

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

May 12, 2023

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

Call to Order: Board President Whitney Owens called to order the meeting of the State of Nevada Board of Psychological Examiners at 8:00 a.m.

Roll Call: Board President Whitney Owens and Board members Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland were present. Secretary Treasurer Stephanie Woodard and Board member Catherine Pearson were absent. Despite the member absences, the Board had a quorum.

Present also was Deputy Attorney General (DAG) Harry Ward, Board Investigator Dr. Gary Lenkeit, and the Board's executive director Laura Arnold, as well as Dr. Dorothy Parriott, a member of the public.

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

There was no public comment at this time.

3. (For Possible Action) Workshop to Solicit Comments on a Proposed Regulation (See Attachment A); and Possible Action to Forward the Proposed Regulation to a Hearing at a Future Meeting of the Nevada Board of Psychological Examiners in Accordance with NRS Chapter 233B.

President Owens asked DAG Ward if the Board had to call the Workshop to Order. DAG Ward affirmed, saying he would move into the workshop and open it up briefly again for public comment before the workshop and public comment after the workshop closes.

Dr. Owens called the public workshop to order. She asked DAG Ward if she needed to call roll again, to which DAG Ward said no.

Dr. Owens called for any public comment on the proposed regulation changes pursuant to NRS 233B. There was no public comment at this time.

Dr. Owens explained that this agenda item is a response to the Governor's executive order for the Board to review its regulations and see if it can remove regulations that are not needed. She said that after the Board's last meeting, the Board agreed that it would be open to removing the language from its regulations that

- involved Behavior Analysts, and
- requires firms, partnerships, and corporations to register with the Board of Psychological Examiners.

As to the latter, Dr. Owens explained that the Board does not use that regulation and does not need to be in the business of registering businesses because there are State entities that regulate licenses of businesses.

Dr. Owens opened the floor for discussion and conversation, in response to which there was none.

Dr. Owens inquired with DAG Ward whether the Board needed to have a motion to move it to a hearing. DAG Ward said there did not need to be a motion to do anything of that nature. He went on to explain that what the Board is doing is very similar to when it enacts or put the public on notice that it wants to enact a regulation, but in this case the Board is deregulating, so it has to do the same thing. DAG Ward said the Board has the authority to say there are no motions or public comment, or if there is public comment, to consider it, and set it for a motion date. Dr. Owens asked DAG Ward if we need to set it for a hearing date. DAG Ward affirmed, but stated that it is a gray area because the Governor's office may not approve the Board's suggestions, so the Board may still have to jump through the hoops.

Director Arnold added that she believes the Board still has to hear from the LCB because it submitted the proposed regulation changes to the LCB, and it was her understanding that the Board is supposed to get LCB feedback before it can hold the hearing so that the LCB feedback is included in what is heard. DAG Ward confirmed that the Board is doing what it is supposed to be doing. He said the Board may be getting guidance from LCB and the Board may have to make revisions, but it is on schedule and doing everything correctly.

Seeing no public comment, Dr. Owens closed the workshop.

4. Minutes. (For Possible Action) Discussion and Possible Approval of the Minutes of the Regular Meeting of the State of Nevada Board of Psychological Examiners on April 7, 2023.

The Board had no changes or revisions to the proposed April 7, 2023, meeting minutes. Dr. Stephanie Holland said she approved the meeting minutes only as to form, not content, as she was absent from the April 7, 2023, meeting.

On Motion by Lorraine Benuto, second by Soseh Esmaeili, the Nevada State Board of Psychological Examiners approved the Minutes of its April 7, 2023, Meeting. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried, with Dr. Holland's approval as to form not content noted: 5-0.

5. Financials

A. (For Possible Action) Discussion and Possible Action to Approve Recommended Changes to the Fiscal Year 2023 Budget.

Director Arnold stated she did not have any changes to the budget as it was reviewed and approved in February 2023. She said that as of the end of April, the Board continues to outpace the budgeted revenue, and remains on par with or below the budgeted expenditures. She said that she will continue to focus on the proposed budget for fiscal year 2024, which she would address in Agenda Item 5c.

B. (For Possible Action) Discussion and Possible Action to Approve the Treasurer's Report for Fiscal Year 2023 (July 1, 2022, Through June 30, 2023).

Director Arnold stated that as of April 30, 2023, the checking account balance was \$399,676.06, and that the Board is still operating on the \$170,959.93 of the deferred revenue primarily from renewals that the previous executive director addressed in February's meeting. She said nothing has changed regarding the next expected allocations from the deferred revenue from renewals for the next biennium quarters. She also stated that the savings account balance was \$105,038.38.

Director Arnold reiterated that the Board's expenditures generally remain on par or below their budgeted amount, and noted that almost all line items remain under budget. She said that, being five-sixths of the way through the fiscal year, revenues

are at almost 109% of the expected monies for this fiscal year, and total expenses are at about 81% of what has been budgeted.

Dr. Owens noted that the executive director met with Dr. Woodard the previous day and that Dr. Woodard had reviewed everything that the executive director has prepared for the Board's finances and said that she is incredibly impressed and feels very good about the executive director's ability to come up to speed on the Board's budget and financials and feels like the Board is in really good shape.

Director Arnold stated that in order to better understand this Board's finances and the information on which its budget is based, she first went through and plotted each transaction of FY 2023 to date, an exercise that not only helped provide her a clear picture of the money that comes in and goes out, but also provided a deeper understanding of the various QuickBooks reports.

Director Arnold said she then created a visual flow chart of how the Board's deferred revenue, as it is defined in the Board's Budget Policy, gets cast into and through the biennium quarters that follow the Board's receipt of it. Director Arnold explained that the cells on the chart highlighted on the chart in bright yellow show where in time the Board is, which is in FY2023 and the 2023-2024 biennium – more specifically, the last half of FY2023, and the first quarter of the 2023-2024 biennium. She said the larger boxes that identify the funds that are being distributed are placed where in the timeline they were or will be received.

