

NEVADA STATE BOARD OF PSYCHOLOGICAL EXAMINERS

Meeting Minutes

July 10, 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 Whitney Owens, PsyD, 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 John Krogh, PhD, Secretary/Treasurer, Monique McCoy, LCSW, and Tony Papa, PhD, were present at roll call. Stephanie Woodard, PsyD, joined the meeting at 8:41 a.m. Member Stephanie Holland, PsyD, was absent.

Also present were Harry B. Ward, JD, Deputy Attorney General, Lisa Scurry, Executive Director, Gary Lenkeit, PhD, Sheila Young, PhD, and members of the public: Donald Hoier, Donald Campbell, Elysse Kompaniez-Dunigan, Corey Kuhn, Luz Robles, Noelle Lefforge, Hana Kuwabara, Andrea Bevan, Amanda DeVillez, and Elena Gavrilova.

2. Public Comment

Elysse Kompaniez inquired about the EPPP2 and specifically if the test adoption is still scheduled for November 1. She asked who would be required to take the exam. President Owens clarified that the exam is still scheduled for a November implementation date. She added that applicants who have not completed the requirements for licensure prior to implementation of the exam will be required to pass the test. (Item #13)

Donald Campbell spoke in support of Dr. Kegel's application as a psychological intern supervisor. (Item #16(b))

Corey Kuhn inquired about moving the state exam discussion up in the agenda. (Item #12)

Harry Ward, Deputy Attorney General, inquired for the record if any Board members of the Office of the Board had received any public comment via email. There was none.

Dr. Stephanie Woodard joined the meeting at 8:41 a.m.

3. (For Possible Action) DISCUSSION AND POSSIBLE APPROVAL OF THE MINUTES OF THE MEETING OF THE NEVADA STATE BOARD OF PSYCHOLOGICAL EXAMINERS FROM JUNE 12, 2020.

There was no discussion or proposed changes to the minutes.

On motion by John Krogh, second by Tony Papa, the Nevada State Board of Psychological Examiners approved the minutes of the meeting of June 12, 2020. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy. Abstain: Stephanie Woodard) Motion Carries: 4-0

4. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO SELECT A CURRENT MEMBER OF THE BOARD OF PSYCHOLOGICAL EXAMINERS (JOHN KROGH, MONIQUE MCCOY, STEPHANIE WOODARD) TO FILL THE VACATED SEAT ON THE APPLICATION TRACKING EQUIVALENCY AND MOBILITY (ATEAM) COMMITTEE

President Owens explained that the ATEAM Committee reviews certain licensure applications, such as for those who have not attended a program accredited by the American Psychological Association (APA) and/or foreign graduates. Due to the recent resignation of a member of the Committee, the current Board members were asked if they would be interested in the vacated seat. Dr. Woodard expressed interest in joining the Committee.

On motion by Monique McCoy, second by John Krogh, the Nevada State Board of Psychological Examiners approved Stephanie Woodard's membership on the Application Tracking Equivalency and Mobility (ATEAM) Committee. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

5. (For Possible Action) 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.

This item is part of an ongoing discussion about the impact of COVID-19 and the Governor's Directive 011 related to health care. Discussion has included when the Directive might be rescinded, how continuity of care may occur, etc. Harry Ward, Deputy Attorney General, stated that there were no updates from the Governor's Office and that the provisions of the Directive were still in effect.

President Owens explained that at the last meeting there was an inquiry regarding contact tracing and the impact on psychological practices and patient confidentiality. She added that the American Psychological Association (APA) has posted guidance that if a person tests positive for COVID-19, and if the provider is required to disclose that information to the public health department, no other information than that the individual was on the premises will be released. No information as to the reason for the visit is required to be provided.

Dr. Woodard stated that she would research if the state or public health agencies have provided any guidance regarding contact tracing and reporting of information. She added that contract tracing is one of the top mitigation strategies in addition to social distancing.

6. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO CONSIDER POTENTIAL CHANGE TO CURRENT LICENSURE PROCESS TO ALLOW FOR TEMPORARY LICENSURE.

As there was nothing new to report, President Owens stated this item would return at a future meeting. Dr. Lenkeit, PsyPact Commissioner, added that ASPPB had launched PsyPact and that licensed psychologists in states that are members of the compact will have that avenue available to them for temporary licensure.

