

STATE OF NEVADA BOARD OF PSYCHOLOGICAL EXAMINERS
MEETING MINUTES

February 4, 2022

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 8:32 a.m. 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, PsyD, Secretary/Treasurer Stephanie Woodard, Psy.D., and members Monique Abarca, LCSW, Soseh Esmaeili, PsyD, and Stephanie Holland, PsyD, were present.

Also present were Harry Ward, Board counsel and Deputy Attorney General, Dr. Gary Lenkeit, Board Investigator, Lisa Scurry, Executive Director, and members of the public: Brian Lech, James Tenney, Sara Hunt, Danielle Nishida, and Jaqueline Rossi Green.

2. Public Comment.

There was no public comment at this time. Lisa Scurry, Executive Director, stated no public comment had been received by the Board Office as of the start of the meeting.

3. (For Possible Action) Discussion and Possible Approval of the Minutes of the Regular Meeting of the State of Nevada Board of Psychological Examiners on January 14, 2022.

The minutes of the regular meeting of the Board of Psychological Examiners from January 14, 2022, were reviewed by the Board. There were no questions, comments nor suggested changes.

On motion by Monique Abarca, second by Stephanie Holland, the Nevada State Board of Psychological Examiners approved the meeting minutes of the Regular Meeting of the Board on January 14, 2022. (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 5-0

4. Financial Report

A. (For Possible Action) Discussion and Possible Action to Approve the Treasurer's Report for Fiscal Year 2022 (July 1, 2021, Through June 30, 2022).

Lisa Scurry, Executive Director, provided the Board with a review of the financials, including the budget-to-actuals report, general ledger, and summary of accounts.

There were no non-budgeted expenses to report nor were there any unexpected expenses.

Stephanie Woodard, Secretary/Treasurer, explained that for future meetings, beginning in April, in-depth quarterly reports will be provided.

On motion by Stephanie Holland, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners approved the Treasurer's Report for Fiscal Year 2022. (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 5-0

B. (For Possible Action) Discussion and Possible Action to Provide Reimbursement to Dr. Sheila Young, Board Investigator, in the Amount of \$480 for Registration in the "Online National Certified Investigator and Inspector Training;" and Consideration of the Same Expenditure for Dr. Gary Lenkeit, Board Investigator.

Dr. Sheila Young, Board investigator, requested reimbursement for an investigations training course entitled, "Online National Certified Investigator and Inspector Training." The cost of the course was \$480. Discussion included allowing Dr. Gary Lenkeit, the Board's other investigator, reimbursement for a similar training related to his work with the Board.

Director Scurry explained that the budget includes \$5,000 annually for dues and registrations. From that budget, after the ASPPB dues and conference registrations are paid, there would be monies available for these trainings.

Harry Ward, Deputy Attorney General, added that oftentimes during legal case discovery, the question of training of Board members and investigators is raised. As a result, he supported ongoing training of the investigators and Board members.

On motion by Stephanie Woodard, second by Monique Abarca, the Nevada State Board of Psychological Examiners approved the reimbursement to Dr. Sheila Young in the amount of \$480 for the "Online National Certified Investigator and Inspector Training" (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 5-0

C. (For Possible Action) Discussion and Possible Action to Select one or more members of the Nevada Board of Psychological Examiners or Board Staff to Attend the Midyear Meeting of the Association of State and Provincial Psychological Boards in New Orleans, LA on April 21-24, 2022; and approval of an Expenditure of not more than \$1,250 per person in travel expenses

President Owens explained that the ASPPB Midyear Meeting will be held in New Orleans, Louisiana on April 21-24, 2022. She stated her desire to attend as the agenda will include discussion of master's level licensure. It will also include discussion of barriers to licensure and encouraged members of the Board's mobility committee to attend.

Travel costs were estimated at approximately \$1,200 per person. The registration window had not opened so the registration cost was not known. Ms. Scurry suggested the Board approve an initial expenditure of up to \$1,250 per person, which would allow flights to be purchased and rooms reserved.

Dr. Woodard, Dr. Holland, and Dr. Lenkeit expressed interest in attending.

An additional item will come to the Board in March once attendees are finalized and any additional costs are known.

On motion by Monique Abarca, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners approved attendance at the Midyear Meeting of the Association of State and Provincial Psychological Boards in New Orleans, Louisiana on April 21-24, 2022, and allocated an expenditure of up to \$1,250 for travel costs for up to four Board or staff members to attend the conference. (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 5-0

5. Board Needs and Operations

A. Update and Report from the Nevada Psychological Association (NPA)

Dr. Sara Hunt, NPA current past president, provided an update on upcoming activities of the Nevada Psychological Association. The annual conference will be held on Friday, April 22, 2022, and will be conducted virtually. The topic will be ethics.