Director Arnold stated that the visual flow chart helped create the basis on which she created the Board's proposed FY2024 budget. Dr. Owens gave the Board members a moment to review the flow chart and pose any questions they may have. Dr. Holland thanked the executive director for creating that visual and stated how helpful it is. The executive director further highlighted aspects of the flow chart as it related to funds received in the last biennium quarter that are, by definition, not deferred revenue, so they are monies that can be used at that time. Dr. Owens thanked the executive director for putting the flow chart together.

The executive director went on to explain that the numbers that are represented in the deferred revenue flow chart equate to the deferred revenue that is identified in the proposed budget. In both the flow chart and the budget spreadsheet, some of the numbers that are projected out are more placeholders at this point and, through the next couple of months, will be adjusted to reflect what can be expected based on the numbers that close out FY2023.

In addressing the budget spreadsheet, Director Arnold explained that the current budget – the budget that was initially approved last year and amended throughout the year – is in the left column. To the right of that is the Board's income and expenditures

for FY 2023, both actual and projected. As it currently stands, the Board may expect to have about \$26,000 left over.

Director Arnold went on to state that the columns to the far right are the 2023-2024 biennium quarters. She said the first column is the current quarter, the two columns in green are quarters 2 and 3 of the biennium and also FY2024. The last column in gray is the 4th biennium quarter and will be the first half of FY2025.

Director Arnold explained that in preparing the spreadsheet for the proposed budget, she rearranged the format a little from the format that had previously been used, and that change came from having gone through and plotted every transaction from FY2023 to date. She said also made a change in reference to how the fees that are attached to deferred income are accounted for. Specifically, the deferred revenue that had previously been projected through the current biennium (~ \$83,000 per biennium quarter) is $\frac{1}{4}$ of the total gross amount of revenue that is identified as deferred revenue, meaning the renewal amount plus the PayPal fees that licensees paid for those who paid with PayPal. Those PayPal fees were then accounted for as an expense in the FY2023 budget. Rather than intensify those PayPal fees in the Fiscal Year Budget, Director Arnold said she accounted for them in relation to the deferred income distribution, which means the PayPal fees that were attendant to renewal fees were deducted from the deferred revenue, where they were charged, and distributed along with that deferred renewal income. As a result, the net deferred revenue is cast through the biennium quarters, leaving the only PayPal fees being accounted for in the fiscal year budget being those that are charged to application and other fees that are not deferred revenue.

Dr. Owens appreciated the work toward accuracy and for the Board to accurately plan.

On Motion by Stephanie Holland, second by Lorraine Benuto, the Nevada State Board of Psychological Examiners approved the Treasurer's Report for Fiscal Year 2023. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaili, and Stephanie Holland.) Motion Carried: 5-0.

C. (For Possible Action) Discussion and Possible Action to Approve the Proposed Budget for Fiscal Year 2024.

Dr. Owens asked if the Board needed to approve the FY 2024 budget, to which the executive director said no. Director Arnold explained that she just wanted to show where she is with it right now, and that spreadsheet is what she is working on for the FY2024 budget. She said that because there are still a couple of months remaining in FY 2023, the proposed FY2024 budget numbers will tighten up as FY2023 comes to a close. Director Arnold projected the Board's budget to be in good shape in terms of being balanced, and explained that the budgeted column comes from the two green

columns in the previous spreadsheet – they are combined to be the proposed budget for the entire FY2024. She said just wanted to have an illustration of what the Board could expect to see going forward.

D. (For Possible Action) Discussion and Possible Action to Approve the purchase of a new computer for the Board Office.

Dr. Owens stated that the Board Office needs a new computer. She said it has been a long time since it has had a new computer, and the last time she was at the Board office 3 years ago, she thought it needed a new computer then. She highlighted the two quotes the Board had been given, one for about \$1,400 and the other for about \$1,550, the latter has better specifications and is a bit of a better machine. Dr. Owens said the executive director is asking to purchase the higher-priced computer, and asked for a motion to approve the purchase of the computer in the amount of \$1,556.86, plus what is required for a Microsoft license.

Director Arnold interjected to note where the purchase of the computer was accounted for in the current budget. Dr. Holland said it looks like it is under budget. Director Arnold clarified that it is actually over budget for that line item, but there is enough in the budget to absorb that. She asked about the \$150 extra for the better machine, stating she assumed it increases efficiency and speed. Director Arnold said she assumes so as well, but does not know that much about computers, so she deferred to the representative with whom she was dealing to recommend what he thought is best for the Board's needs. Because it is only \$150 difference, she thought to go with the better specifications.

On Motion by Monique Abarca, second by Lorraine Benuto, the Nevada State Board of Psychological Examiners approved the Purchase of a New Computer for the Board Office in the Amount of \$1,556.86 plus the Cost of a Microsoft License. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaili, and Stephanie Holland.) Motion Carried: 5-0.

E. (For Possible Action) Discussion and Possible Action to Approve hiring a Part-Time employee for the Board Office.

Dr. Owens stated that the executive director needs an assistant. She explained that one of the things that the Board has been working toward for a while is having a solid executive director, and by that she means an executive director, not just someone who is handling the day to day paperwork and incoming calls. She said that Director Arnold has a lot of expertise and talent that is untapped given a lot of the strains of doing the day to day tasks.

Dr. Owens went on to explain that previous executive director Lisa Scurry had included a part time employee in the Board's projected budget. She said those who have been around for a while will remember that the executive director two executive directors ago had an assistant, but that when we Lisa joined the Board, they did not have a part time assistant. It was one of the challenges the previous executive director faced in terms of not having an assistant and working quite a bit over what they would have liked for her to work.

