

NEVADA STATE BOARD OF PSYCHOLOGICAL EXAMINERS MEETING MINUTES

May 8, 2020

1. Call to order/roll call to determine the presence of a quorum.

Call to Order: The meeting of the Nevada State Board of Psychological Examiners was called to order by President Dr. Whitney Owens at 8:35 a.m. Due to COVID-19 and Governor Sisolak's Emergency Mandate to Stay at Home for Nevada, this meeting was conducted online via Zoom.

Roll Call: Board President Whitney Owens, PsyD, and Members Tony Papa, PhD, Board Secretary/Treasurer, Stephanie Holland, PsyD, John Krogh, PhD, Monique McCoy, LCSW, and Stephanie Woodard, PsyD, were present.

Also present were Harry B. Ward, JD, Deputy Attorney General, Sheila Young, PhD, Board Investigator, Neena Laxalt, Lobbyist, Lisa Scurry, Executive Director, and members of the public: Dr. James Tenney, Jose Arauz, Shady Sirsy, Alison Genco, Alicia Doman, Amanda DeVillez, Noelle Lefforge, and Sarah Ahmad.

2. Public Comment

Jose Arauz inquired about how his supervised hours as a psychological assistant should be submitted to the Board and in what level of detail. Dr. Owens responded that although the Board office is not currently reviewing hours with a focus on the types of hours being attained, she suggested that psychological assistants may want to categorize their hours in case questions arise in the future, licensure is sought in another state, etc.

3. Review, discuss, and possible approval of minutes from previous meetings: April 17, 2020. (For Possible Action)

The minutes of the April 17, 2020 meeting were presented for review by the Board. There were no recommended changes to the minutes.

On motion by Dr. Papa, second by Dr. Krogh, the Nevada State Board of Psychological Examiners approved the minutes of the April 17, 2020 meeting of the Nevada State Board of Psychological Examiners. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0

4. Discussion of matters related to the COVID-19 pandemic and Governor Sisolak's Directive 011. Discussion may include licensure renewal, continuing education credits, temporary licensure, supervision concerns, obtaining clinical hours for licensure, and the use of telepsychology and interjurisdictional practice.

Public Comment: Alicia Doman, a registered psychological assistant, inquired about telehealth and eligibility to practice across state lines should she move out of Nevada. President Owens explained that since her patients are living in Nevada and her supervisor is licensed in Nevada, Dr. Doman could continue seeing patients via telehealth if she is residing in another state.

President Owens reviewed the current status of the Governor's Directive related to COVID-19 and the state of emergency. As part of Phase 1 of the re-opening of businesses, recommendations for safely caring for patients were presented. Recommendations made by the American Psychological Association (APA) were also discussed.

The current recommendation is to continue with telecare as long as it is clinically and medically indicated. If telecare is not possible, it is recommended that face masks, social distancing, and increased cleaning measures be utilized. Additional strategies include staggering staff hours in group practices and arranging waiting rooms to ensure social distancing. Dr. Owens suggested that patients be checked on, particularly related to potential suicidal ideations or domestic violence situations. APA has also distributed an informed consent document and their website has additional guidance.

5. Review, discuss, and possible approval of Treasurer's report for F/Y 2020 (July 1, 2019, through June 30, 2020); Review, discuss and update on a current biennial budget (July 1, 2018, through June 30, 2020). (For Possible Action)

Secretary/Treasurer Dr. Tony Papa presented the Treasurer's Report and current financials. He explained that the Board continues to spend down its checking account balance. The savings account remains at approximately \$105,000. There should be adequate monies in the account through the biennium.

On motion by Dr. Krogh, second by Dr. Stephanie Holland, the Nevada State Board of Psychological Examiners approved the Treasurer's Report. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0

A. Recouping outstanding Legal Fees Owed to the Board from Disciplinary and Unlicensed Practice cases.

There was no discussion and the item will return at a future Board meeting.

6. Review of consumer complaints pending. (For Possible Action)

A. Complaint #19-0514

Deputy Attorney General Harry Ward explained that discussions with the Respondent's attorney are continuing. The matter remains pending.

B. Complaint #19-0626.

Mr. Ward explained that there has been no movement on this matter, although he has spoken with the Respondent's attorney. The matter remains pending.

C. Complaint #19-0709

Mr. Ward explained that there has been no movement on this matter. The matter remains pending.

