing the tools of our trade.

Dr. Owens emphasized that those who want to provide input on R095-23 to forward their comments and feedback to the executive director as soon as possible so that she can forward them to Dr. Lenkeit, and noted that the goal is to get the legislative revisions as good as possible for now so that there are at least some protections in place with the idea that the Board can return to them in the future to make further revisions as may be necessary.

Dr. Owens closed the hearing on R095-23.

4. Minutes. (For Possible Action) Discussion and Possible Approval of the Minutes of the State of Nevada Board of Psychological Examiners' February 9, 2024, Meeting

On motion by Catherine Pearson, second by Stephanie Woodard, the Nevada Board of Psychological Examiners approved the minutes of the Board's meeting on February 9, 2024. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard. Dr. Lorraine Benuto approved the minutes as to form, but not content.) Motion Carried: 5-0.

5. Financials

- A. (For Possible Action) Discussion and Possible Action to Approve the Treasurer's Report for Fiscal Year 2024 (July 1, 2023, through June 30, 2024).

The Executive Director presented the Treasurer's report. As of February 29, 2024, the checking account balance was \$289,324.45. The Board continues to operate on the nearly \$161,500.00 in net revenue from the first and second biennium quarter deferred income distributions, and the nearly \$52,500.00 from other deferred revenue distributions such as late renewals, new licensures, and registrations that are allocated to the third biennium quarter (January – June 2024).

The savings account balance, which is the Board's reserve account, was \$105,077.92.

With the end of February being two thirds of the way through FY 2024, the Board is at 55% of budgeted expenditures and a little over 96% of expected revenue – most of which is the deferred income allocated to this biennium quarter.

The Board's bookkeeper, Michelle Fox, has verified and validated the information being provided in this Treasurer's report.

No questions or comments were presented by the Board.

On motion by Stephanie Woodard, second by Stephanie Holland, the Nevada Board of Psychological Examiners approved the Treasurer's Report for FY2024. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

- B. (For Possible Action) Discussion and Possible Action to Approve a Bank of America credit card to be issued in Administrative Director Sarah Restori's name with a \$5,000.00 limit.

Dr. Owens informed that Administrative Director Sarah Restori requires a credit card in order to conduct Board business from the Board's bank with a \$5,000 limit.

On motion by Catherine Pearson, second by Lorraine Benuto, the Nevada Board of Psychological Examiners approved a credit card from the Board's bank in Administrative Director Sarah Restori's name with a \$5,000.00 limit. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

- C. (For Possible Action) Discussion and Possible Action to Approve the Proposed Contract for a Hearing Officer in Complaint #19-0626 and Complaint #24-0103.

DAG Ward started by stating this is for possible action to approve the proposed contracts for hearing officer for Complaint #19-0626 and Complaint #24-0103, and as he suggested at the beginning of the meeting, Mr. Vogel would like to open up public comment and he would like to address this.

Mr. Brent Vogel shared the following concerns regarding the contract. First, he wanted to point out this proposed contract was posted on the Board's website and it contains the respondents name within that contract. He said he believes that is contrary to NRS 641.090's confidentiality requirements and would request that the Board immediately remove any reference to her name on a posted document. Second, approximately 3 years ago, he was requested to provide three names as potential hearing masters in this case and back on June 7th, 2021, he provided 3 names. They included retired US Magistrate Peggy Lean, hearing master Floyd Hale, as well as retired District Court Judge Jackie Glass. He never heard any response back to that and assumed that all three of those people were accepted. He went on to state, the next thing he heard on this particular issue is when he saw the agenda for this meeting that there is a signed

contract between Mr. Ward and Charles Burcham. It's done without his input and it is contrary to the prior discussions between the Board, Board's Counsel and respondent in this case. He asked that the Board reject this particular contract and consider the three names that he provided. Third, with respect to this contract, it appears to want to venue the case in Carson City, where none of the witnesses or events involved in this case are venued. All the issues in this case took place in Las Vegas, so almost all of the witnesses are located here in Las Vegas and Las Vegas is where the board is now located. He stated he believes Las Vegas would be the appropriate venue for this hearing. Finally, he shared, he's very concerned that the Board needs separate counsel on this matter. He stated Mr. Ward has been acting in two capacities: he's been acting as the Board's counsel as well as the prosecutor in this contested case. That is in direct violation of NRS 622A.200, which prohibits the deputy Attorney General's office from acting in both roles. Dr. Vogel would request that with respect to this matter, the Board retains separate counsel for one of those roles.