7. (For Possible Action) FINANCIAL REPORT

A. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO APPROVE THE TREASURER'S REPORT FOR F/Y 2020 (JULY 1, 2019, THROUGH JUNE 30, 2020); REVIEW, DISCUSS AND UPDATE ON THE CURRENT BIENNIAL BUDGET (JULY 1, 2018, THROUGH JUNE 30, 2020).

Lisa Scurry, Executive Director, presented the financial information. She explained that the new bookkeeper has been reconciling the bank accounts and checking to ensure that monies are accounted for and budgetary line items are accurately reflected.

On motion by John Krogh, second by Stephanie Woodard, the Nevada State Board of Psychological Examiners approved the Treasurer's Report for the fiscal year ending June 30, 2020. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

B. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO PROVIDE PRELIMINARY APPROVAL TO THE BIENNIEL BUDGET OF FISCAL YEAR (F/Y) 2021 (JULY 1, 2020 THROUGH JUNE 30, 2021) AND F/Y 2022 (JULY 1, 2021 THROUGH JUNE 30, 2022)

Lisa Scurry, Executive Director, presented the tentative budget for the next biennium - fiscal years 2021 and 2022. The Board was provided a balance sheet and a profit/loss report for fiscal years 2019 and 2020. Based on the actual revenues and expenditures for those two years, a tentative budget was drafted for the Board's review.

Ms. Scurry explained a few areas where the budget was adjusted from the previous biennium as part of cost savings measures. She added that a potential decrease in revenue could result from losing the licensing fees of behavior analysts, who are now under the authority of a separate Board.

The projected expenditures in the budget show a decrease in payroll costs as the Board previously eliminated the office support staff. Other areas that are projected to

decrease include professional services, the copier lease, and office costs such as travel and associated expenses.

President Owens suggested increasing the allowable billable hours of the Board's investigators from 4 hours to 6 hours monthly. Dr. Lenkeit, Board Investigator, stated the 2 hour per month increase would be closer to the actual hours worked and that unused hours roll to the next month in the event of an investigation that requires additional time.

President Owens inquired about the legal costs in the budget, particularly due to the pending federal lawsuit. Mr. Ward responded that the lawsuit could create additional expenses as a result of potential attorneys' fees, travel, etc. Ms. Scurry added that that line item was left at the same amount as last year. Last year's expenses resulted in actuals of approximately \$20,000, about half the budgeted amount.

Dr. Papa asked about the cost of the external auditor and efforts to find a less expensive firm to perform that task. Ms. Scurry responded that the office did attempt to find alternative external auditors for bids. She added that due to the lateness in the year and the deadline for having an audit completed, the firm that conducted the audit last year will be retained again.

The proposed budget will return at the August meeting for further review and potential action to adopt.

C. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE BANK OF AMERICA TO PLACE EXECUTIVE DIRECTOR LISA SCURRY AS A SIGNOR ON THE BOARD BANK ACCOUNTS AND TO ASSIGN A CREDIT CARD IN HER NAME FOR THE PURPOSE OF CARRYING OUT BOARD BUSINESS

To comply with bank requirements that the Board take action to approve adding Lisa Scurry, Executive Director, to the Board bank accounts and credit card, formal action was requested.

On motion by Anthony Papa, second by John Krogh, the Nevada State Board of Psychological Examiners authorized Bank of America to place Executive Director Lisa Scurry on any Board bank accounts and to assign a credit card in her name for the purpose of carrying out Board business. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

D. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO AUTHORIZE BANK OF AMERICA TO PLACE SECRETARY/TREASURER JOHN KROGH AS A SIGNOR ON THE BOARD BANK ACCOUNTS AND TO ASSIGN A CREDIT CARD IN HIS NAME FOR THE PURPOSE OF CARRYING OUT BOARD BUSINESS

To comply with bank requirements that the Board take action to approve adding John Krogh, Secretary/Treasurer, to the bank accounts and credit card, formal action was requested.

On motion by Anthony Papa, second by Monique McCoy, the Nevada State Board of Psychological Examiners authorized Bank of America to place Secretary/Treasurer John Krogh on any Board bank accounts and to assign a credit card in his name for the purpose of carrying out Board business. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

E. (For Possible Action) DISCUSSION AND POSSIBLE ACTION TO APPROVE THE LETTER OF UNDERSTANDING TO CONDUCT THE ANNUAL EXTERNAL AUDIT FROM EIDE BAILLY FOR SERVICES COSTING APPROXIMATELY \$10,500.