NPA requested clarification on the change in law for continuing education requirements related to diversity and cultural competency.

Lastly, the NPA Board will be looking for candidates to the executive board and the south and north regional boards.

B. Report From the Executive Director on Board Office Operations

Lisa Scurry, Executive Director, provided a report on the activities of the Board office including the number of licensure/registration applications received, licenses/registrations issued, etc., over the past month.

6. (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 Options for Temporary Licensure to Ensure Continuity of Care for Patients Being Seen by Out-Of-State Providers when the Provisions of Directive 011 Expire, Licensure Renewal, Continuing Education Credits, Supervision Concerns, Obtaining Clinical Hours for Licensure, and the Use of Telepsychology and Interjurisdictional Practice.

There were no updates on the status of Directive 011.

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

Harry Ward, Deputy Attorney General, stated there were no updates on the consumer complaints listed below.

- A. Complaint #19-0626
- B. Complaint #19-0709
- C. Complaint #19-1106
- D. Complaint #19-1223
- E. Complaint #20-0501
- F. Complaint #20-0818
- G. Complaint #20-0819
- H. Complaint #21-0524
- I. Complaint #21-0726
- J. Complaint #21-0810
- K. Complaint #21-0816
- L. Complaint #22-0121

8. (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.

President Owens presented the following applicants for consideration of licensure, contingent upon satisfactory completion of all licensure requirements: Dana Anderson, Jessica Boyle, Nicola De Paul, Saira Jhorn, Steven Klee, Paul Kwon, George Lough,

Jennifer Luboski, Kellie Nesto, Alyssa Newman, Cedar O'Donnell, Donna Truong, and John Tsanadis.

On motion by Stephanie Woodard, second by Stephanie Holland, the Nevada State Board of Psychological Examiners approved the following applicants for licensure, contingent upon satisfactory completion of all licensure requirements: Dana Anderson, Jessica Boyle, Nicola De Paul, Saira Jhorn, Steven Klee, Paul Kwon, George Lough, Jennifer Luboski, Kellie Nesto, Alyssa Newman, Cedar O'Donnell, Donna Truong, and John Tsanadis. (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard. Not Present at Vote: Monique Abarca) Motion Carries: 4-0

(This item was taken out of order.)

Dr. Danielle Nishida was an applicant for licensure as a psychologist. Her background check was returned with incidents from 2000, 2002, and 2015, none of them violent. She was licensed in California in 2021 and the license was in good standing.

Dr. Nishida explained that two of the findings were charges that were dropped as she was not the driver of the vehicle. The third incident was expunged in the state but not dismissed. Mr. Ward explained that expungement is an erasure of the record in the state where the incident occurred. Many of those records continue to appear in the national database.

The members of the Board expressed no concerns with the background check.

On motion by Soseh Esmaeili, second by Monique Abarca, the Nevada State Board of Psychological Examiners approved the Application for Licensure of Dr. Danielle Nishida, contingent upon satisfactory completion of all other licensure requirements. (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 5-0

A. (For Possible Action) Discussion and Possible Action to Approve the Application of Dr. John Barona for testing accommodations for the Nevada State Exam, the EPPP Part-1, and, if necessary, the EPPP Part-2

Lisa Scurry, Executive Director, presented Dr. John Barona's request for a testing accommodation of double time for the EPPP Part-1, Nevada State Exam, and, if applicable, the EPPP Part-2. Candidates for the EPPP Part-1 are normally allowed 4 hours and 15 minutes to complete the exam. Candidates for the state exam are allowed 3 hours to complete the exam.

President Owens asked about the history of Dr. Barona's application. Ms. Scurry explained that he originally applied in 2019. In 2021, he asked for a one-year extension of the application which was granted due to the barriers presented by COVID-19. He was recently told that he would not receive another extension but would have to re-submit his application and pay the application fee again, in accordance with Nevada Administrative Code. The application will expire in June 2022. Ms. Scurry explained that this was relevant because under the original application he would not have to take the EPPP Part-2. She asked if he would be subject upon re-application or if that exam would still be waived.

There were no concerns expressed with the request for accommodations.