Dr. Owens opened the floor to any additional public comment on this matter.

DAG Ward responded by stating he disagrees with counsel. He said Mr. Vogel did give him three names, but he needs three names up north. It is his position that the proper venue is up north. DAG Ward's witnesses are from up north and Mr. Vogel's witnesses are from down south. They have a dispute on that, he stated. DAG Ward stated he is more than willing to have this matter set at another time if Mr. Vogel was willing to give him three hearing officers that are up north. Additionally, he shared, even though the Board office has moved down south, he thinks it is irrelevant since the board has recused itself in regard to this matter. Under the Open Meeting Law they are required to have a physical location for this hearing. The AG's office in Carson City in particular has a moot courtroom with electronics that can take witnesses from all over the state and all over the nation, so that would not only be a proper venue, but it also would be very functional as far as having a hearing in this matter in a full true courtroom.

DAG Ward addressed the concern from Mr. Vogel regarding dual roles as council for the Board. He stated this board has recused themselves and they're not acting on any motions or anything of that nature. He stated he is not making any recommendations to this Board regarding this case. This board would still have to approve any contract, whether it's a choice of one of his hearing office or DAG Ward's. He went on to state, the conflict would be if he was representing the Board and was also trying a case before the Board. He stated he does not agree with Mr. Vogel that he has a conflict in this matter because this Board has recused itself and he's not wearing two hats. He stated he advises this Board on the Open Meeting Law and he advises this Board on many other things and there is no conflict because this board has recused themselves from this matter.

DAG Ward addressed the concern regarding the confidentiality of the respondent's name posted on the contract in the Board's meeting materials. He stated this can be redacted. He stated there is already a charging document already filed that is public record in regard to her name. He stated her name underneath the case number in the contract can be redacted.

Mr. Vogel stated with respect to the need for separate counsel, whether or not the board has recused itself is actually irrelevant because Mr. Ward has participated in depositions in this case, which means he has acted in the prosecutorial role in this case and he's also advised this Board directly on the case. He went on to state while the Board has recused in the decision of the case, he is still acting dual roles. He is still advising this Board regardless of recusal and prosecuting the case that is frankly quite clearly prohibited by NRS 622A.200 and for further explanation he suggested the Board look at NRS 622A.300 which is the definition of a contested case which this case clearly is. With respect to where the case should be venued, and whether or not the hearing officer should be someone up north, the only witness that he's aware of with respect to Mr. Ward is Sheila Young. All the other witnesses are venued down here in Las Vegas, weighing the convenience and logistics of holding a hearing. It makes much more sense to have the hearing in a location where the bulk of the witnesses are, it seems to him it would be prejudicial to the respondent to have to bring numerous witnesses up to Reno. The hearing master could be in either location. He did not think it necessarily needs to be somebody from up north.

Dr. Owens checked with DAG Ward regarding the Board meeting with their counsel in a closed meeting even during their open meeting. DAG Ward confirmed this by stating the Board does have the option to meet with their Counsel. He went on to state, as of now, as Mr. Vogel has pointed out, they would not be able to do that right now and he advised the Board to get one of the other AG's in regard to making this decision on this matter. DAG Ward made the suggestion to table this matter. He will see if Mr. Vogel will give him three names of hearing officers up north. If not, he will then have this brought up at the next meeting or put this on the agenda. There will be counsel for the Board in regard to this matter at the next meeting and he suggested that the hearing officer then make the decision. The hearing officer will make a decision on the venue.

