

NEVADA STATE BOARD OF PSYCHOLOGICAL EXAMINERS

Meeting Minutes

January 15, 2021

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 Monique McCoy, LCSW, Soseh Esmaeili, PsyD, and Stephanie Woodard, PsyD, were present at roll call. Board Secretary/Treasurer John Krogh, PhD, and Member Stephanie Holland, PsyD, were absent.

Also present were Harry B. Ward, Deputy Attorney General, Gary Lenkeit, PhD, Board Investigator, Sheila Young, Board Investigator, Neena Laxalt, Lobbyist, Lisa Scurry, Executive Director, and members of the public: Cynthia Lancaster, Rachel Davis, and Noelle Lefforge.

2. Public Comment

There was no public comment provided, nor had any public comment had been received by the Board Office as of the start of the meeting.

At approximately 8:40 a.m. the meeting was disrupted by members of the public during Item 18, which had been taken out of order. At the recommendation of Deputy Attorney General Harry Ward, the meeting was recessed and called back to order at approximately 8:50 a.m.

Upon reconvening, Mr. Ward notified the Board and those in attendance that the meeting would continue, and any further disruption could result in that person being excluded. Executive Director Scurry muted all participants unless called on to speak.

3. (For Possible Action) Discussion and Possible Approval of the Minutes of the Meeting of the Nevada State Board of Psychological Examiners from December 11, 2020.

There was no discussion nor recommended changes to the minutes.

On motion by Soseh Esmaeili, second by Stephanie Woodard, the Nevada State Board of Psychological Examiners approved the meeting minutes from December 11, 2020. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 4-0

4. Financial Report

A. (For Possible Action) Discussion and Possible Action to Approve the Treasurer's Report for F/Y 2021 (July 1, 2020, Through June 30, 2021).

In the absence of Secretary/Treasurer Krogh, the financial report was provided by Executive Director Lisa Scurry. The Board was provided several financial documents including the general ledger, profit/loss statement, and the balance sheet.

Ms. Scurry reviewed the budget to actual spreadsheet which shows the amount budget per line item and the amount spent to date for each line item. She explained that errors were found in 4 budget line items where the amount spent was miscategorized. That included the categories of in-state travel, rent, postage, and office supplies.

Ms. Scurry also stated that the budget-to-actual document indicated a large bank fees expense. She explained that those bank fees are, for the most part, service charges being paid by the buyer (licensee or applicant). Because the fees appear in the accounting software, they are included in the budget spreadsheet for transparency purposes. She added that the Board is not actually paying those bank fees.

Member Dr. Woodard inquired if the number of renewals matched the number that was budgeted. Ms. Scurry explained that to create the budget, she took the number of licensees at that time and multiplied it by the renewal fee of \$600. Approximately 20 licensees moved to inactive status. As the budget was created with a low estimate, she felt the budgeted revenues should be fairly close to the actual at the end of the year.

On motion by Soseh Esmaeili, second by Monique McCoy, the Nevada State Board of Psychological Examiners approved the financial report to date for fiscal year 2021. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 4-0

B. (For Possible Action) Discussion and Possible Action to Approve Renewal of the Membership Fees to the Association of State and Provincial Psychological Boards (ASPPB) in an Amount Not to Exceed \$2,250

Executive Director Scurry informed the Board that the annual membership renewal fee for ASPPB is due by April 1, 2021. The dues are assessed based on the number of licensees plus a flat fee of \$350. Ms. Scurry stated the total paid would not exceed \$2,250.

On motion by Soseh Esmaeili, second by Monique McCoy, the Nevada State Board of Psychological Examiners approved the renewal of membership fees to ASPPB in an amount not to exceed \$2,250. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 4-0

C. (For Possible Action) Discussion and Possible Action to Consider Posting to the Board Website the Annual Financial Audit as Accepted at the December 11, 2020 Meeting

It was proposed that the annual financial audit be posted to the Board's website in an effort to provide greater transparency to the licensees.

Member Woodard agreed with posting the financial information. She also suggested posting the ongoing financial breakdowns of general expenses as well.

On motion by Stephanie Woodard, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners directed the Executive Director to post the external audit for Fiscal Year 2020 to the Board's website. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 4-0

D. (For Possible Action) Discussion and Possible Action to Provide Direction to the Board Office Regarding the Status of Recouping Outstanding Legal Fees Owed to the Board from Disciplinary and Unlicensed Practice Cases.