In explaining the numbers and what it would look like, Director Arnold stated that the projected numbers for an assistant had already been in the projected budget that the previous executive director had prepared and that was discussed in the Board's February meeting. She said the budget was amended in February to add money for an assistant for the last part of FY 2023, and the numbers for part time assistant projected into FY2024 are based on \$15/hour for 20 hours a week. Director Arnold proposed flipping those numbers so that there is no impact to the Board and the Board's finances, but so that the Board is able to offer someone \$20 for 15 hours a week to better attract the teammate she would like to have. She said she is not just looking for someone with clerical skills. Rather, she wants someone who can share in the bigger picture, the longer term, and her vision for the office. Director Arnold stated that there are not many jobs that pay \$15/hour, and that offering \$20/hour for less time would attract a higher quality candidate and someone that can share what she wants to do going forward. With that, she proposed a change to the HR policy to reflect the proposed rate/hour change.

Dr. Lenkeit commented that he thought it should remain 20 hours a week at \$20/hour. He thought 15 hours a week is enough to do a little bit, but with those extra five hours, it would mean 4 hours a day five days a week and that would make a big difference.

Director Arnold said her thought on that was this person would not necessarily need to be at the office doing the work every day, even three days a week for five hours would be fine with her.

Dr. Lenkeit said there should be the flexibility to go to the 20 hours a week. Dr. Owens said she heard Dr. Lenkeit to say if the Board were to allow the executive director to hire part time staff for \$20/hour for up to 20 hours a week, the executive director could have the discretion to have someone there 3 days a week for 5 hours, but if there is more work to do, she could increase those hours up to 20 hours. Dr. Lenkeit said he thinks that flexibility is necessary. Dr. Owens said that gives the executive director more discretion if she is finding there are more tasks that she can give this person to do that would allow her to do some of the more executive directing.

DAG Ward stated that he agreed with the flexibility. He said the previous executive director worked really hard for him during litigation in obtaining discovery and things of

that nature. In the event there is additional litigation, the Board needs that flexibility and more hours.

On Motion by Stephanie Holland, second by Lorraine Benuto, the Nevada State Board of Psychological Examiners approved the Executive Director's Request to hire an Executive Assistant for the Board Office for up to 20 hours per week at \$20/hour along with the changes to the Staff Pay Schedule for the Executive Assistant in the Board's Human Resources Policy. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 5-0.

Dr. Owens explained that historically the executive director and the Board president have hired the executive assistant, so she and the executive director will chat in the coming weeks and give the Board an update and report during the June meeting.

6. Legislative Update

- A. (For Possible Action) Report, Discussion and Possible Action on Legislative Activities, including the work of Interim Committees, the 2023 Session of the Nevada Legislature, and any position the Board may take on Bills and Bill Draft Requests that the Board is tracking, following, or that may impact the Board and its Operations.

Dr. Owens stated that a lot has been happening on the legislative end, and there have been ups and downs. She said that Senator Orentlicher included some separate language in AB198, which is the unified telehealth act the Board was concerned about. Dr. Lenkeit explained that the Board submitted language to Senator Orentlicher that was from 641.1702, which basically says that anyone doing telehealth in this state would have to meet the requirements for licensure in this state, and which the Board thought was reasonable. Dr. Owens said that Senator Orentlicher did not like that language and threw the Board under the bus a bit by stating that it was being obstructionistic to more people coming to the profession. However, the assembly decided to throw out the universal telehealth act language in the bill. Dr. Owens explained that there was other language in the bill regarding another profession, one not related to psychology, about its licensing and that was what is passing through, but the unified telehealth act has been excluded.

Dr. Owens stated that the Board is also monitoring SB150, which would provide provisional licenses to Psychological Assistants, Psychological Interns, and Psychological Trainees that would essentially allow for them to get paneled with insurance companies. She said that bill failed the deadline, but there is some talk about it being attached to AB236, which is the Board's bill and about which there will need to be some conversation regarding whether that is prudent.

Director Arnold added that there was a change made to AB219, which was the bill that was going to require board members to meet in person 25% of the time. She said there had been a lot of opposition to that portion of the bill, and that language has now been amended to state that a public body cannot meet via remote technology to consider a contested case or address a regulation unless there is a physical location where the public can participate. When that occurs, the public body is required to provide clear and concise instructions to the public to call in, including a telephone number or a meeting identification number. The language that is moving forward is completely different than what was in the bill when it was introduced.

- B. (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.

Dr. Owens stated that AB 236, which is the Board's bill, has passed through the assembly and the senate without any fanfare, which has been lovely compared to the Board's bill 2 years ago, when it got a little more heated. The bill will be ready for the Governor's office, and it will hopefully keep moving. Dr. Owens said that any questions about the bill during testimony were just making sure that those who are licensed are still able to represent their license and it does not preclude that. Separately, Dr. Owens said she has been working with the Department of Corrections and the Department of Human Resource Management to change the language for the class specifications for what was formerly known as psychologists and they are changing the language, proposing the language of corrections counselor. Those in the Department of Corrections will no longer be called a psychologist unless they are actually a psychologist. Dr. Owens noted the really good work by the Board and all who have been a part of the conversation and process. She said it was quite significant what the Board has done.

On another note, Dr. Owens stated that the Board's lobbyist is currently hospitalized, and if anyone knows her or has contact with her, she encouraged them to reach and give well wishes. Until she returns, she and the executive director at the helm in terms of the legislative session.

7. Board Needs and Operations

- A. Report from the Nevada Psychological Association.

[This item was taken out of order]

After Dr. Lauren Chapple-Love joined the meeting, Dr. Owens returned to this agenda item for the Nevada Psychological Association's (NPA) report.