D. Complaint #19-1106

Mr. Ward explained that this matter is under investigation by the Office of the Attorney General related to potential insurance fraud. The matter remains pending.

E. Complaint #19-1223

Mr. Ward explained that there has been no movement on this matter. He has spoken to Board Investigator Dr. Young about the matter and it remains pending.

F. Complaint #20-0327

This is a new complaint and the investigation is at the beginning stages. As such, no update was provided. The matter remains pending.

G. Complaint #20-0501

This is a new complaint and the investigation is at the beginning stages. As such, no update was provided. The matter remains pending.

H. Complaint #20-0504

This is a new complaint and the investigation is at the beginning stages. As such, no update was provided. The matter remains pending.

7. Update regarding Board Office Operations (For Possible Action)

A. Update from the PsyPact Commissioner

There was no update from the PsyPact Commissioner. President Owens explained that the launch date is still projected as July 1. She added that an information packet is being created for licensees regarding how to sign-up, access the system, etc.

There was no action taken.

8. Update regarding the status of regulations submitted to LCB for changes to NAC 641. (For Possible Action)

Neena Laxalt, Board lobbyist, provided an update on the status of the proposed changes to the NAC / regulations listed below (A-E). She explained that the Legislature is currently paused due to COVID-19 and, as a result, there has been no movement on sponsoring Legislation during the next Session.

A state task force (LEAD) was created by the Governor's Office related to the pandemic. Task force members are contacting the various state Boards to ensure they have what they need during the re-opening process and to provide guidance on the associated protocols such as social distancing and cleaning.

Harry Ward, Deputy Attorney General, confirmed that the work Legislative Counsel Bureau is currently paused during the COVID-19 situation.

A. R131-15: Requires those teaching or engaging in research to be licensed if providing supervision in a university setting.

B. R057-19: Fees

C. R058-19: Endorsement Language

D. R114-19: Foreign Graduates

E. R115-19: Supervision, payment of psychological assistant

9. Discussion of EPPP2 (For Possible Action)

A. Discussion regarding information received from ASPPB, that the BETA testing date has been moved back to November 2020. The Board will address this change of testing and discuss how to contact and forward the information to individuals affected by this change.

Dr. Sheila Young, President of the ASPPB Board, explained that there were no updates on the EPPP2. The test is still planned to launch in November 2020.

10. Discussion of Board needs, operations, and schedules.

A. Update/Report from Nevada Psychological Association Representative.

Dr. Sara Ahmad, representative from the Nevada Psychological Association, stated there was no update from that Association at this time.

B. Update regarding Board membership

There has been no movement on filling the current Board vacancy. President Owens commented that the Governor's Office is likely busy dealing with the COVID-19 pandemic but that the Office would follow-up.

Dr. Papa announced his resignation from the Board as he is moving out of state in June or July. As Board Officer elections will be in June, Dr. Papa's role as Secretary/Treasurer will be vacated.

C. Future Board meeting agenda items

President Owens stated that the Officer elections will be on the agenda in June. The officers elected include President, Secretary/Treasurer, Continuing Education (CE) Chair, and potentially an Exam Officer.

President Owens suggested adding an item related to temporary licensure.

11. Review/decision upon applications for licensure or registration. 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. (For Possible Action)

Nine new applications for licensed psychologists were presented for approval contingent upon file completion: Liana Abascal, Nick Barneclo, Richard Coder, Kathryn Kimball, Shanna Mohler, Roxana Monsivais-Dominguez, Shweta Sharma, Nicolle Walters, and Kseniya Zhuzha.

On motion by Dr. John Krogh, second by Dr. Tony Papa, the Nevada State Board of Psychological Examiners approved the following applications for licensure contingent upon successful file completion: Liana Abascal, Nick Barneclo, Richard Coder, Kathryn Kimball, Shanna Mohler, Roxana Monsivais-Dominguez, Shweta Sharma, Nicolle Walters, and Kseniya Zhuzha. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0.

Three applications that were previously erroneously recommended to be closed were recommended to be re-opened: Cynthia Cameron, Pak Yan Ngai, and Samantha Schilling.

On motion by Dr. Tony Papa, second by Dr. John Krogh, the Nevada State Board of Psychological Examiners reversed previous action that closed the following application files thereby re-opening the applications: Cynthia Cameron, Pak Yan Ngai, and Samantha Schilling. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0.