There was no update on this item.

5. (For Possible Action) Discussion and Possible Action to Provide Guidance On 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.

Member Woodard provided an update on the state vaccine rollout. The strategic plan for administration of the vaccine is on the third revision. A tiered approach was developed but the state is now looking at more fluid pathways to get people vaccinated. Dr. Woodard stated that the process varies by county, particularly related to the number of people who make up each tier.

Dr. Woodard described ways that people can register for the immunization and added that Nevada typically has low participation rates for vaccinations. She added that Immunize Nevada (<https://www.immunizenevada.org/>) is a statewide partner providing information related to vaccinations.

There was some discussion about expectations for getting the second shot of the vaccine, and behaviors of those who have and who have not been vaccinated. That includes encouraging people to continue wearing a mask even after being vaccinated. There remains uncertainty surrounding immunity, the ability to pass the virus, etc.

6. (For Possible Action) Discussion and Possible Action Related to Consideration of Temporary Licensure to Ensure Continuity of Care for Patients Being Seen by Out-Of-State Providers When the Provisions of Directive 011 Expire

President Owens suggested the Board continue to discuss continuity of care protocols when Directive 011 ends.

Executive Director Scurry stated that more than 275 people have been approved for temporary registration under the Governor's Directive. She added that those individuals are encouraged to seek full licensure.

President Owens inquired as to how long the process is taking to complete licensure. Ms. Scurry replied that some parts of the licensure process, such as the background check, are continuing to take 2 months or more. There is also a delay as a result of the online version of the State Exam currently being on hold and most applicants not wanting to take the test in-person.

There was discussion about drafting a letter to those individuals that have temporary registration informing them of the process for seeking full license.

President Owens asked Mr. Ward, Deputy Attorney General, if the Board would have the ability and authority to provide temporary licensure to an applicant until the background check is received and full licensure can be completed.

7. (For Possible Action) Discussion and Possible Action on Guidance Provided by ASPPB Related to COVID-19 and Potential Future Accommodations for Psychological Assistants and Psychological Interns

President Owens explained that there have not been many requests for accommodations through ASPPB and other states for psychological interns and psychological assistants as a result of the pandemic. She added that the item will return for future discussion if such accommodation requests are received by the Board office in the future.

8. (For Possible Action) Discussion and Possible Action on The Evaluation and Validation of The Online Version of the State Examination, Including a Report By Dr. Stephen Benning, Consultant / Psychometrician. Possible Action May Be Taken to Adjust the Minimum Passing Score, Number of Questions in the Exam, and Length of Time Provided to Complete the Exam.

Dr. Stephen Benning conducted an evaluation and validation of the online state exam using data from the past in-person version and the current online version of the exam. Based on the data and research he made the following recommendations. The passing score should be lowered to 75%; the length of time given to the test taker should remain at 3 hours; and the number of multiple-choice questions should remain at 50.

There was no discussion or questions related to those recommendations.

There was discussion about the need for or the creation of specific exams rather than exams that are created by the test builder randomly. Director Scurry explained that when the testing window is opened, the exam is created from the establish pool of questions. Then, for each of the categories, the appropriate number of questions are pulled to create the exam. As a result, mathematically there could be many versions of the exam.

President Owens inquired if the recommendations would change if the Board adopted three set exams versus the semi-randomized exams currently being used. Dr. Benning explained that timewise, it will take about the same amount of time to complete validation either way.

Dr. Benning suggested that ideally three exams would be created rather than the random draw.

President Owens asked where the questions from the current pool originated. Ms. Scurry stated that the questions were from the previous written exam. Those questions were reviewed in 2020 by members of the Board to ensure accuracy.

Dr. Benning recommended review of the online questions to verify the data related to how the questions correspond to the technical report and whether there is enough data available to create three exams.