Dr. Chapple-Love, past president for the NPA, first noted the NPA's transition by which Dr. Claudia Mejia is the current president and Dr. Christopher Shewbarran is the upcoming president and will begin his term in May 2024. She went on to state that the NPA just had their strategic planning meeting and its annual conference, and that much of the NPA's work at this point is around the Legislative session. In particular, she said that the NPA is looking at AB244, which concerns forensic evaluation and testing. Dr. Chapple-Love explained that the NPA has an amazing working relationship with Assemblywoman Torres, who put forth that bill and has been very open to NPA's amendments and feedback intended to create some protections around forensic evaluations. She also said that the language of the bill that is going to the senate floor the following week is going to allow for, i.e., a participant in testing to bring an observer of his or her choosing, an interpreter of his or her choosing, as well as potentially punitive measures for psychologists relating to forensic evaluations in which the psychologist did not allow person being evaluated to bring in an observer or interpreter of his or her choosing. On the latter part of that, the psychologist could get hit on the ethics side from the Board but also with fines and damages up to \$1,500 per incident. Dr. Chapple-Love stated that the NPA is working pretty diligently on that piece of legislation and is hoping for support, as they are very concerned about it.

Dr. Owens stated that the Board would take a look at the bill. She said that it is probably one that is on the Board's list, but not one that the Board has been watching closely. She indicated that the Board would take a look and see if it wants to add any comment to it.

Dr. Chapple-Love stated that the bill has been a bit of a sleeper, as it went through the assembly already. She said she testified in opposition to it. She also said that there was an amendment that added a few cut-out type of evaluations, to and including custody evaluations and competency evaluations and those related to DFS. She indicated that it is alarming, to say the least, for instance in gender affirming care evaluations, she believed the current language is so vague and broad that it includes any type of evaluation that is compelled, whatever that means.

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

[This item was taken out of order]

Dr. Owens reminded the Board that it would be having elections during the June meeting. She said that Dr. Woodard would be stepping down from her position as Secretary/Treasurer, but would like to remain on the Board. Dr. Owens further explained that Dr. Woodard's position is up for renewal and she would like to join the Board for 4 more years, but the responsibility of the treasurer position along with her service on the ATEAM is a lot given some of the circumstances she and her family are going through right now. Dr. Owens stated that she would like for the Board members to consider the treasurer's position. She said that as the Board could see from the

executive director's financial reports, she is doing an excellent job in terms of the Board's finances, and if anyone has ever wanted to take on the treasurer's position, now is the time because things are really nice and clean. She stated that the treasurer is there for checks and balances, and historically Dr. Woodard has met with the executive director the week of the board meeting to review the finances and have those checks and balances, and then quarterly with the executive and bookkeeper to further have that checks and balances and make sure everything is nice and clean. Dr. Owens said that the Board has come a long way in the past few years in terms of our financial reporting and the cleanliness and clarity of it, and again stated that it is probably one of the easiest times in the history of the Board to be the treasurer based on the work that has been done.

Dr. Owens also stated that her term on the Board will end in 2024, and asked that someone to be willing to step up and shadow for the presidency. She said what she imagines is best for that is a willingness to meet with her and the executive director once a month over the next year to get up to speed on what is happening throughout the year in terms of what the executive works and focuses on throughout the year and so that there is a good sense of that for whoever takes the helm in 2024.

In reviewing the office statistics, the executive director stated that April was not the busiest month, but not the slowest either. The bulk of the activity was in psychologist licensing and applications, continuing education applications, and a lot of state exams going on through the next couple of months.

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

Director Arnold stated that she met with Dr. Young and Dr. Lenkeit earlier in the week and they went over the status of the pending complaints. She deferred to Dr. Young, Dr. Lenkeit, and Mr. Ward to update the Board specifically on the complaints listed on the agenda.

A. Complaint #19-0626

DAG Ward stated that there was some movement toward settlement in the very near future on Complaint #19-0626.

Prior to giving her report on Complaint #23-0315, Dr. Young advised DAG Ward that she has been in contact with the respondent in the case related to his one and she will be meeting with him over the weekend to select an appropriate continuing education course.

B. Complaint #22-0804

There was no discussion on this complaint.

C. Complaint #22-0930

Dr. Lenkeit gave a brief update on this case on Complaint #22-0930, on which he had reported during the Board's last meeting. He stated the resolution is that the respondent is either going to take some continuing education in ethics or would get a supervisor for a designated period of time, and that of those options, the psychologist has chosen to get a supervisor. Dr. Lenkeit said that the psychologist has tried to make contact with someone she really wants as her supervisor and is getting nowhere, so she is realizing she is going to have to move on to her next choice. As a result, the complaint is not yet resolved, but he said he expects it to be resolved by the next meeting, as soon as she finds a supervisor.

D. Complaint #23-0303

[This item was taken of order]

DAG Ward stated he sent the respondent a cease and desist letter and has spoken with her numerous times. He said he is in the process of getting the respondent some information so she can make a formal response. In her initial response to him, the respondent said she has never done any diagnosis, but that she just treats. DAG Ward said that will obviously be her position, but he wants her to prove that. The respondent has stated that she would make sure that she has some of the records and will get them to him.

E. Complaint #23-0315

Dr. Young gave her report on Complaint #23-0315, as follows:

The Allegations in the complaint are that the psychologist identified was doing therapy with a child in a very contentious divorce case and let the parties know from the outset that she would not be getting involved in that case because she was there for the child. The complainant, who is one of the child's parents, said the psychologist wrote a letter to Child Protective Services based on having only one meeting with this parent, and at that time told the parent that she was not going to be involved in the family court case. The complainant states that by informing Child Protective Services of reports of abusive conduct, the psychologist has gotten involved in the family court case.

Psychologists are legally and ethically responsible for reporting such things to Child Protective Services. The respondent was not reporting to the Court or stepping out of line that way, but was complying with her responsibilities in reporting to Child Protective Services and not reporting to the Court. The Complaint is not supported by the evidence. The psychologist is a mandated reporter of any information pertaining to child abuse, and those reports are made to Child Protective Services. The action is separate and distinctly different than submitting a report to the family court in a custody matter. As a result, Dr. Young sought to dismiss the complaint.