As discussed during review of the tentative budget, the firm of Eide Bailly has been contacted to conduct the annual external audit. A Letter of Understanding was presented for Board approval.

On motion by Stephanie Woodard, second by Tony Papa, the Nevada State Board of Psychological Examiners approved the Letter of Understanding to conduct the annual external audit from Eide Bailey for services costing approximately \$10,500. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

F. DISCUSSION OF STATUS OF RECOUPING OUTSTANDING LEGAL FEES OWED TO THE BOARD FROM DISCIPLINARY AND UNLICENSED PRACTICE CASES.

Lisa Scurry, Executive Director, explained that the Board Office has been in contact with the State Controller's Office for assistance with Collections. However, no progress has been made on recouping the outstanding legal fees owed from past disciplinary cases. The item will return at a future meeting.

There was brief discussion about the amount of money owed to the Board. Ms. Scurry stated that one case is believed to be more than \$30,000. The extent of other pending matters is being compiled.

8. (For Possible Action) REVIEW OF PENDING CONSUMER COMPLAINTS:

Harry Ward, Deputy Attorney General, explained that there were no updates on items A, B, C, D, E, F, G and I below. No progress has been made on any of those matters for a variety of reasons to include response times from the Respondents and/or their attorneys, obtaining discovery, and the typical slow progress in matters of litigation.

A. Complaint #19-0514

B. Complaint #19-0626

C. Complaint #19-0709

- D.** Complaint #19-1106
- E.** Complaint #19-1223
- F.** Complaint #20-0327
- G.** Complaint #20-0501
- I.** Complaint #20-0624
- H.** Complaint #20-0504

Dr. Gary Lenkeit, Board Investigator, delivered a report and recommendations on Complaint 20-0504. The allegations against the Respondent, a licensed Marriage and Family Therapist (MFT) who holds a Ph.D., is that she used the title of “psychologist and licensed marriage and family therapist” on a form in reference to herself although she is not a licensed psychologist.

The Respondent provided, through her attorney, that she never intended to represent herself as a psychologist. She conducted a thorough search of all forms in her office, identified the offending intake document, and took steps to remove reference to her being a psychologist. She also notified any clients who had received that form that she is not a licensed psychologist and had them complete the corrected form.

Dr. Lenkeit explained that regardless of how the error was made on the form, the responsibility does lie with the Respondent. He stated his findings and recommendations in the matter stating that misrepresentation as a psychologist is a violation of NRS 641.390 and NRS 641.027. However, the Respondent is outside the jurisdiction of the Board and, therefore, Board cannot take disciplinary action. Instead, he recommended the Board provide the Respondent a letter of reprimand, with a copy to the Nevada State Board of Examiners Marriage and Family Therapists for any further action. He added that it appears she has discontinued representing herself as a psychologist.

John Krogh recused himself from voting on the matter as a result of a potential conflict. Mr. Ward confirmed on the record that a majority of the Board was present and able to vote on the matter.

On motion by Tony Papa, second by Stephanie Woodard, the Nevada State Board of Psychological Examiners accepted the recommendations of the Board investigator to write a letter of reprimand to the Respondent and send a copy to the Nevada State Board of Examiners for Marriage and Family Therapists. (Yea: Whitney Owens, Tony Papa, Monique McCoy, and Stephanie Woodard.) Motion Carries Unanimously: 4-0.

9. (For Possible Action) UPDATE REGARDING BOARD OFFICE OPERATIONS

A. UPDATE FROM THE PSYPACT COMMISSIONER

Dr. Lenkeit, PsyPact Commissioner, provided an update on the launch of PsyPact on July 1. Applications for licensure through PsyPact are being accepted online with

ASPPB. There are two licenses – one for telepsychology and one for in-person practice across state lines.

There was discussion about the requirement for transcripts to be provided from the educational institution, including the status of records from the Argosy schools or any university where the applicant has difficulty obtaining their records.

Ms. Scurry stated that an email will go out to all licensees informing them of the PsyPact launch. She added that the information can also be found on the Board's website.