Dr. Owens opened the floor for comment from the Board on this matter and added her own comment on this case. She stated the Board has had to recuse itself for good reason as many of the members know the respondent personally and professionally. She went on to state, given the extraordinary circumstances, it's very complicated and very difficult. She stated that she is aware of the extremely long nature of this case and an understanding that all parties are anxious to get this completed.

Mr. Vogel stated it is his understanding that the Attorney General's Office is considered a law firm with respect to the ethical rules, and it is his recommendation the Board get

separate outside counsel because someone else from the Attorney General's office would be in the same conflict position as Mr. Ward, should one exist.

Dr. Owens responded to this stating they would have to consult with the governor's office as the governor has consistently recommended using the Attorney General's Office for Board's use. She went on to state if they were to consider that, they would need to contact the governor's office and determine whether or not they would approve of that.

There was no further comment from the Board. Dr. Owens tabled this matter until next month's April meeting.

6. Legislative Update

(For Possible Action) Report, Discussion and Possible Action on Legislative Activities, including the work of Interim Committees, of the Nevada Legislature, the Legislative Counsel Bureau, and any position or action the Board may take on or in response to Bills that have been signed into Law, Legislative Bills, and Bill Draft Requests that the Board is tracking, following, or that may impact the Board and its Operations.

The Executive Director shared the following Legislative Updates. She informed that they had their hearing on R051-23 (which was the Board's response to Executive Order 2023-003) during the February meeting, and now that the minutes from that meeting have been approved, she will be sending that regulation with what is required to be submitted with it to the LCB for final approval. The Joint Interim Standing Committee on Health and Human Services had a hearing on February 16, 2024, which included R051-23 on its agenda and which she attended in the event there were any questions, which there were not.

The Executive Director went on to share that the Board had its hearing during this meeting on R095-23, which was the response to AB244, and the notice for which has been posted. The Joint Interim Standing Committee on Health and Human Services is scheduled to have a hearing on March 11, 2024, that will include R095-23, and which she will attend in the event they have any questions.

The Board's proposed revisions to some of its supervision provisions and the definition of Psychometrist has been assigned a LCB file number (R002-24), and they are still waiting for a draft so that they can notice those revisions for a hearing.

Dr. Owens wanted to give the Board a general update. She shared that master's level licensure has been something that they've been talking about for a couple of years on this Board. She has been on the Masters Task Force for ASPPB and is aware that the writing group is still in the process of trying to write model legislation along with some

input from APA. She stated that she doesn't think that model language is going to be ready for the 2025 legislative session, which means they'll have to wait until 2027. Part of the rationale for waiting until they have some good model language from ASPPB or APA is to make sure that they can follow along with other states who are adopting master's level licensure to ensure better mobility and portability of licensure. She shared that in multiple ways this will be helpful for our state to adopt master's level licensure.

7. Board Needs and Operations

a. Report from the Nevada Psychological Association.

Dr. Chapple-Love provided an update on NPA. She informed they are moving forward with the legislative portion of their coming year. She shared there is lots of talk regarding the mental health parity portion that NPA is trying to get off the ground, as this concerns who and what type of access a person has to behavioral health services based on their insurance. She stated NPA is also eagerly awaiting how some of the hearings from the Board are moving forward. Dr. Chapple-Love also shared that they are looking at Any Willing Provider laws as it relates to parity language.

b. Report From the Executive Director on Board Office Operations.

The Executive Director presented the Board's office statistic spreadsheet. She shared that the Board licensed two new Psychologists in February, and received 12 applications, which is the most the Board has received in a month so far this fiscal year. The Board also administered seven State Exams. She also shared that applications for Psychological Interns and Psychological Trainees were pretty quiet.

She went on to update that as of the end of February, the board had 696 active licensees and 106 active licensee applications. As for those the Board registers – the psychological assistants, psychological interns, and psychological trainees – there are a total of 78 that are registered and 25 active applications, the breakdown of those being provided under Current Applications and Registrations.