On Motion by Stephanie Holland, second by Lorraine Benuto, the Nevada State Board of Psychological Examiners dismissed Complaint #23-0315. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.)
Motion Carried: 5-0.

Dr. Owens thanked DAG Ward, Dr. Young, and Dr. Lenkeit for their hard work on getting the complaints list down. Dr. Lenkeit added the executive director to that list because she had been instrumental in getting the meetings scheduled and her input has been very important.

9. (For Possible Action) Review and Possible Action on Applications for Licensure as a Psychologist or Registration as a Psychological Assistant, Intern or Trainee. The Board May Convene in Closed Session to Receive Information Regarding Applicants, Which May Involve Considering the Character, Alleged Misconduct, Professional Competence or Physical or Mental Health of the Applicant (NRS 241.030). All Deliberation and Action Will Occur in an Open Session. *Note: Applicant names are listed on the agenda to allow the Board to discuss applicants when necessary to move the applicant through the licensure process. The listing of an applicant's name on the agenda indicates only that an application for licensure/registration has been received. It does not mean that the application has been approved or that the applicant must appear at the meeting in order for the applicant's application to move forward through the licensure process. If an applicant needs to attend the meeting for the Board to take action, the applicant will be notified in writing prior to the meeting. Please, direct questions or comments regarding licensure applications to the Board office.*

President Owens identified the following applicants as recommended for approval of licensure contingent upon completion of licensure requirements: Matthew Gibbons, Donald Kincaid, Erick Arguello, Daphne Kendricks, Caitlin Moore, and Vanessa Ma.

Dr. Esmaeili said she had to abstain from voting as to Vanessa Ma. Dr. Owens inquired with the executive director as to whether the Board would still have a quorum as to licensure candidate Vanessa Ma, to which the executive director affirmed, saying there were still 4 of the Board's 7 total members voting as to that licensure candidate.

On Motion by Monique Abarca, second by Lorraine Benuto, the Nevada State Board of Psychological Examiners approved the following applicants for licensure Contingent Upon Completion of Licensure Requirements: Matthew Gibbons, Donald Kincaid, Erick Arguello, Daphne Kendricks, Caitlin Moore, and Vanessa Ma. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 4-0 for licensure candidate Vanessa Ma with Dr. Esmaeili abstaining; Motion Carried 5-0 for all others.

10. (For Possible Action) Discussion and Possible Action on Dr. Leeanne Earnest's Application for Reactivation of her License.

Dr. Owens stated that Dr. Leeanne Earnest has applied for reactivation of her license. She said that Dr. Earnest had previously asked the Board for an extension of her renewal due to some family concerns that came up last year. Dr. Earnest's license was issued in 2004 and became expired as of March 1, 2023. Dr. Owens explained that December 2022 is when Dr. Earnest requested and was granted an extension until March 1, 2023, but she did not meet the March 1, 2023, deadline. Rather, on April 4, 2023, the Board office received Dr. Earnest's renewal packet with her completed renewal form and fees. Dr. Earnest had sent the renewal packet via certified mail prior to March 31, 2023, based upon her misunderstanding and belief that she had been given until March 31, 2023, to renew her license. Because Dr. Earnest's renewal package was not received prior to the renewal deadline, the Board office returned the renewal packet to her and explained that, at that point, she would have to apply for reinstatement, which she has done. Dr. Owens stated that, according to her application, Dr. Earnest has completed a total of 40 CE credits between December 2022 and March 2023. Of those, Dr. Earnest states that 30 were face-to-face, 10 were distance learning, 6 were ethics, 2 were suicide prevention, and 2 were diversity. She also attached her certificates of completion for the courses she identified.

On motion by Lorraine Benuto, second by Stephanie Holland, the Nevada State Board of Psychological Examiners approved Dr. Earnest's Application to Reactivate her License. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 5-0.

11. (For Possible Action) Discussion and Possible Action on Dr. Dorothy Parriott's Application for Reactivation of her License.

[This item was taken out of order]

Dr. Owens stated that Dr. Parriott has applied for reactivation of her license. According to her application and the Board's database, her license was issued in March 2020 and

became expired as of January 1, 2023, after non-renewal. Dr. Owens said that Dr. Parriott's application indicates that she has completed a total of 30.25 CE credits between February 2021 and February 2023. Of those, Dr. Parriott's application states all of those are face-to-face, 7.5 were ethics, and 3 were suicide. Dr. Owens noted that Dr. Parriott also attached her certificates of completion for the courses to her application, and that upon receipt of Dr. Parriott's continuing education log, the executive director inquired about whether the "X" in the face-to-face column meant that all of the courses were face-to-face or live, in response to which Dr. Parriott confirmed that they were all live or live virtual.

Dr. Owens asked DAG Ward if someone fails to reactivate their license and then does so a couple of months later, is the only penalty for that the reactivation fee. DAG Ward said the Board has to go by whatever the regulations say. If there are any fees that are mandatory under the regulations, they cannot be waived regardless of whether it is a viable excuse. The Board just has to go with its regulations. Dr. Owens inquired with the executive director whether she reviewed the regulations. Director Arnold confirmed and stated that the bigger issue is if it is within 2 years, reactivation is pretty straightforward. If it goes beyond that, that is when there may be other considerations, such as if it has been a long time, they may need to reapply and take the state exam again, but following non-renewal it is pretty straightforward in the first 2 years.

Dr. Owens asked Dr. Parriott why she did not renew during the normal renewal period. Dr. Parriott explained that she was inactive at the time of renewal and had put renewal on hold because she is working in the school district where she does not use her psychology license. However, an opportunity came up where Dr. Parriott stated she will be using it, so she applied as soon as possible to reactivate her license. Dr. Owens thanked Dr. Parriott for her explanation.

On motion by Lorraine Benuto, second by Monique Abarca, the Nevada State Board of Psychological Examiners approved Dr. Parriott's Application to Reactivate her License. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 5-0.

12. (For Possible Action) Discussion and Possible Action to Approve Erica Marino's Application to Register as a Psychological Intern.