B. DISCUSSION AND POSSIBLE ACTION TO APPROVE CHANGES TO THE APPLICATION INSTRUCTIONS FOR NON-STANDARD APPLICANTS (20+ SENIOR, NATIONAL REGISTER, CPQ, ABPP), INCLUDING A CHANGE TO THE REQUIREMENT FOR SUBMISSION OF OFFICIAL TRANSCRIPTS

Lisa Scurry, Executive Director, explained that the instructions and application for the non-standard licensure applicants have been reviewed and proposed revisions were presented. Non-standard applicants are those individuals with 20 or more years' experience or who have credentials through the National Register, CPQ or ABPP. Specifically, the instructions were updated to correct the state exam fee amount and to remove the requirement that transcripts be presented. Instead, the proposed language calls for transcripts to be presented upon request.

The application was updated to remove "temporary" and "reciprocity" and to add "Endorsement" and "ABPP" as application categories.

President Owens clarified that the submission of transcripts had become a barrier in the application process as those individuals have previously submitted their transcripts through those other credentialing processes.

On motion by John Krogh, second by Monique McCoy, the Nevada State Board of Psychological Examiners approved changes to the non-standard application and application instructions, including the removal of the mandate for submission of transcripts for certain applicants. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

10. (For Possible Action) UPDATE ON THE SUNSET SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION (NRS 232B.210)

Lisa Scurry, Executive Director, explained that the Sunset Subcommittee of the Legislative Commission has met twice and discussed two items of concern to the Board. The first was discussion of a proposal at the State level to combine operational functions of the state boards and commissions. Ms. Scurry briefly described the presentation that would model that of Utah. The proposal would keep the individual

boards intact while centralizing services under the State's Department of Business and Industry. No action was taken by the Subcommittee.

The second meeting was discussion of a survey conducted by the subcommittee related to the operations of the Boards. She explained that a response is being created related to the compilation report presented to the subcommittee to correct any inaccuracies.

11. (For Possible Action) UPDATE ON THE STATUS OF REGULATIONS SUBMITTED TO THE LEGISLATIVE COUNSEL BUREAU (LCB) FOR CHANGES TO NEVADA ADMINISTRATIVE CODE (NAC) CHAPTER 641

Lisa Scurry, Executive Director, explained that there was nothing to report for items A, B, C, and E below.

- 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
- E.** R115-19: Supervision, payment of psychological assistant
- D.** R114-19: Foreign Graduates; and Consideration of Recommendation by Legislative Committee on Health Care to remove the term "moral character" from the proposed regulation

Lisa Scurry, Executive Director, explained that the Legislative Committee on Health Care recently met regarding the Board's proposed regulation. The draft regulation would require foreign graduates to go through the National Register for credentialing. She stated that the committee was generally supportive about the intent of the regulation.

The Committee expressed concern about use of the term "moral character" in the document. Specifically, the proposed regulation includes a provision that reads "the Board may require an applicant pursuant to this section to appear before the Board to demonstrate the applicant's: (a) Moral character; ..."

Ms. Scurry stated that the term is used throughout Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) and that it appears several times in Chapter 641. It was feared to be potentially discriminatory and the Committee on Health Care suggested it be removed or revised. The Committee submitted a letter with that recommendation to the Board.

President Owens explained that when the regulation was drafted, the language was copied from similar provisions in the NAC. She asked the Board for thoughts about the language, including whether or not the language should be removed or revised throughout Chapter 641.

Dr. Papa spoke regarding a second provision in the proposed regulation that speaks to professional references, asking for attestation to the applicant's professional

competence and moral character. He suggested the term be removed as unnecessary, leaving the rest of the sentence intact.

Harry Ward, Deputy Attorney General, stated that the Board needs to be consistent and that the term isn't necessary related to the intent of the provision or the Board's authority to conduct an investigation.

Ms. Scurry added that the term appears in the proposed regulation twice under section 3. The first is in reference to professional references, as described by Dr. Papa, and the second references demonstration of moral character before the Board.

Dr. Papa suggested the term be stricken from both places with no other revision to the language. Dr. Krogh and Dr. Woodard each stated their agreement.

The Board office will contact the Legislative Counsel Bureau to initiate steps for the removal of the term from the draft regulation.