The Executive Director provided the Board with an update on the Board office move to Las Vegas. She informed that the Board office is now located in Las Vegas. They moved in on March 1, 2024. The new board office address is 3080 South Durango Drive, Suite 102, Las Vegas, NV 89117. The new phone number is 702-276-0926. Sarah now primarily staffs the Board office and will be in charge of the Board's administrative tasks, and the Executive Director will primarily be working remotely as her focus shifts to the Board's more substantive regulations and policy work.

Dr. Lenkeit wanted to provide the Board with an update on PsyPact. He informed that the PsyPact Board met last week and has the following updates to share: there are currently 39 active jurisdictions with Vermont and South Dakota to become effective on July 1st 2024, bringing the total to 41 jurisdictions that PsyPact will be active in. There are also bills in Massachusetts, New York, California, Hawaii, and Mississippi, so there could be more states added soon. There are currently 12,500 holders of the APIT (Authorization to Practice Interjurisdictional Telepsychology) and 717 who hold the TAP (Temporary Authorization to Practice). There are over 100 APIT's in Nevada. PsyPact is in process of collecting data on how many people are practicing with their APIT in each state, information that could be of interest to this Board.

8. (For Possible Action) Discussion and Possible Action on Pending Consumer Complaints:

A. Complaint #19-0626

DAG Ward shared that last week he met with President Dr. Owens, the Executive Director, and the Board investigators regarding this complaint. DAG Ward wanted to start by addressing the public comment that was made during last month's Board meeting regarding why this complaint is taking so long. DAG Ward stated that he filed this back on February 3rd, 2021 and he set a hearing in March of 2021. Then the respondent hired counsel, and counsel wanted to continue it because he wanted to take depositions, as counsel has the right to take depositions. He went on to inform that they opened up discovery and then the Board recused itself. DAG Ward stated he didn't think he had a conflict because he's never advised the Board on this case because the Board recused itself from this matter. Therefore, he stated, this Board makes no decisions on this case. He went on to state, since it was filed in 2021, the administrative code follows the Nevada Civil Procedure, under that they would have five years to hear this case. So, this case should be heard by, under the statute of limitations, 2026. DAG Ward went on to state because there was a pandemic, they would probably extend that because under the Open Meeting Law, these meetings have to have a physical location where the public can come, and since they were under the Emergency Order of the Governor for people not to meet or expose themselves, he believes this would be even pushed further beyond 2026. He stated there is some progress being made, as now they're trying to get a hearing officer and they'll let the hearing officer make the decision on venue, discovery etc.

B. Complaint #23-0612

DAG Ward shared that they did review this complaint and there are no further recommendations. They are still waiting for a response from another board in regard to their response.

C. Complaint #23-0801

DAG Ward stated they prepared another letter to follow-up with this person. This is also an alleged unlicensed practice issue. DAG Ward stated he has no further information.

Dr. Young stated she'd like to carry this complaint over to next month. She's had to provide ongoing education to this individual about unlicensed practice. She stated their PsychologyToday.com profile has been taken down. She went on to say that she needs to check some other resources to make sure that they're in alignment with their recommendations.

D. Complaint #23-0905

Dr. Lenkeit stated he has no updates to share on this complaint at this time.

E. Complaint #23-0918

Dr. Lenkeit shared this is continuing to be investigated. They have some information they need to present to DAG Ward and there should be some updates on this in the next few months. DAG Ward added that the investigators have probably over 1000 pages of documents to review regarding this complaint. The Executive Director also shared that the Board recently received more documents that need to be sent to the investigators for review.

F. Complaint #24-0103

DAG Ward stated he does not show any changes regarding this complaint. Dr. Young had no updates to share.