Dr. Owens stated that Erica Marino is a Psychological Intern applicant who did not attend an APA school. According to her PLUS, she attended Walden University, and is expected to get her Ph.D. in May 2024. Ms. Marino has secured Dr. Jennifer Karmely as her supervisor for her internship.

Dr. Owens said that Ms. Marino's application went before the ATEAM committee on April 7, 2023, during which Dr. Esmaeili said that she was familiar with Walden and its curriculum and its residency requirements, and Dr. Pearson stated that there are individuals from this university who have come through the Committee and been approved. Based on the information and documents in Ms. Marino's application and the Committee's familiarity with her educational program, the Committee moved to recommend the Board's approval of Ms. Marino's application to register as a Psychological Intern for her predoctoral internship.

On motion by Soseh Esmaeili, second by Stephanie Holland, the Nevada State Board of Psychological Examiners approved Erica Marino's application to Register as a Psychological Intern. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 5-0.

13. (For Possible Action) Discussion and Possible Action to Approve Changes to the Board's Background Checks and Fingerprinting Policy.

Director Arnold stated that the Board office occasionally receives a background check return that indicates that the quality of the applicant's fingerprints was insufficient to be of use in providing criminal history information. In those cases, the return includes instructions to the applicant on how to resubmit fingerprints, and the second submission is usually successful. The executive director went on to explain that the Board office recently received a second return from the Department of Public Safety (DPS) of an applicant's fingerprints based upon the fingerprint quality being insufficient to be of use. She said that when that happens, the FBI runs a "Precursory Name Check" for any criminal history information associated with that name and that, in this case, the precursory name check did not result in any criminal history information associated with the applicant. In speaking with the DPS about that and what it means, she said the DPS explained that second returns are not unusual, as there are some people who may never be able to provide suitable fingerprints due to injury or burns, and that many agencies have a policy of accepting precursory name check that does not indicate a criminal history. With that in mind, the executive director proposed revisions to its Background Checks and Fingerprinting Policy to include a process that addresses fingerprint returns. She explained that the additional provisions state the process for:

- The applicant's resubmission of fingerprints after a first return for insufficient fingerprint quality,
- The Board's acceptance of a second return for insufficient fingerprint quality with an FBI Precursory Name Check that does not indicate any criminal history information associated with the applicant's name, and

- Requiring an applicant to repeat the background check process if a second return for insufficient fingerprint qualify with an FBI Precursory Name Check that includes or indicates criminal history information associated with the applicant's name.

The executive director shared with the Board the proposed changes to the policy in line with her explanation under section 2, which is the submission process, and which provides the fingerprinting and background check process for applicants. She noted that she added sections regarding what she explained in reference to the first fingerprint return and the two options for a second fingerprint return – one that does not indicate criminal history with a precursory name check and one that does. She reiterated that the DPS stated that many agencies have a policy of accepting a background check on a second return that has a clear precursory name check. She also stated that the other option is, if the Board office gets a second fingerprint return, to have the applicant redo the entire process regardless of what the second return states.

Dr. Owens asked DAG Ward if he had anything to add. DAG Ward stated that the policy change is fine, so long as there is no conflict with anything in the Board's regulations. The Board has the fiduciary duty to make sure the public is kept safe, but he has no problem with the proposed changes, especially if there have been background checks done in the past and so long as there is no conflict with the Board's regulations.

Dr. Owens stated that this came up recently and that it is not something that she has previously encountered during her time on the Board. She said she just wanted to make sure that the Board has something clear and in policy so that it does not have to go through further confusion and that it has it clearly written out. She confirmed with the executive director that she did her homework to make sure this is a policy adopted by other agencies and boards and said it looks good to her.

On Motion by Stephanie Holland, Second by Lorraine Benuto, the Nevada State Board of Psychological Examiners approved the Proposed Changes to the Board's Background Checks and Fingerprinting Policy (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 5-0

Dr. Owens stated that having really clear policies and procedures makes her happy.

14. (For Possible Action) Discussion and Possible Action to Adopt the Policy on Finance: Budgeting.

Dr. Owens stated that in February, the Board reviewed revisions to various Board Policies, including the Finance: Budgeting Procedures policy, and that prior to approving the revisions, the Board requested that there be one revision to the Deferred Revenue section on page 4, section b. She said that the revision requested was to more clearly distinguish income that is not deferred revenue from that which is defined as deferred revenue, but that the Board has accepted all of the revisions other than the revisions other than the Deferred Revenue section on page 4, section b during the February 10, 2023, meeting.

The executive director stated that, in addition to what Dr. Owens explained and to avoid any confusion, the items that are specifically defined as not deferred revenue – that is, licensure renewal late fees collected in January and February of odd numbered years and license and registration fees collected in the fourth quarter of the biennium – have been put in a separate section. She said that the other change she made was using the word “received” rather than “submitted” as it relates to renewal fees because when those fees are received is what triggers what happens to that money.

On Motion by Stephanie Holland, Second by Monique Abarca, the Nevada State Board of Psychological Examiners approved the Revisions to the Board’s Policy on Finance: Budgeting. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaili, and Stephanie Holland.) Motion Carried: 5-0

15. (For Possible Action) Discussion and Possible Action on a Request for the Board to Submit Briefing in a Pending Matter Before the Nevada Supreme Court regarding Rule 35 of the Nevada Rules of Civil Procedure.