On motion by Anthony Papa, second by John Krogh, the Nevada State Board of Psychological Examiners revised Proposed Regulation R114-19 to strike the term "moral character" from Section 3. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

12. (For Possible Action) DISCUSSION AND POSSIBLE ACTION REGARDING THE CURRENT STATE EXAMINATION CONTENT AND PROCESS; AND POSSIBLE CONSIDERATION OF A CHANGE TO THE MINIMUM SCORE REQUIRED TO PASS

(This item taken out of order)

President Owens explained that the Board suspended administration of the State Psychological Licensure Exam while previously selected members of the Board, Dr. Krogh, Dr. Papa, and Dr. Holland, reviewed the questions. The exam moved from being an in-person to an online test earlier in the year. The intent of the review was to ensure the exam was efficient and effective.

Although the three members are continuing their review of the questions, there was discussion by the Board about potentially reducing the pass rate for the exam.

Dr. Krogh stated he was not ready to make a motion or take any action at that time. Instead, President Owens suggested the group of three meet in the next week to review and potentially make revisions to the questions. A special meeting was proposed for the following Friday to discuss and possibly take action related to the exam, and specifically to discuss the pass rate.

13. (For Possible Action) DISCUSSION OF EPPP2

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.

There were no updates or discussion of this item.

14. DISCUSSION OF BOARD NEEDS, OPERATIONS, AND SCHEDULES

A. Update/Report from Nevada Psychological Association Representative.

Dr. Noelle Lefforge, Nevada Psychological Association Representative, had no update.

B. Update regarding Board membership

Lisa Scurry, Executive Director, explained that the Governor's Office is aware of the two vacancies. Their website has not been updated to indicate two openings, but the application process is the same for each. President Owens added that one of the two members should be affiliated with a university.

C. Future Board meeting agenda items (No discussion among the members will take place on this item)

President Owens suggested the Board discuss removal of the term "moral character" from Chapter 641 of NR and NAC at a future meeting.

15. (For Possible Action) 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.

President Owens recommended the applicants for approval by the Board upon completion of their application files. The applicants must meet established requirements prior to receiving a license to practice psychology in the State of Nevada.

On motion by John Krogh, second by Tony Papa, the Nevada State Board of Psychological Examiners approved licensure of the following individuals upon completion of their application files: Jodi Abramowitz, Andrea Bevan, Daniel Blumberg, Jodi Cabrera, Sung Jin Cho, Rachel Foster, Jill Hayes Barbee, Corey Kuhn, Karen Lehmann, Luz Robles Gonzalez, Brenda Wiederhold. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard)
Motion Carries Unanimously: 5-0

16. (For Possible Action) CORRESPONDENCE – DISCUSSION AND POSSIBLE ACTION ON CORRESPONDENCE RELATED TO LICENSURE AND REGISTRATION APPLICANTS

A. DISCUSSION AND POSSIBLE ACTION TO CONSIDER A WAIVER OF NAC 641.1519 AND AUTHORIZE AND APPROVE IVAN HRONEK, PSYD, TO SERVE AS THE

SUPERVISOR OF A PSYCHOLOGICAL INTERN. NAC 641.1519 REQUIRES SUCH SUPERVISORS TO HAVE BEEN LICENSED BY THE BOARD FOR THREE YEARS OR MORE.

Dr. Ivan Hronek submitted a request for a waiver of NAC 641.1519 which requires supervisors of psychological interns to have been licensed for three years or more. Dr. Hronek has been licensed for under two years.

Dr. Lenkeit explained that historically waivers have been approved when the potential supervisor was within months of the three-year minimum, or if other licensed psychologists are also available to provide support and guidance.

After discussion by the Board, it was decided that additional information would be needed to establish if a special circumstance exists. Dr. Hronek will be contacted by the Board Office and the matter may return to a future meeting.

On motion by Tony Papa, second by John Krogh, the Nevada State Board of Psychological Examiners requested President Owens contact Dr. Hronek to establish whether a special circumstance exists. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

B. DISCUSSION AND POSSIBLE ACTION TO CONSIDER A WAIVER OF NAC 641.1519 AND AUTHORIZE AND APPROVE AMY KEGEL, PSYD, TO SERVE AS THE SUPERVISOR OF A PSYCHOLOGICAL INTERN. NAC 641.1519 REQUIRES SUCH SUPERVISORS TO HAVE BEEN LICENSED BY THE BOARD FOR THREE YEARS OR MORE.