On motion by Stephanie Holland, second by Stephanie Woodard, the Nevada State Board of Psychological Examiners approved the Application of Dr. John Barona for testing accommodations for the Nevada State Exam, the EPPP Part-1, and, if necessary, the EPPP Part-2, for double time to take the exams. (Yea: Whitney Owens, Stephanie Holland, Monique Abarca, Soseh Esmaeili, and Stephanie Woodard) Motion Carries: 5-0

9. (For Possible Action) Discussion and Possible Action to Approve the Supervision of Practicum Students from Institutions Outside of Nevada

At the December meeting, the Board discussed a proposal to allow licensed psychologists to supervise practicum students from institutions outside of Nevada. Under the plan, a student from outside of Nevada could provide psychological services to an individual in Nevada while under the supervision of a Nevada licensed psychologist.

There was discussion about whether the supervisor at the educational institution would also need to be licensed in Nevada; how the members felt about a student outside of Nevada providing services to Nevada residents; and if the student would need to be registered by the Nevada Board.

President Owens stated she didn't think the students would need to be registered unless there is reimbursement to Medicaid, as with any other Nevada psychological trainee.

There was discussion about whether an individual who was registered under PsyPact but not licensed in Nevada could serve as the supervisor. Dr. Lenkeit, PsyPact Commissioner, stated the issue may need to be reviewed by the PsyPact Commission to decide whether a psychologist's registration with PsyPact would be sufficient for supervision.

President Owens stated that as long as the institution supervisor and Nevada site supervisor are both licensed in the state of Nevada, they can supervise a practicum student (psychological trainee) to provide psychological services to patients in Nevada.

There was no disagreement from the members. No action was taken.

10. (For Possible Action) Discussion and Possible Action to Create a Master's Degree Level License

President Owens stated that the American Psychology Association is considering writing a model act to allow accreditation for a master's level licensure. Her intent in bringing the item was to discuss and make decisions in the best interests of Nevada prior to any national standards being developed. This discussion will continue at future meetings.

No action was taken.

11. (For Possible Action) Discussion and Possible Action to Revise the Provisions of Nevada Administrative Code (NAC) 641.1515, Psychological Interns: Registration, including a proposal to require registration of certain psychological interns

Member Dr. Holland presented a proposal to register psychological interns. Currently, interns only need to register in order for the supervisor to bill Medicaid.

The Board discussed the benefits of requiring registration, including how mandating registration could create more protections for the public. It was suggested that registration would help create standardization of training, although the current regulations state that programs must be APA-accredited or equivalent.

President Owens stated that the Board is also considering registration of supervisors and suggested that the same goal may be achieved through that effort. She added that standardization is important, and students must be getting an equivalent experience. Registration of interns may create a burden on the intern, particularly related to the costs incurred during registration.

Member Dr. Esmaili suggested that registration of supervisors should be considered first and agreed that it may accomplish the same goal as registering interns.

Member Dr. Holland stated that registering both would be prudent, adding that registering interns ensures they understand the laws and regulations and prepares them for the licensure process. Registration adds protections for the public, the interns, and supervisors.

Dr. Lenkeit agreed with registering interns and added that if a concern is raised against an intern who is not registered, that concern would only go to the supervisor as the Board may not have any jurisdiction. As a result, unregistered interns would not be held to the same standard for ethical violations as someone who is registered.

President Owens responded that the same standards could be met by registering supervisors without the additional burden of the registration requirements and costs. Director Scurry reviewed the costs of registration including the application fee, background check, and registration fee. Additionally, to register, the intern would be referred to the ASPPB PLUS process, also at a cost.

Dr. Esmaili stated that interns often have a difficult time coming up with those funds. President Owens added that this could create an unintended consequence of a supervisor not paying those costs for the intern and the intern having to shoulder the burden. If the Board pursues supervisor registration, the burden would be on the supervisor to ensure registration has occurred and that regulations are being followed.

It was decided that a proposal to register all supervisors should be considered first and registration of interns will be considered at a future time.

12. (For Possible Action) Discussion and Possible Action to Revise the Provisions of Nevada Administrative Code (NAC) 641.158, Limitations on Number of Assistants, Interns, and Supervisors

Member Dr. Stephanie Holland presented a proposal to revise Nevada Administrative Code (NAC) 641.158 which defines the number of assistants, interns and/or trainees a licensed psychologist may supervise.

Director Scurry described the current regulation and explained why a revision was being sought. NAC 641.158(1)(a)-(c) lists the numbers of psychological assistants, interns, and/or trainees that can be supervised by a psychologist. That includes a limit of 2 psychological interns. Line 1(d) allows for a combination of 5 supervisees. That clause has been interpreted as allowing the supervision of more than 2 interns at a time which has led to the need to clarify the language.