Dr. Owens stated that Michael Lowry, who is a civil defense attorney in Las Vegas, has inquired with the Board about whether it might wish to submit briefing in a Nevada Supreme Court case that concerns third-party observation of examinations as it relates to NRCP 35 (physical and mental examinations). She said that Mr. Lowry attached a position statement that the Board provided to the Nevada Supreme Court in October 2018 as it concerned then-proposed changes to NRCP 35. Mr. Lowry’s request is specific to a question that resulted from the Nevada Supreme Court’s 2021 invalidation of NRS 52.380 (attendance by an observer at a mental or physical examination) and that is at issue in a new appeal. That is, whether a neuropsychological examination can be conditioned on allowing third party observation under the current version of NRCP 35. She noted Mr. Lowry’s statement that briefing from the Board on its position is very valuable in letting the Court know how it feels about the topic. If the Board is interested in submitting an amical brief, Dr. Owens stated that the motion would be

that it would file in the Nevada Supreme Court an amicus brief stating its position on whether neuropsychological examinations can be conditioned on allowing third party observation under the current version of NRCP 35.

Dr. Owens stated that this is out of her wheelhouse and out of her area of expertise. She asked Dr. Holland, Dr. Esmaeili, and Dr. Lenkeit if they wanted to have a conversation about how the Board should handle the request. Dr. Benuto commented that third party observation is problematic for a number of reasons, one being that it can influence how the testee or examinee performs and responds to questions. She said that their measures are not validated with a third-party observer, and it brings in psychometric issues. Dr. Lenkeit agreed with Dr. Benuto, stating that another part of the issue is test security, and that is why neuropsychologists – who have been at the forefront of this – have wanted third party observation to go away. He said, however, that it does not seem to be going away because, from his understanding, it is being seen in many state legislatures. He inquired about whether the Board wanted to take a position on that or not, the only reason for doing so being some kind of ethical violation based on test security. Dr. Benuto agreed with what Dr. Lenkeit said.

Dr. Young added privacy violations to the concerns with third party observation. She said attorneys want someone in the room and that is probably the reason for it. Psychologists are hired by both sides in a case, and the person being tested does not have privacy in that scenario.

Dr. Holland added to what Dr. Lenkeit said regarding test security. She said because the Board's number one role is to protect the public, the Board should take a position in order to support doing that – protecting the public, the clients they test, and their privacy. Dr. Benuto agreed with that as well. She said that in communicating with those who do evaluations and assessments, a number have indicated that they would cease to do so if third party observation was a requirement, and in terms of serving the public, that would be hugely problematic. She stated that current practice paradigms are important to consider and how this would impact those.

Dr. Esmaeili agreed with all that had been stated.

Dr. Owens stated that she was hearing a consensus that the Board prepare and file an amicus brief stating its position. She wondered if anyone would volunteer to work with the executive director on preparing that, saying that what has been said will help her writing an initial draft, but that she will need a second or third set of eyes to ensure that the brief is accurately stated from a psychologist's point of view. Dr. Benuto and Dr. Esmaeili stated that they did not feel qualified to be the lead person, but would be more than happy to assist with the process.

Dr. Owens asked Dr. Lenkeit would be willing to take the lead and have Dr. Benuto and Dr. Esmaeili review it. Dr. Lenkeit hesitated because he was not sure she wanted a

non-Board member writing the position of the Board, but otherwise he is happy to help. Dr. Owens stated that she was imagining that the executive director would write the brief, but it needed to be reviewed for content and accuracy of the Board's position. She said she does not feel qualified to do that because she does not do any kind of neuropsychological assessment or formal testing, and would recuse herself from that work.

Dr. Lenkeit stated that he is happy to help in terms of contributing to the brief to add the language from the APA code of ethics that he believes would be violated by this law passing, and in any other way he can.

Dr. Young stated that this will be a topic at one of the ethics presentations at the APA in August, and if the Board needs for her to get information from that, she will. Dr. Owens asked that she do so. Dr. Lenkeit said if there were any prior amicus briefs filed by other states to which Dr. Young would have access for assistance in writing the brief rather than having to reinvent the wheel, that would be helpful.

On Motion by Lorraine Benuto, Second by Stephanie Holland, the Nevada State Board of Psychological Examiners approved the Board filing with the Nevada Supreme Court an Amicus Brief Stating its Position on Whether Neuropsychological Examinations Should be Conditioned on Allowing Third Party Observation under the Current Version of NRCP 35. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.)
Motion Carried: 5-0

The executive director stated that she would be in touch with Mr. Lowry regarding the timing on the brief, as she does not know where they are in the appellate process, and she also wants to get the case information so that she can track it on the Nevada Supreme Court's website. Dr. Lenkeit told the executive director that he will start looking at the APA code of ethics to incorporate into the brief.

16. (For Possible Action) Discussion and Possible Action on the Board's Answer to a Question from the ASPPB regarding Certificate of Professional Qualification (CPQ) Eligibility.

Dr. Owens stated that the ASPPB has reached out to the Board office to ask some questions on CPQ, which is the Certificate of Professional Qualification eligibility. The Board has accepted the CPQ qualification as a "fast pass" to licensure in the State, and has accepted that for quite some time. Dr. Owens said that she is on the mobility committee for ASPPB, and something that has come up over the past year in some of their meetings is the difference in the CPQ versus the requirements for an APIT or PsyPact designation or certificate or registration. She explained that, currently, in order to register with PsyPact, an applicant has to have come from an APA or CPA accredited

program, as the PsyPact commission has decided that is their standard for being able to register with PsyPact. She said that the CPQ historically has allowed for similar to what the Board permits through its ATEAM – that is, it allows for programs substantially similar to APA accredited programs to get the CPQ designation. The ASPPB is reaching out to jurisdictions that currently accept the CPQ designation to see if they feel if they want someone to have to come from an APA or CPA accredited program in order to be eligible for the CPQ.

Dr. Owens stated that she has two different and opposing views on that question. She said as someone who reviews CPQ applications, it would be so much easier if they came from an APA or CPA accredited program and would make her job on the mobility committee much easier. From a social justice and equity perspective, however, she said that not allowing someone who has completed substantially similar qualifications to achieve a designation that provides quicker eligibility for licensure and mobility across jurisdictions is potentially racist and biased. Despite having those two perspectives, Dr. Owens stated that she leans more toward having the ability to look at someone's application and identify how they are substantially similar to an APA or CPA accredited institution. She said it is really important to continue to ensure that those from all backgrounds and diverse experiences are able to achieve mobility in the psychology profession.