President Owens explained that Dr. Amy Kegel submitted a request for a waiver of NAC 641.1519 which requires supervisors of psychological interns to have been licensed for three years or more. Dr. Kegel has nearly three years of licensure, group supervisory experience, and will have other supervisors / mentors available.

On motion by John Krogh, second by Monique McCoy, the Nevada State Board of Psychological Examiners granted a waiver of NAC 641.1519 to Amy Kegel, Psy.D., to serve as a supervisor of a psychological intern. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

C. DISCUSSION AND POSSIBLE ACTION TO APPROVE A SECONDARY SUPERVISOR FOR A POST-DOC TRAINEE WHERE THE SECONDARY SUPERVISOR WILL PROVIDE SPECIALIZED TRAINING AND CONDUCT THE MAJORITY OF SUPERVISION

There was no discussion on this item. It may return at a future meeting.

17. (Possible Action) DISCUSSION OF LANGUAGE DEVELOPMENT TO COVER THE DIFFERENCES BETWEEN APA ETHICS CODE AND ASPPB CODE OF

CONDUCT. BOARD WILL CONSIDER RECOMMENDATIONS FROM APA ETHICS CODE TO BE PLACED IN NAC 641.

The Board has been conducting a review of the provisions that exist within the APA Ethics Code and the ASPPB Code of Conduct. The ongoing work has included review of a document detailing the differences and similarities between the two Codes, as well as applicable Nevada laws and administrative code.

At the June meeting, the Board completed review of Section 1, Resolving Ethical Issues. At that meeting, the Board proposed adding section 1.07, related to improper complaints, to NAC but no action was taken. Dr. Papa reminded the members that the section dealt with frivolous complaints. Harry Ward, Deputy Attorney General, suggested that the Board already has latitude to act on complaints found to be frivolous or retaliatory, particularly related to ethics.

Dr. Papa stated that the ASPPB Rules of Conduct states that the APA Ethics Code should be referenced as necessary. However, the Rules of Conduct do not address frivolous complaints. He asked the members if language should be drafted to add this to the NAC, providing the Board with regulatory authority in that area.

Dr. Woodard inquired about the intent of the discussion to merge the two documents. She asked whether it is the Board's preference to identify where gaps exist and potentially legislate to fill in those gaps, or if the Board could adopt both to create an overlap of the two ethics documents. The latter would allow the Board to point to one or the other when a gap exists in current law or administrative code.

President Owens asked if there are provisions where conflicting language exists between the two. Dr. Papa responded that, to his recollection, and based on current research, ASPPB's Rules of Conduct are very specific. President Owens added that the APA Ethics Code is thought to be more aspirational than operational.

Mr. Ward stated that his preference would be that the Board adopt both codes as that would provide enough latitude to cover a complaint and support an argument related to potential ethics violations. Adopting both would provide the Board with additional regulatory authority. He pointed out that both codes come from professional organizations, APA and ASPPB, to whose guidance the Board often refers.

There was general discussion in agreement about adopting the APA code and merging it into the Board's regulations under Nevada Administrative Code (NAC 641.250).

Dr. Woodard asked if the language should state that ASPPB is primary but where it is silent the APA code would be utilized. She stated this could become an issue if a conflict between the two codes should ever arise. Mr. Ward recommended not naming one as primary but using them in conjunction with each other. Where there is a conflict, the Board and/or legal representation would determine which provision would be cited.

Public Comment: Dr. Noelle Lefforge pointed out that the APA is in the process of revising their Code of Ethics.

18. (For Possible Action) 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.

Dr. Papa has been contacting other state Boards to whom this proposed change in law would impact their licensees. While he has faced obstacles due to COVID-19 shutdowns, the Boards that have responded have either communicated their support or that the change would not impact their licensees. The opinion of the Board of Medical Examiners is still needed.

President Owens suggested the Board Office assist in that communication. She added that a potential bill sponsor has been found for a future Legislative Session.

The members reviewed the proposed language change, which reads:

"Video/audio recordings of health care treatment made for the purposes of training health care professionals may be exempted from inclusion in the health care of a patient if:

- *The recording is used in the context of an approved training activity related to completion of an accredited education program for the health care profession as defined by the relevant professional boards.*
- *The patient provides informed consent to allow recording to be made and use explicitly for this purpose.*
- *This exclusion does not exempt health care provider from keeping adequate records related to the medical history, examination, diagnosis or treatment of the patients.*
- *Recordings that include protected health information or personal identifying information must be maintained in compliance with relevant state and federal law to ensure the privacy and confidentiality of the patient until they are destroyed."*

Dr. Papa provided the historical background about the proposed language, including how video/audio recordings are handled from a practical standpoint in a training setting.