G. Complaint #24-0202

Dr. Lenkeit shared his report on this complaint. He stated the complainant who is a licensed psychologist in Oregon and Washington made the following allegations regarding the subject of the complaint: (1) knowingly and intentionally participated and planned to bill for patients for whom they had no authorization to be providing psychological services; (2) double billed

healthcare insurance; (3) solicited patients in an unethical manner, and took patients from the complainant; (4) instigated the release of Healthcare Records for patients to whom no formal reason existed, which is a violation of confidentiality; (5) engaged in a manner that does not meet standards of practice for basic patient care. Dr. Lenkeit stated there has been no response elicited from the subject of the complaint. The complaint has been given to the subject of the complaint for information purposes. The subject of the complaint is an employee of a behavioral healthcare company headquartered in Nevada, which has apparently obtained a contract to treat high usage Medicaid patients in Washington. He went on to state that the subject is not licensed as a psychologist in Nevada and does not appear to be providing clinical services in Nevada. In conclusion, this complaint is not within the jurisdiction of the Nevada Board of Psychological Examiners, as the purported actions noted above did not occur in Nevada, and the subject of the complaint is not a licensed psychologist in Nevada. It is therefore recommended that this complaint is dismissed.

Dr. Owens asked if the Board forwarded this complaint to the person who has jurisdiction over that respondent.

Dr. Lenkeit stated that he is unsure if anyone has jurisdiction over this subject as this is an individual who works in Nevada in an administrative capacity. They happen hold a PhD in clinical psychology working for a behavioral healthcare company and providing administrative services.

DAG Ward stated that it is his suggestion that the Board take action and then, based on what whatever action is taken, that a letter come from the Executive Director to the complainant on what action was taken. He stated they cannot give the complainant any legal advice as to who next to complain to or file a complaint with.

Dr. Lenkeit stated that he's also composed a letter to the complainant stating that this is out of the Board's jurisdiction.

On motion by Stephanie Holland, second by Stephanie Woodard, the Nevada Board of Psychological Examiners dismissed Complaint #24-0202.

(Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

H. Complaint #24-0228

Dr. Young shared her update regarding this complaint. She stated this is regarding the behavior of a psychologist who's not licensed in Nevada but works in Nevada in federal service. So, this person is not within their jurisdiction to deal with. She went on to say federally employed psychologists can be licensed anywhere because the hiring criteria is usually higher than requirements for licensure, and it allows the DoD and other agencies some portability for their employees. She said the Board does not have jurisdiction in that case and she provided the Executive Director with the federal directive on how they proceed with following up with that case. Dr. Young asked DAG Ward if this is another situation wherein it is recommended that we don't suggest where to send the complaint.

DAG Ward stated it is his recommendation to the Board that they take action on this matter, and likewise send a letter to the complainant stating this Board has dismissed this matter. He stated he does not recommend suggesting anything because then it is a suggestion that this Board is practicing law.

On motion by Catherine Pearson, second by Stephanie Holland, the Nevada Board of Psychological Examiners dismissed Complaint #24-0228.

(Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

9. (For Possible Action) Review and Possible Action on Applications for Licensure as a Psychologist or Registration as a Psychological Assistant, Intern or Trainee. The Board May Convene in Closed Session to Receive Information Regarding Applicants, Which May Involve Considering the Character, Alleged Misconduct, Professional Competence or Physical or Mental Health of the Applicant (NRS 241.030). All Deliberation and Action Will Occur in an Open Session.

The following applicants are recommended for approval of licensure contingent upon completion of licensure requirements: Debra Berry-Malmberg, Karen Fitzgerald, Lindsay Coyle, Sarah Sexton, Jacki Nesbitt, Laura Brown, and Sarah Sharp.

On motion by Lorraine Benuto, second by Stephanie Woodard, the Nevada Board of Psychological Examiners approved the following applicants for licensure contingent upon completion of licensure requirements: Debra Berry-Malmberg, Karen Fitzgerald, Lindsay Coyle, Sarah Sexton, Jacki Nesbitt, Laura Brown, and Sarah Sharp. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

- a. (For Possible Action) Discussion and Possible Action on Dr. Shantrice Gibson's application to reactivate her inactive license.

Dr. Owens presented the following applicant. Dr. Shantrice Gibson (PY0754) has applied to reactivate her inactive license. Dr. Gibson was licensed in Nevada in April 2015, placed it on inactive status during the 2020 renewal period, and renewed her inactive status during the 2022 renewal period. Dr. Gibson is also licensed in California (#PSY31619, issued 2/3/2020, expires 2/3/2026) and Nebraska (#795, issued 11/21/2011, expires 1/1/2025).