Dr. Owens opened the topic for discussion, again noting that this is just the Board responding to ASPPB's question with the Board's position. Either the Board is OK with the CPQ being limited to APA or CPA or it is not.

As a member of the PsyPact Commission and Chair of the Qualifications Review Committee, Dr. Lenkeit stated that the issue of APA accreditation has come up because the PsyPact law says that APA approved program or equivalent, but the law also says applicants have to get the e-Passport, which comes from the mobility committee and the mobility committee requires APA accreditation for an e-Passport. As a result, in order to get a PsyPact credential, the applicant has to have come from an APA accredited program, even though the law in every state that has passed it, which is about 40 states, says it can be equivalent to APA accreditation. Dr. Lenkeit stated that it has been a topic of much contention on the PsyPact commission. He said there are those who feel very strongly that they should accept the equivalent because that is what it says in the law, but they cannot do that unless the mobility committee does something about the e-Passport requirements. He also said there are those who feel strongly that applicants should only come from APA accredited program. Dr. Lenkeit believed that there are those come from non-APA accredited programs who do very well as psychologists and are highly qualified, and there are those who come from non-APA accredited programs that are insufficient for the person to practice psychology. He said that given the disparity among non-APA accredited programs, the CPQ is essential for looking at the credentials of a person that does not come from an APA Approved program. Dr. Lenkeit asked what the point of having a CPQ was if the CPQ makes it

such that an applicant has to come from an APA or CPA accredited program. Because an applicant can get licensed in every state by coming from an APA approved program, a CPQ requiring an APA accredited program is saying an applicant is qualified even though that applicant is already qualified in every state. In Dr. Lenkeit's opinion, the CPQ simply separates those who come from poor non-APA approved programs from those who come from very qualified non-APA approved programs. It looks at and separates those who are likely very qualified and those who are not qualified., and he would be very concerned about making a change in the CPQ requirements to APA only programs.

Dr. Holland asked whether the Board needed to add language about what it would approve or just not agree with the position that a CPQ credential requires APA accreditation.

The executive director restated what the question specifically asked, which was: How would your jurisdiction feel about ASPPB requiring applicants to only come from APA, CPA or ASPPB/National Register designated doctoral programs in psychology to be eligible for the CPQ? Dr. Owens suggested stating that the Board would oppose the ASPPB requiring applicants to only come from APA, CPA or ASPPB/National Register designated doctoral programs in psychology to be eligible for the CPQ, and would continue to be in support of providing an avenue for equivalency evaluation for the certificate.

On motion by Lorraine Benuto, second by Stephanie Holland, the State Board of Psychological Examiners stated that it would oppose the ASPPB requiring that applicants only come from an APA, CPA or ASPPB/National Register designated doctoral programs in psychology to be eligible for the CPQ, and would continue to be in support of providing an avenue for equivalency evaluation for that certificate. (Yea: Whitney Owens, Monique Abarca, Lorraine Benuto, Soseh Esmaeili, and Stephanie Holland.) Motion Carried: 5-0

17. (For Possible Action) Discussion and Possible Action on the May 3, 2023, meeting of the Ad Hoc Committee to Consider the Registration of Supervisors of Psychological Assistants, Psychological Interns, and Psychological Trainees.

Dr. Owens updated the Board on the Ad Hoc Committee to Consider the Registration of Supervisors. She said that the Committee is a bit in the weeds just as the Board was on the issue, and that it is not an easy task in front of the Committee to decide supervision language, but it is making progress. During its last meeting, the Committee was working on moving away from language that would register supervisors and working on ensuring there is language in the regulations that provide for responsibilities of the supervisor in a way that makes that clear and allows for the potential ability for

students or trainees who are not receiving adequate supervision or support from their supervisors to have particular avenues for complaints around that. Dr. Owens stated that the Committee also had a lengthy discussion around moving toward a competency-based approach for supervision rather than a particular time requirement and that it will continue those conversations in its next meeting. She said the Committee is hoping to have something to deliver to the Board by August for recommendations for cleaning up supervision language and will continue to provide updates as it goes.

18. (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, June 2, 2023, at 8:00 a.m.

Dr. Owens asked if any Board member is not available on June 2, 2023. The executive director advised Dr. Owens that Dr. Pearson said she will not be available for that meeting.

Dr. Owens reminded the Board that elections will be held during the next meeting and stated that if anyone has questions about the presidency or has additional questions for her to feel free to hang out after the board meeting or to email her and the executive director and she will be happy to answer those questions. She said it has been one of the highlights of her career and she has really enjoyed being the president of the Board. Dr. Owens stated that the executive director can answer any questions about the treasurer's role, and that the Board is in really great shape when it comes to its finances and its ability to communicate about it. She explained that, if it feels daunting, the heavy lifting is done by the executive director and the bookkeeper, so the treasurer's role is to be interested in the financial health of the board as well as having additional eyes on the finances.

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

Dr. Young asked to be able to give an update on the ASPPB conference. Dr. Owens stated that it would be put on the agenda for the next meeting.

20. Public Comment - Public comment is welcomed by the Board and may be limited to three minutes per person at the discretion of the Board President. Public comment will be allowed at the beginning and end of the meeting, as noted on the agenda. The Board President may allow additional time to be given a speaker as

time allows and in his sole discretion. Comments will not be restricted based on viewpoint. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken (NRS 241.020)

Dr. Chapple Love stated that the NPA is attempting to get AB 236 added to its legislative efforts, and that is the one relating to psychologists. Dr. Owens stated that the bill passed through the Assembly and the Senate and hopefully will soon be on the Governor's desk.

There was no other public comment at this time.

21. (For Possible Action) Adjournment

There being no further business before the Board, President Owens adjourned the meeting at 9:38 a.m.