Dr. Woodard suggested striking the word "treatment" from the first sentence, explaining that the word could limit the types of recordings.

President Owens inquired if the Board members wanted to take action to (1) accept the language as proposed for developing a bill draft, (2) direct the Board Office to check with the State Board of Medical Examiners, and (3) provide guidance for forwarding the

language to the potential bill sponsor if there are no objections from the Board Medical Examiners.

On motion by Tony Papa, second by John Krogh, the Nevada State Board of Psychological Examiners accepted the proposed language (italicized above), with the removal of the word "treatment" from the first sentence; provided direction to the Board Office to get the opinion of the State Board of Medical Examiners; and, if there are no objections from the Board of Medical Examiners, forward the language to the potential bill sponsor. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0

19. (For Possible Action) DISCUSSION OF RESPONSE FROM ATTORNEY GENERAL OFFICE REGARDING OPINION REQUEST CLARIFYING NRS 641.390, REPRESENTATION OR PRACTICE WITHOUT LICENSE OR REGISTRATION PROHIBITED.

A. Discussion of the need to develop language within Nevada Administrative Code clarifying NRS 641.390.

Harry Ward, Deputy Attorney General, summarized Nevada state law (NRS 641.390) which states that persons cannot represent themselves or practice as a psychologist without a license. There is language that would allow a public agency, such as the Corrections Department, to allow for an exception to licensure by the Board.

President Owens stated the issue is of concern as having non-licensed individuals practicing psychology could impact the public, the inmates, and those staff members. Individuals within the Department of Corrections have expressed concern because they are or could be asked to work outside the scope of their competence, particularly in areas of assessment. The potential elimination of this exception would also help to eliminate confusion over individuals who are using the title of psychologist.

Dr. Woodard made comment that this is important for the protection of the public. Individuals who are not licensed could be conducting assessments, and doing interpretation and analysis of that information, which could ultimately be used in representation of the individual who is incarcerated.

Ms. McCoy added that there are potential implications for other mental health professionals, as it could set precedent for other medical disciplines.

Mr. Ward suggested that the Board begin developing language to clarify NAC 641.390. Dr. Krogh volunteered to work on the language. President Owens suggested that the language related to "psychological scientists" is vague. Dr. Krogh added that the language that allows those individuals to use the title "within an institution" should also be clarified.

Dr. Woodard suggested that there should be conversation with the Departments of Corrections and Human Resources regarding scope of practice and the actual services being provided. She added that even if the NAC is changed, the practices could continue if the interested parties are not involved and informed of the change. Dr. Woodard volunteered to do outreach with the Departments of Corrections and Human Resource Management.

20. (For Possible Action) DISCUSSION OF U.S. DISTRICT COURT CASE 2:20-CV-00651-KJD-VCF WHERE THE STATE OF BOARD PSYCHOLOGICAL EXAMINERS IS A NAMED DEFENDANT.

Harry Ward, Deputy Attorney General, explained that the federal matter is still in the initial phase of litigation. The next phase is discovery and a “meet and confer” is being scheduled related to the discovery process. He reminded the Board that federal cases can take more than 1-2 years to reach completion.

21. (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 proposed meeting schedule for the remainder of 2020 was presented to the Board. The remaining meeting dates are August 14, September 11, October 9, November 13, and December 11. (Note – meeting dates are subject to change.) The meeting schedule for the Application Tracking Equivalency and Mobility (ATEAM) Committee was also presented.

A proposed 2021 meeting schedule will be presented at the September meeting.

22. PUBLIC COMMENT.

Donald Hoier made comment requesting recordings of past Board meetings from August, September, and December 2019.

23. (For Possible Action) ADJOURNMENT

There being no further business before the Board, President Owens asked for a motion to adjourn at 11:25 a.m.

On motion by John Krogh, second by Tony Papa, the Nevada State Board of Psychological Examiners adjourned the meeting. (Yea: Whitney Owens, Tony Papa, John Krogh, Monique McCoy, and Stephanie Woodard) Motion Carries Unanimously: 5-0