Dr. Gibson has completed more than enough CE credits to satisfy the 30 hour CE requirement, and the requirements for live, ethics, suicide P/A, and cultural competency. Of the CE credits that could be applied to her application (those listed that have supporting certificates and were taken for or during the 2023-2024 biennium), there are 71. Because Dr. Gibson submitted an older version of the reactivation application, there is not a column to identify which courses satisfy the cultural competency requirements. However, there are two courses listed for a total of 6 hours that Dr. Gibson has confirmed were cultural competency CE programs.

Dr. Gibson is prepared to pay the fees required to reactivate her license.

There were no questions from the Board regarding this applicant.

On motion by Stephanie Woodard, second by Lorraine Benuto, the Nevada Board of Psychological Examiners approved Dr. Shantrice Gibson's request to reactive her inactive license. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

- b. (For Possible Action) Discussion and Possible Action on Dr. Kathleen Krach's application to reactivate her inactive license.

Dr. Owens presented the following applicant. Dr. Shelley Kathleen Krach (PY0576) has applied to reactivate her inactive license. Dr. Krach was licensed in Nevada in March 2009, placed it on inactive status during the 2022 renewal period. Dr. Krach is also licensed in Florida (#PY9691, issued 9/26/2016, expires 5/31/2024) and Alabama (#1712, issued 9/9/2011, expires 10/15/2024).

Dr. Krach has completed more than enough CE credits to satisfy the 30 hour CE requirement, and the requirements for live, ethics, suicide P/A, and cultural competency. Of the CE credits that could be applied to her application (those listed that have supporting certificates and were taken for or during the 2023-2024 biennium), there are 35.

Dr. Krach is prepared to pay the fees required to reactivate her license.

There were no questions from the Board regarding this applicant.

On motion by Stephanie Holland, second by Catherine Pearson, the Nevada Board of Psychological Examiners approved Dr. Shelley Kathleen Krach's request to reactive her inactive license. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

10. (For Possible Action) Discussion and Possible Action on proposed revisions to the Board's Disciplinary and Complaints Policy.

The Executive Director shared the reworked and revised the Complaints and Discipline policy to include:

- adjust the flow and writing style
- clarify some of the processes to reflect how complaints are addressed in practice
- remove duplicate language
- add reference to complaints that involve court ordered evaluations and psychological services
- remove reference to appendices that did not exist and add reference to appendices that do and are proposed
- make revisions Dr. Lenkeit proposed in reference to adding "remedial" to some of the sections that involve discipline
- add a table of contents that includes page number references and is hyperlinked
- Add proposed Appendix C, which Dr. Young authored.

The Executive Director stated that during the November 3, 2023, meeting, there was a question in reference to proposed appendix C, as to whether there is a list of disciplinary supervisors. Dr. Young has stated that there is not a list of disciplinary supervisors, explaining that the Board should have a trained cohort of psychologists willing to serve in that role. The Board touched on appendix C during the February 9, 2024, meeting, and further inquired about adding a provision to the policy that would provide a timeline for conducting investigations and reporting to the Board. The proposed, revised policy now includes a 90-day deadline (subject to extension for cases in which more time is required) for the Board's investigators to undertake their investigations and report to the Board on complaints assigned to them. Further revisions to the proposed, revised policy are:

- an adjustment in the name of the policy to include remediation,
- reference throughout the policy to the ASPPB's code of conduct, which the Board adopted in R174-20.

The Executive Director clarified the 90-day deadline is triggered upon the Investigator's receipt of the respondent's response.

The Executive Director also stated in her re-review of the policy in advance of this meeting, one small change she would like to make is to move subsection H on page 7 down below what is now subsection J on page 8. Section I and J talk about content of the report, as this flows better chronologically. She also discussed including language pertaining to complaints received by the Board are confidential and citing this statute.