On motion by Stephanie Woodard, second by Monique McCoy, the Nevada State Board of Psychological Examiners revised the administration of the State Examination to allow for a 75% passing/cut score; kept the number of questions at 50; and the length of time to take the exam would remain at 3 hours. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 4-0

On motion by Soseh Esmaeili, second by Monique McCoy, the Nevada State Board of Psychological Examiners directed Dr. Benning to create three versions of the State Exam from the current pool of questions. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 4-0

9. (For Possible Action) Discussion of the Comparison of Social Media Guidelines Distributed by ASPPB With Guidance Provided By The State Of Nevada Board Of Psychological Examiners

Member Esmaeili presented a comparison of the provisions of the social media guidelines created by ASPPB and those of the Board. She noted that the Board's policy was concise and ASPPB's was both general and broad ranging.

Some areas included in the ASPPB guidelines but missing from the Board's policy included the following:

- language related to respect for client privacy;
- a template for an informed consent statement;
- a template for a private practice social media policy
- language about using trusted networks
- language about encrypting protecting information

President Owens asked about the value of being broad in the guidelines, such as in the current Board version, versus more concise, such as the ASPPB guidelines.

Mr. Ward responded that it was the authority of the Board to regulate themselves and set those guidelines.

Member Woodard asked if the Board should consider adopting the ASPPB social media guidelines on behalf of the Board in order to have a more thorough document. She added that the documents are guidelines, not requirements, that should be provided to psychologists.

President Owens agreed that the ASPPB guidelines were more specific and appeared to be in line with best practices.

Member Esmaeili recommended either adopting the ASPPB guidelines or creating a merged document. She added that the ASPPB document does contain several repetitive statements.

On motion by Soseh Esmaeili, second by Monique McCoy, the Nevada State Board of Psychological Examiners approved the adoption of the ASPPB Social Media Guidelines to replace the current guidelines of the Board. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, Stephanie Woodard) Motion Carries: 4-0

Dr. Esmaeili suggested adding item #4 from the Board document to the adopted ASPPB document. That item reads, "Ensure that social media sites are not be used for case consultation purposes. Due to the limits of confidentiality on social media sites, confidentiality cannot be guaranteed, and therefore consulting about a case on social media sites likely violates Nevada Law, including ethical requirements for Nevada Psychologists." She commented that the provision was specific to Nevada law and was therefore relevant.

President Owens noted that there is a provision under "Security of Information" and asked if the language would meet the same goal.

Dr. Esmaeili agreed but added that #4 referred directly to Nevada law.

On motion by Soseh Esmaeili, second by Stephanie Woodard, the Nevada State Board of Psychological Examiners approved the addition of statement #4 from the current guidelines of the Board to the newly adopted Social

Media policy. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, Stephanie Woodard) Motion Carries: 4-0

10. Board Needs and Operations

A. (For Possible Action) Discussion and Possible Action Related to PSYPact, Including an Update from the PSYPact Commissioner

Gary Lenkeit, PsyPact Commissioner, stated there was no update. The item will be removed from future agendas unless a specific need arises.

B. Update and Report from The Nevada Psychological Association

Noelle Lefforge, representing Nevada Psychological Association, commented on the events in Washington D.C. and shared that a statement is posted to the NPA website.

Additionally, she reported that the NPA Board is in the process of seeking nominations. They are also working on revisions of their website.

C. Report from the Executive Director on Board Office Operations

Executive Director Scurry informed the Board that the general renewal process was completed. There has been an ongoing issue with mail delivery and she asked that anyone who has not received confirmation of the renewal should contact the Board office.

11. (For Possible Action) Discussion and Possible Action to Provide Revision To and/or Adopt a Policy Related to Board Staff and Employment Practices

Executive Director Scurry provided the Board with a draft policy on staff and employment practices. The policy was reviewed at the December meeting with changes being recommended including adding language about the handling of informal and formal complaints. Ms. Scurry stated that the policy is missing a salary schedule, which was recommended for inclusion by the PERS auditor.

As two Board members were absent from the meeting, it was decided to delay approval until they reviewed. The policy will return at a future meeting.

12. (For Possible Action) Discussion and Possible Action to Provide Revision to and/or Adopt a "Background Check With Fingerprinting" Policy Related to the Procedures For Review And Disposition Of Background Checks Where a Finding is Reported by the Nevada Department Of Public Safety and/or Federal Bureau Of Investigation

Executive Director Scurry provided the Board with a draft policy related to the process for the review of background checks when a finding is reported. It was recommended

by legal counsel that a policy be developed that would provide fair and consistent review of background checks and remove unnecessary embarrassment to applicants.