The proposed revision of the regulation would move #1(d) to #2, to read as, "Within the limits defined in (1) above, a psychologist may serve as a supervisor to a combination of not more than five total psychological assistants, psychological interns, psychological trainees or other interns licensed, registered or certified, as applicable, under the provisions of chapter 641A, 641B or 641C of NRS." The definition of supervisor would also be added, stating that the term "supervisor" would include primary and secondary supervisors."

There was discussion about the definition of primary and secondary supervisors and whether the number of allowable supervisees should be different for secondary

supervisors as their obligation would be different than for a primary supervisor. Director Scurry stated that the Board previously declared the term "supervisor" to include both primary and secondary supervisors within the written policies related to psychological assistants, interns, and trainees.

Dr. Woodard stated her concern that there could be unintended consequences with limiting the number of supervisees that a secondary supervisor can have as the same as of a primary supervisor. She added that typically a primary supervisor has the bulk of the supervisory responsibility while the secondary supervisor provides back-up.

President Owens commented that, under the current regulations, a secondary supervisor could be listed as secondary but actually be serving as the primary with respect to the number of supervisory hours being provided. In that case, the intent of the regulation, to promote adequate supervision, may not be met.

Dr. Woodard suggested the regulation be revised to define primary and secondary supervisors and to further define the responsibilities of each.

13. Legislative Update

A. (For Possible Action) Discussion and Possible Action on the Proposed Revision of Nevada Revised Statutes (NRS) 641.390, Representation or Practice Without License or Registration Prohibited, During the 2023 Session of the Nevada State Legislature

Director Scurry explained that conversations are ongoing with staff of the Department of Corrections and the Human Resources Division. Proposed changes to the law would mandate licensure for psychologists working with the Department of Corrections. The group continues to meet to discuss potential issues that could arise from the change, particularly anything with a fiscal impact.

President Owens added that the Corrections Department has begun to make informal changes including that their staff who are not licensed are no longer calling themselves psychologists.

Updates will continue to be provided at future meetings.

B. Update from Board Lobbyist

There was no update on this item.

14. (For Possible Action) Discussion and Possible Action on Regulations Proposing Changes to Nevada Administrative Code (NAC) Chapter 641 in Accordance with Nevada Revised Statutes (NRS) Chapter 233B

Lisa Scurry, Executive Director, provided a status update on the regulations listed below. She also stated that R057-19, which changed the Board's fee schedule, and R114-19, which creates procedures related to foreign graduates, were both adopted by the Legislative Commission, have been posted to the Board's website, and filed with both the Secretary of State and the State Archives.

- A. R058-19: Endorsement Language – Due to newly proposed revisions to this regulation, it will be scheduled for a public hearing during a future meeting of the Board.
- B. R115-19: Supervision, payment of psychological assistant, Closure of a Practice – This regulation will be discussed during an upcoming meeting of the Nevada Legislative Commission for consideration of adoption.
- C. R173-20 (Previously R131-15): Requires those teaching or engaging in research to be licensed if providing supervision in a university setting. – This regulation will be discussed during an upcoming meeting of the Nevada Legislative Commission for consideration of adoption.
- D. R174-20: Code of Conduct – The draft regulation will be brought to a public hearing at a future meeting of the Board.
- E. R175-20: Removal of "Moral" - The draft regulation is pending.
- F. R121-21: Regulations related to Senate Bill 44 - The draft regulation is pending.
- G. R122-21: Removal of "Behavior Analyst" ... - The draft regulation is pending.
- H. R127-21: Regulations related to Assembly Bill 327 - The draft regulation is pending.
- I. R128-21: Regulations related to Assembly Bill 366 – The draft regulation will be brought to a public hearing at a future meeting of the Board.

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

Harry Ward, Deputy Attorney General, explained that discovery in this matter is continuing. The defendants have responded to discovery and interrogatories. The plaintiff may be filing a new request with the court that will result in a hearing in the future with the magistrate judge. The matter is ongoing.

16. (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, March 4, 2022, at 8:30 a.m.

There were no questions, comments, nor concerns expressed related to the March 4, 2022, meeting date.

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

There were no requests for future Board meeting agenda items.

18. Public Comment

There was no public comment at this time.

19. (For Possible Action) Adjournment

There being no further business before the Board, President Owens adjourned the meeting at 10:27 a.m.