The Executive Director also changed the title to "Complaints, Discipline, and Remediation Policy" per a recommendation from Dr. Lenkeit. Dr. Owens commented on liking this change, as the Board strives to focus on remediation first where it is possible when the behavior from the respondent isn't egregious or significant harm to the public.

Dr. Owens added that whenever our Board investigators generate a report that they're presenting at the Board meetings, those reports are confidential. We want to maintain the confidentiality of individuals who have a complaint against them until the point where DAG Ward files a charging document then this information becomes public record. She went on to say that there are some complaints that are outside of the Board's jurisdiction, some complaints that are frivolous, some that are unfounded and to have those folks' names in our public record can only potentially do harm. So, we maintain the confidentiality of those folks until a charging document is filed.

Dr. Owens stated that this Complaints Policy document has been shared with the Board for review both during last month's Board meeting and prior to this meeting. Dr. Owens asked if any of the Board members have not had the chance to review this or if there are any additional questions.

There were no further questions from the Board.

On motion by Stephanie Woodard, second by Stephanie Holland, the Nevada Board of Psychological Examiners approved the revisions to its Complaints, Discipline, and Remediation Policy. (Yea: Whitney Owens, Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Motion Carried: 5-0.

11. (For Possible Action) Discussion and Possible Action on the Board hiring Dr. Whitney Owens as a Board Investigator on or after July 1, 2024, after her departure from the Board.

Dr. Owens opened discussion regarding the hiring of herself as a Board Investigator once her tenure as Board President has ended on June 30, 2024. Dr. Owens shared that she's spent the last eight years on the Board enjoying her service and learning a

lot. She shared that she wants to continue to serve the Board, and Dr. Lenkeit has agreed to mentor her as a Board Investigator.

Dr. Benuto stated that given Dr. Owens' service and extensive knowledge of Board operations, policies and procedures, and legislation, she would make an excellent addition to board investigation.

Dr. Holland sought clarification regarding if this would be in addition to Dr. Lenkeit and Dr. Young as Board investigators. Dr. Lenkeit informed that he would be stepping down at some point but has not set a date. Dr. Owens shared that it would not cost the board additional funds as the amount that is spent to pay investigators is dependent on the amount of complaints the Board receives. There is no guaranteed payment to investigators unless there is an investigation.

Dr. Woodard shared she understands how much emphasis the Board has put on ensuring that their review of complaints is as expedited as possible as evidenced by the new policy. She went on to state that ensuring they have a legacy plan knowing that Dr. Lenkeit will be departing from the Board eventually, it makes sense for Dr. Owens to fill this role. She went on to share that she echoes the sentiments of others and believes Dr. Owens has been exemplary and comes with a lot of knowledge and a depth of understanding and she would be an amazing asset to continue with the board in that capacity.

On motion by Lorraine Benuto, second by Stephanie Woodard, the Nevada Board of Psychological Examiners approved hiring Dr. Whitney Owens as a Board Investigator on or after July 1, 2024, after her departure from the Board. (Yea: Lorraine Benuto, Stephanie Holland, Catherine Pearson, and Stephanie Woodard.) Dr. Whitney Owens abstained from the vote. Motion Carried: 4-0.

12. (For Possible Action) Schedule of Future Board Meetings, Hearings, and Workshops. The Board May Discuss and Decide Future Meeting Dates, Hearing Dates, and Workshop Dates.

The next regular meeting of the Nevada Board of Psychological Examiners is currently scheduled for Friday, April 12, 2024, beginning at 8:00 a.m.

13. Requests for Future Board Meeting Agenda Items (No Discussion Among the Members will Take Place on this Item)

No Agenda Items were requested at this time.

14. Public Comment - Public comment is welcomed by the Board and may be limited to three minutes per person at the discretion of the Board President. Public comment will be allowed at the beginning and end of the meeting, as noted on the agenda. The Board President may allow additional time to be given a speaker as time allows and in their sole discretion. Comments will not be restricted based on viewpoint. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken (NRS 241.020)

There was no public comment in the Board office.

15. (For Possible Action) Adjournment

There being no further business before the Board, President Dr. Owens adjourned the meeting at 10:01 a.m.