The policy was reviewed to include references to NRS Chapters 641 and 622 that speak to the requirement for fingerprinting of applicants for registration and licensure.

Ms. Scurry explained that the policy suggested a review team be created consisting of the Board president, a Board investigator and the executive director. When a background check is received, the team will review and determine if action of the Board is necessary. Initially, the team will create a set of standards to be used in the evaluation of background checks. Criteria that may be considered include length of time since the arrest/conviction, type of offense, etc.

Member Woodard suggested the policy specify the frequency that the group would meet. She also inquired as to the potential imposition of a \$50 fee to an applicant who files an appeal.

Ms. Scurry explained that the fee is directly from language within NRS Chapter 622. She added that it was unlikely such a fee would need to be imposed. As to the frequency of the review team meeting, she suggested that that group should review the background check within two weeks of a background check finding.

It was decided that the review team can consist of either Board investigator without specific action by the Board.

On motion by Stephanie Woodard, second by Monique McCoy, the Nevada State Board of Psychological Examiners approved the adoption of the Background Check with the revision of adding that the review team will review within 14 days of receipt of a finding by the Board office. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, Stephanie Woodard) Motion Carries: 4-0

13. (For Possible Action) Review, Discussion, And Possible Action on Pending Consumer Complaints:

Harry Ward, Deputy Attorney General, provided an update on the status of ending consumer complaints. Items A through E, below, are tentatively scheduled for hearings in March. Items F through J are tentatively scheduled for hearings in late summer. He explained that there will be two deputy attorney generals present for each hearing. One will represent the Board and the other will prosecute the case.

Mr. Ward also commented to remind members of the public and licensees that he cannot communicate with Complainants who are represented by legal counsel.

Gary Lenkeit, Board Investigator, made comment that Item G and J are still pending and not necessarily at the point of requiring a hearing.

A. Complaint #19-0514

- B. Complaint #19-0626
- C. Complaint #19-0709
- D. Complaint #19-1106
- E. Complaint #19-1223
- F. Complaint #20-0501
- G. Complaint #20-0728
- H. Complaint #20-0818
- I. Complaint #20-0819
- J. Complaint #20-1130

14. (For Possible Action) Review and Possible Action on Applications for Licensure as a Psychologist or Registration as a Psychological Assistant, Psychological Intern or Psychological 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 names were presented for approval of licensure pending satisfactory completion of the licensure application requirements: Andrew Bertagnolli, Mantsha Boikanyo, Latoya Brogdon, Jonathan Campos, Lipika Wadhwa Jain, Mavis Major, Heather Neill, Ariel Ogilvie McSweeney, and Cathy Reimers.

On motion by Monique McCoy, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners approved the following applicants pending satisfactory completion of the licensure application requirements: Andrew Bertagnolli, Mantsha Boikanyo, Latoya Brogdon, Jonathan Campos, Lipika Wadhwa Jain, Mavis Major, Heather Neill, Ariel Ogilvie McSweeney, and Cathy Reimers. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, Stephanie Woodard) Motion Carries: 4-0

15. (For Possible Action) Discussion and Possible Action to Approve a One-Year Extension of the Registration of Psychological Assistant Cynthia Lancaster, Ph.D., With a New Expiration Date of June 4, 2022

(This item taken out of order.)

President Owens explained that Dr. Cynthia Lancaster has requested a one-year extension to her registration as a psychologist assistant. With approval, the registration would continue through June 4, 2022.

On motion by Stephanie Woodard, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners approved an extension of the registration of psychological assistant Dr. Cynthia Laster through June 4, 2022. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, Stephanie Woodard)
Motion Carries: 4-0

16. (For Possible Action) Discussion and Possible Action to Review and Approve the Request and Study Plan of Michellane Hazel Mouton to Take the National Examination (Examination For Professional Practice In Psychology (EPPP)) In Accordance With NAC 641.120

President Owens opened discussion into the submitted study plan of Michellane Hazel Mouton and request to take the EPPP a fourth time.

Member Woodard inquired if there are restrictions on the number of times an individual can take the exam.

President Owens responded that after failing the exam a third time, subsequent requests to take the exam require Board approval. She also suggested a standardized form be created to aid in the applicant's development of a study plan.