Two applications for licensed psychologists were presented to be closed due to a lack of response in accordance with Nevada Administrative Code (NAC) 641.1503: Frank Davis and Michael Villanueva.

On motion by Dr. Tony Papa, second by Dr. John Krogh, the Nevada State Board of Psychological Examiners closed the following application files due to lack of response in accordance with NAC 641.1503: Frank Davis and Michael Villanueva. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0.

It was recommended that the Board close the application of Sharon Stafanson as she withdrew her application.

On motion by Dr. Tony Papa, second by Dr. John Krogh, the Nevada State Board of Psychological Examiners closed the application of Sharon Stafanson at the request of the applicant. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0.

12. Discussion of language development to cover the differences between APA Ethic Code and ASPPB Code of Conduct. Board will consider recommendations from APA Ethics Code to be placed in NAC 641. (For Possible Action)

There was no update. The item will return at a future meeting.

13. The Board will discuss language development to clarify purpose, scope of use, and use of audio and video recordings in therapy and assessment training for psychological trainees, interns, and assistants. (For Possible Action)

President Owens reminded the Board that this item is a proposal to exempt training videos from the medical record. This would be a potential change to the law regarding the keeping of audio

and video recordings of training time with a patient as part of the medical record. The Board seeks to have those trainings remain training and not part of the clinical record for fear it could impact the practice of psychology and the clinical record.

Dr. Papa has been speaking with other Boards about their opinions. He informed the Board that he has attempted to communicate with the various health-related State Boards. Due to the COVID-19 situation, though, most Boards have not been meeting and may not meet again before July or, for one Board, September.

Lobbyist Neena Laxalt offered to assist and to work with any of those groups from the legal end of the process. She asked the Board if she should begin to work with Deputy AG Ward and to begin looking for a sponsor for the bill for the 2021 Legislative Session. In past years, bill drafts are submitted in June. As a result, once the work at the Legislature begins moving forward again, Ms. Laxalt stressed the importance of being ready.

14. Discussion of response from Attorney General Office regarding opinion request clarifying NRS 641.390. (For Possible Action)

A. Discussion of the need to develop NAC language clarifying NRS 641.390.

Harry Ward, Deputy Attorney General, stated that currently individuals working with the Nevada Department of Corrections (NDOC) do not currently need to be psychologists licensed by the Board. The intent of this item is to potentially change NRS 641.390 to require licensure and place those individuals under the umbrella of the Board. He added that NDOC is under new leadership and it is unclear which direction they wish to take on this issue.

President Owens reminded the Board that this issue arose based on an inquiry from psychologists working in the NDOC who were concerned that they were being asked to do work outside their scope of practice. Without licensure, the potential exists that the vulnerable population of prison inmates are not always receiving the care by a psychologist who has received the proper training. Mr. Ward added that the Parole Board often uses the recommendations of these individuals when making decisions on placement and/or release of inmates, making proper licensure very important.

15. Discussion of U.S. District Court Case 2:20-CV-00651-KJD-VCF where the State Board of Psychological Examiners is a named defendant. (For Possible Action)

Harry Ward, Deputy Attorney General, informed the members that the Board and the past Executive Director was served with a federal lawsuit. Mr. Ward explained that he will file a formal answer in the matter. From there, the discovery process will begin, which includes production of documents, interrogatories, requests for admissions, etc. Lastly, motions will be filed in the matter. In between there may be hearings before the judge. As the matter was filed in Las Vegas, an Assistant Deputy Attorney General in Las Vegas will serve as second to Mr. Ward.

Mr. Ward acknowledged that the lawsuit is public information. He added, though, that pursuant to Nevada's Open Meeting Law, if he needs to conduct a legal meeting with the Board for the purpose of providing legal guidance, such a meeting would not be open to the public.

President Owens inquired if the entire Board would be present in the event of a hearing or a trial. Mr. Ward responded that if a member is required to appear, they would be subpoenaed. He added that the process could take approximately two years.

16. Public Comment

President Owens stated that the next meeting of the Board will be June 12, 2020, beginning at 8:30 a.m.

Mr. Ward made comment thanking Dr. Papa for his work with the Board.

17. Adjournment

There being no further business, President Owens recommended adjourning the meeting at 9:40 a.m.

On motion by Tony Papa, second by John Krogh, the Nevada State Board of Psychological Examiners adjourned the meeting. (Yea: Whitney Owens, Tony Papa, Stephanie Holland, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 6-0.