On motion by Stephanie Woodard, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners approved the Study Plan of Michellane Hazel Mouton and approved her taking the EPPP a fourth time in accordance with NAC 641.120. (Yea: Whitney Owens, Monique McCoy, Soseh Esmaeili, Stephanie Woodard) Motion Carries: 4-0

17. (For Possible Action) Discussion and Possible Action to Create a Psychological Assistant (Post-Doctoral) License

Executive Director Scurry explained that this item was originally introduced to the Board in November. At that meeting, Member Krogh volunteered to conduct some research. As he was not present for the meeting, it was suggested that the item return on a future meeting agenda.

18. Legislative Update

A. (For Possible Action) Discussion and Possible Action Related to the 2021 Session of The Nevada Legislature Scheduled to Begin February 1, 2021

(This item was taken out of order.)

Neena Laxalt, Board lobbyist, provided the Board with a spreadsheet showing relevant bills being followed.

She explained that there is a bill being referred by the Interim Health Committee regarding data collection. The purpose of the bill is to gather data about under-served areas in the state. The draft bill was not available.

B. (For Possible Action) Discussion and Possible Action on Bill Draft Request (BDR) 456 Which Proposes Changes to Nevada Revised Statutes to Clarify Purpose, Scope Of Use, and Use Of Audio and Video Recordings in Therapy and Assessment Training for Psychological Trainees, Psychological Interns and Psychological Assistants.

BDR 456 is a bill proposed by the Board. The draft of the bill was not yet available and there was no update.

C. (For Possible Action) Discussion and Possible Action on Bill Draft Request (BDR) 55-428 of the Rural Health Board in Which Provisions Of NRS Chapter 641, Psychologists, are Proposed for Revision Related To Data Collection and Licensure by Endorsement.

The bill draft was made available for review. There was no discussion nor questions.

D. (For Possible Action) Discussion and Possible Action on a Proposal To Remove Language From NRS 641.390, Representation Or Practice Without License Or Registration Prohibited, During A Future Session Of The Nevada State Legislature.

The Board previously took action to move forward with a proposed change to NRS 641.390. The goal is to have the change introduced during the 2023 Legislative Session to provide time to discuss the draft language with state agencies that could be impacted.

19. (For Possible Action) Discussion and Possible Action On Regulations Submitted To The Legislative Counsel Bureau (LCB) For Changes To Nevada Administrative Code (NAC) Chapter 641

Executive Director Scurry provided the Board with an update on the pending regulations.

Items A and B are with the Legislative Counsel Bureau. She explained that it was unlikely they would be adopted until after the upcoming session of the Nevada Legislature.

Items C, D, and E will have a public hearing at the February 12 meeting of the Board.

Items F and G have been submitted to the Legislative Counsel Bureau for creation of a draft regulation. She explained that it was unlikely they would be returned to the Board for public workshops to be conducted until after the upcoming session of the Nevada Legislature.

- A. R057-19: Fees
- B. R058-19: Endorsement Language
- C. R114-19: Foreign Graduates
- D. R115-19: Supervision, payment of psychological assistant, Closure of a Practice
- E. R173-20 (Previously R131-15): Requires those teaching or engaging in research to be licensed if providing supervision in a university setting.
- F. R174-20: Code of Conduct
- G. R175-20: Removal of "Moral"

20. (For Possible Action) Discussion of U.S. District Court Case 2:20-Cv-00651-Kjd-Vcf Where the Nevada State of Board Psychological Examiners Is A Named Defendant

Harry Ward, Deputy Attorney General, explained that the plaintiff in this matter is seeking new counsel. There is a hearing scheduled in federal court to allow her counsel to withdraw. The matter is stayed pending that change.

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

- A. The next regularly scheduled meeting of the Nevada Board of Psychological Examiners is Friday, February 12, 2021 at 8:30 a.m.**

There were no questions or suggestions to change the meeting date.

22. Requests for Future Board Meeting Agenda Items (No Discussion Among the Members Will Take Place on This Item)

President Owens suggested the Board discuss allowing psychological interns access to take the national examination, EPPP Part 1. Currently only psychological assistants and applicants for licensure who have not previously taken the exam are eligible.

23. Public Comment

There was no public comment provided, nor had any public comment had been received by the Board Office during the meeting either through email or the public chat forum.

24. (For Possible Action) Adjournment

There being no more business before the Board, President Owens adjourned the meeting at 11:10 a.m.